LEGISLATIVE COUNCIL

Tuesday 12 March 1991

The PRESIDENT (Hon. G.L. Bruce) took the Chair at 2.15 p.m. and read prayers.

CONSTITUTION (ELECTORAL REDISTRIBUTION) AMENDMENT BILL

Her Excellency the Governor, by message, intimated her assent to the Bill.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 143, 145, 146 and 150.

SOUTH AUSTRALIAN FILM CORPORATION

143. **The Hon. DIANA LAIDLAW** asked the Minister for the Arts and Cultural Heritage: In relation to the South Australian Film Corporation's plans to produce the television mini-series *One Crowded Hour*—

1. What funds are required to complete the production?
2. What success has the corporation achieved in securing these funds and from what sources?
3. When is production scheduled to commence and to be completed?

The Hon. ANNE LEVY: In relation to the South Australian Film Corporation's plans to produce the television mini-series *One Crowded Hour*:

1. The production budget for *One Crowded Hour* is $8.5 million.
2. Pre-sales have been secured to the Nine Network and the BBC. An offer has been received from an overseas distributor which is under negotiation. Further information is commercial and confidential.
3. The production is at present scheduled for:

Pre-production	October 1991
Shoot	January-March 1992
Delivery	July 1992

145. **The Hon. DIANA LAIDLAW** asked the Minister for the Arts and Cultural Heritage: What dollar impact did the following spending decisions have on the deficit of $650 000 incurred by the South Australian Film Corporation in 1989-90—

1. Attendance at an overseas conference?
2. Engagement of public relations consultants?
3. Renovation to the Hendon studios?
4. Investments in various productions?
5. The arrangement with Portman Films?

The Hon. ANNE LEVY: The replies are as follows:

The impact in dollars of spending decisions on the South Australian Film Corporation's deficit in 1989-90 is as follows:

	$
1. Attendance at Location Expo	52 000
2. Engagement of public relations consultant	55 000
3. Hendon Studios upgrade	221 000
4. Investment in various productions	97 000
5. Arrangement with Portman Films	49 000

146. **The Hon. DIANA LAIDLAW** asked the Minister for the Arts and Cultural Heritage:

1. What company was engaged as public relations consultants by the South Australian Film Corporation in 1989-90?
2. Has the corporation continued to engage the same company or a different company this financial year and, if so, which company and at what cost?

The Hon. ANNE LEVY: The replies are as follows:

1. Michels Warren Pty Ltd.
2. The South Australian Film Corporation has not engaged a public relations consultant for 1990-91.

BLUE LAKE RAIL SERVICE

150. **The Hon. DIANA LAIDLAW** asked the Minister of Transport: Further to the Minister of Transport's decision to seek arbitration on the decision by the Federal Government to close the Blue Lake rail service to Mount Gambier:

1. Who has been appointed as arbitrator?
2. Do the terms of reference for the appointment of an arbitrator provide for the receipt and/or hearing of submissions from the general public?
3. When did the arbitrator commence the case and when is it anticipated that the arbitrator will hand down his/her determination?

The Hon. ANNE LEVY: The replies are as follows:

1. An arbitrator has not yet been appointed.
2. Terms of reference have not been finalised, but the arrangements for arbitration will provide for the receipt and/or hearing of submissions from the general public.
3. Not applicable.

PAPERS TABLED

The following papers were laid on the table:

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

Institute of Medical and Veterinary Science—Report, 1989-90.

By the Minister for Local Government Relations (Hon. Anne Levy)—

Local Government Act 1934—Regulations—Long Service Leave.

Planning Act 1982—Crown Development Report on Proposed Land Division at Marino.

Corporation By-laws: City of Tea Tree Gully—No. 3—Park Lands.

QUESTIONS

TANDANYA

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister for Arts and Cultural Heritage a question about the future of Tandanya.

Leave granted.

The Hon. DIANA LAIDLAW: Often in recent weeks the Minister has stated that she is keen for Tandanya to survive. To this end she revealed on 19 February—

Members interjecting:

The Hon. DIANA LAIDLAW: I have done nothing; I have simply asked questions. I have not been responsible for the management of Tandanya.

Members interjecting:

The PRESIDENT: Order! Members will come to order.

The Hon. DIANA LAIDLAW: I have not been responsible for the management or the mismanagement of Tandanya. To this end, the Minister revealed on 19 February that she had had discussions with members of the board the previous week about the possibility of making a loan available to the board. Then, last week she revealed that she had advanced to Tandanya $80 000 from next financial year's allocation. However, $80 000 is a drop in the ocean when one considers that Tandanya's budget shortfall for this year is estimated to be $350 000, and possibly more, if it does not manage to make savings of $150 000 by 30 June. My questions to the Minister are as follows:

1. What is the Minister's strategy to secure the survival of Tandanya?

2. Does the Minister propose to continue to siphon off a further $270 000 from next year's allocation to meet the remainder of this year's $350 000 shortfall, or does she propose to push for a loan to be made available to Tandanya for these purposes? If so, what would be the terms of the loan and from what sources would it be made available? I suppose a grant is a further option, although the Minister dismissed that possibility earlier.

I seek clarification on this matter because, while the strategy of advancing funds from next year's allocation may have immediate appeal and may even secure the survival of Tandanya for the remainder of this financial year, I suggest that if the Minister continues to pursue this option she will be effectively setting up Tandanya to fail next year because the cupboard will be bare—Tandanya will not have the funds next year to meet salary and operating expenses.

The Hon. ANNE LEVY: As I have previously indicated, an advance of $80 000 has been made to Tandanya at the request of the Administrator so that pressing commitments can be met. I appreciate that the sums required for Tandanya to complete this financial year are not fully apparent as yet. The Administrator is working on that problem, along with many other things. Certainly, if necessary, further advances will be made to Tandanya. I have announced on a number of occasions that I do not want Tandanya to fail. I certainly do not want it to close its doors, and I am sure that no member of this Council wants that to occur.

The difference between an advance and a non interest bearing loan is negligible. It just depends on what one wants to call it; it is exactly the same thing. I have indicated previously that no extra grant will be made to Tandanya, as has been made clear right from the beginning of this financial year. Repayment of any advance or loan will need further discussion in terms of the timing. It depends on the total amount required to reach the end of the financial year. As I said, I am still awaiting more detailed information from the Administrator in that respect.

I would point out to members that State Opera was in a similar situation to Tandanya about three or four years ago and required a non-interest bearing loan from the State Government of over $400 000 to enable it to survive.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: As a result, that advance was given with conditions and an agreement worked out regarding repayment of that advance, and State Opera undertook to make considerable changes to its management structure and financial arrangments and to repay that loan to the Government within three years. In fact, State Opera was so successful that it was able to repay the loan within two years, achieving its repayments 12 months ahead of schedule. I am not aware of any great criticisms of the strategy adopted by the Government with regard to State Opera when it had its problems, and the Government's faith in State Opera was amply justified when it repaid its loan ahead of schedule. I would hope that there could be equally the same support and lack of criticism when the Government is attempting to help Tandanya—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —in exactly the same manner as the Government previously helped State Opera over a difficult patch. I can also assure the Council that the advances to Tandanya have been made and will be made with conditions attached and that these conditions are being met. These conditions include reduction of staff to the approved level, cuts in expenditure and provision of regular monthly financial reports to the department. These conditions are being met by the board and by the Administrator at Tandanya.

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage a question about Tandanya.

Leave granted.

The Hon. R.I. LUCAS: The review of Tandanya's first year of operations released yesterday by the Minister reveals a litany of irregular financial practices, mismanagement and deceit. In the light of that, has the Minister received confirmation that the Auditor-General is able and prepared to undertake an investigation of Tandanya's affairs, notwithstanding his responsibilities with the State Bank inquiry? Further, has the Minister received any advice that any criminal offences have occurred at Tandanya over the past 18 months and that prosecutions should be initiated?

The Hon. ANNE LEVY: The answer to the second question is 'No', I have received no such information, but obviously, if there were any question of police investigation being required, that would be undertaken. However, I have certainly not received any indication that that would be considered necessary. With respect to the first question, the way the Auditor-General's Act is framed, unfortunately it is not for me to appoint the Auditor-General to undertake an investigation at Tandanya. That can be requested or ordered only by the Minister of Lands. I have requested the Minister of Lands to make such a request of the Auditor-General, and the Minister of Lands informed me that she would do all she could to expedite this matter. I have not yet had a formal response acquiescing to my request.

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Minister for the Arts and Cultural Heritage a question about Tandanya.

Leave granted.

The Hon. L.H. DAVIS: Yesterday, the Hon. Ms Levy, as the responsible Minister, released a review of Tandanya's first year of operation. Ms Levy disclosed that Tandanya had outstanding bills of at least $100 000: bills still to be paid. I understand that nearly all these accounts are owed to private sector firms and, in some cases, have been outstanding for many months. These firms are not only battling the recession, which Treasurer Paul Keating said we had to have, but also they are proving to be the undeserved scapegoats—

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: —of the financial maladministration of Tandanya and the extraordinary slackness of the Bannon Government. If these amounts were owed by private sector operators, there is every likelihood that legal action would already have commenced to recover the moneys outstanding. My questions to the Minister are as follows:

1. Does not the Bannon Government have a policy of prompt payment of all accounts owing to small businesses, particularly in these extraordinarily difficult economic times?

2. Will the Minister advise exactly when these outstanding accounts will be paid?

3. Will the Minister, as a matter of urgency, advise what are the amounts outstanding to private sector firms by Tandanya but, of course, not the names of those firms, and also the dates on which those accounts were first rendered to Tandanya by the private sector firms?

4. Will those private sector firms receive interest on the amounts outstanding, in view of the extraordinary delay in the payment of those accounts?

The Hon. ANNE LEVY: I can certainly assure the honourable member that the Government believes in the prompt payment of its accounts.

The Hon. L.H. Davis: But you don't do it.

The PRESIDENT: Order! The honourable member asked the question; wait for the answer.

The Hon. ANNE LEVY: I reiterate: the Government certainly believes in paying its accounts promptly. I point out that the accounts to which the honourable member is referring are not Government accounts: they are bills that have been run up by Tandanya, which is a private organisation.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: It is a private organisation, which is funded by the Government, as are many other private organisations in our community.

Members interjecting:

The PRESIDENT: Order! The Council will come to order. The honourable Minister has the floor.

The Hon. ANNE LEVY: The sorting out of financial problems at Tandanya has been undertaken by the Administrator whom the Government has appointed with the complete agreement of the board of Tandanya. I understand that the Administrator is still discovering accounts dating from well before he held that position that are, as yet, unpaid. I am not aware of the total sum, or the number of private sector accounts involved, but I will seek that information from the Administrator. I can—

The Hon. R.I. Lucas: Why haven't you done that already?

The PRESIDENT: Order!

The Hon. ANNE LEVY: —also assure the honourable member that not all the accounts are due to the private sector and that there are also accounts to other Government agencies. Indeed, if the honourable member had listened to the question from the Hon. Ms Laidlaw last week, and to my reply, he would find that a great deal of—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —what he has asked has already been asked and answered. I fail to see why he is reiterating this. He merely wants to hear the sound of his own voice, which never decreases.

The Hon. L.H. DAVIS: Supplementary question, Mr President.

Members interjecting:

The PRESIDENT: Order! The Council will come to order. The Hon. Mr Davis is to ask a supplementary question.

The Hon. L.H. DAVIS: Will the Minister advise the Council whether the Government has a policy of paying these private sector accounts immediately as they become known?

The Hon. ANNE LEVY: The affairs of Tandanya are being run by the Administrator at Tandanya who has been appointed by the Government to help Tandanya to sort out its affairs.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: The Administrator certainly wishes to have accounts paid as soon as possible, but, as I indicated, he is still discovering unpaid accounts. Although he has been there for two weeks, he is still discovering accounts which are lying around unpaid.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: I have indicated that I will ask for the information that the honourable member has requested from the Administrator and bring back a reply.

PARLIAMENT HOUSE ACCOMMODATION

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking you, Sir, a question in relation to accommodation in Parliament House.

Leave granted.

The Hon. M.J. ELLIOTT: Following the last election, the Democrats met the Government, not for the first time, and expressed concern about the resourcing of Legislative Councillors in general and the Democrats in particular. We put the position that, while the Government had ministerial resources and the Opposition at least had significant staffing for the Leader of the Opposition in the Lower House, we had been handling all legislation and other parliamentary duties with the help of one assistant. The Government agreed that this was reasonable, and in fact the Attorney-General is on record in this place as saying so, and we were allocated two additional positions to enable that to be carried out.

Today is one year exactly since the first of those additional people joined our staff and began sharing an office with our secretary—an office which by all standards was only just large enough for one person. The other additional staff member commenced sharing an office with me two weeks later and has been there for almost 12 months—once again, in an even smaller office.

Not only are the Democrats staff in this position, but it applies also to the *Hansard* staff and the Legislative Council messengers, four of whom are crammed into one very small room which I doubt, under occupational health and safety regulations, would be hardly large enough for two staff members.

In that period there have been promises of action, and talk has continued since that time. I seek leave to table a document prepared by the PSA Occupational Health and Safety Industrial Officer, Gay Walsh, in relation to a finding that she made on 4 May last year.

Leave granted.

The Hon. M.J. ELLIOTT: I will not go through the whole document, but the first clause states:

This office accommodates three staff—

that is, in addition to the two members of Parliament—

and is in breach of clause 27 (1) of the Occupational Health and Safety (Commercial Safety Regulations 1987).

It then goes on to list a litany of other things which are all in breach of proper conditions. It is almost 10 months since that report was prepared, and it has been circulated widely, I believe, to you, Sir, and to members of the Government. Those sorts of conditions and breaches are happening for quite a few other staff members, not just the staff of members of Parliament in this place. Despite persistent questions from the Democrats over a long period, not even temporary

arrangements have been made. We have rooms containing five full-size billiard tables, which are virtually never played on, but which these Houses are not willing to give up for extra space. There also appears to be inadequate usage of committee room space in this place. When one considers the vast amount of office space offshore available in this city—much of it owned by the Government and its institutions—it is surprising that nothing has been done.

I ask the following questions: does the President agree that occupational health and safety guidelines are being breached within Parliament House; that they have been breached in the case of the Democrats' office for about 12 months, but in many other offices for considerably longer; and that nothing more than talking has been done about these breaches of the occupational health and safety guidelines in Parliament House? Also, how much longer does the President anticipate that Parliament will breach its own laws?

The PRESIDENT: What the honourable member says is true. He is putting up with extreme difficulties. In fact, I had the dubious privilege of trying to see whether doors could be put back on his office, because they had been taken off to make room for staff. The agreement was that until such time as we got extra space and accommodation those doors could remain off the offices there.

In relation to the questions, I agree that the health and safety welfare guildelines have been and are still being broken in the House. That is common knowledge. With all the committees and all the instigation and investigations that have taken place, there has been no resolution of a lot of those issues. In fact, I believe that the way in which the corridors have been cluttered up and staff are being put into corridors creates a terrific hazard if a fire should happen to break out or if there is any chemical damage. In fact, that was shown some weeks ago, when there was a fire alarm from above and smoke was filtering through the building. There was quite an exodus of a small number of staff as we were not sitting at the time. So, I agree that guidelines are broken.

The honourable member asked when something would happen in Parliament or when I could do something? I do not think it will happen in my time. If I can pass an opinion, from what I can see, it would appear to me that governments of any ilk do not seem to grasp the nettle or do anything for the staff and people who work in Parliament House. The bulk of members in Parliament House have their offices outside Parliament and, especially in the Lower House, they are here only when Parliament is sitting. The staff who are located in Parliament House are here all the time. It seems to me that it will be a very difficult situation to resolve unless there is an exodus of staff members from Parliament House.

I cannot see any short-term freeing up of rooms in Parliament House. A committee set up by the Minister is looking at low usage areas, as I understand it. In fact, a circular has been circulated, and the Hon. Mr Elliott sent me a letter requesting use of one of the billiard rooms. We have the unique situation, of course, where this Council has control of its side and the other place has control of its side, and never the twain shall meet on a lot of issues.

I have always been of the opinion that I was not in a position to give up the rights of members of Parliament; not just those of a particular grouping but of the whole of Parliament. I have always indicated my willingness to take the issues involving that sort of thing to the members themselves if they wanted to relinquish any of their rights. If members were prepared to do so, I was quite happy to accede to that. In fact, members may recall that we had something done about photographers. No still photography was allowed in the Chamber. I exercised that right and stopped still photography in the Chamber. The members agreed that they would have still photography, and they have got it. If members in this Chamber agree to give up rooms or certain areas over which they have control, I am quite happy to accede to that.

In reply to the honourable member's question, I see no short-term solution. I have always been of the opinion that other people should not be inconvenienced or put out of their offices to solve one problem. I do not see that moving chairs around on the Titanic will do any good.

I suggest that the honourable member would be better advised to take the matter up with the Minister to see whether arrangements could be made for some outside facilities or rooms to made available.

The Hon. M.J. ELLIOTT: On a supplementary question, Sir, can I take it from your response to my questions that either the occupational health and safety regulations that apply throughout the State do not apply to Parliament House or that we are simply ignoring them?

The PRESIDENT: I am not sure. I would imagine that Parliament is the master of its own destiny and that it does what it does. We usually comply with the laws and Acts that we pass, but it appears that some of them are not complied with by the letter of the law in Parliament. I will have to take the question on notice and come back with a considered reply. I think that the spirit of it was that we did comply. Whether we actually must, by law, is another matter.

ROXBY DOWNS PETROL PRICES

The Hon. R.R. ROBERTS: I seek leave to make a short explanation before asking the Minister of Consumer Affairs a question about petrol pricing at Roxby Downs.

Leave granted.

The Hon. R.R. ROBERTS: I was recently contacted by Mr Allan McNeil, an AWU shop steward at Roxby Downs. He was prompted to contact me following numerous complaints by residents about the price of petrol at the Roxby Downs township.

Mr McNeil advises me that the price of petrol in Roxby Downs is still 85.9c a litre, although I believe that today it has dropped by 2c. However, Mr President, you would be aware that over the past few weeks petrol in the metropolitan area has dropped dramatically and is commonly around 60c per litre. I am informed that, at Andamooka, which is some 30 kilometres further out, the price of petrol is some 4c to 5c a litre cheaper and that discounts of up to 10 per cent are available to regular customers.

People living in country areas are used to paying higher prices as a consequence of the tyranny of distance, but many people at Roxby Downs feel that 25c a litre more than Adelaide prices is far too high. My questions to the Minister are as follows:

1. Will the Minister explain to this Council the current petrol pricing guidelines?

2. Will the Minister have officers from the Department of Public and Consumer Affairs assess and attend to the petrol pricing situation at Roxby Downs?

The Hon. BARBARA WIESE: A number of factors determine the price of petrol in country areas and it can be a complex matter to try to unravel the various aspects that make up the price of petrol in determining whether a reseller has priced petrol appropriately. In general terms, the Prices Surveillance Authority establishes the wholesale price of

petrol for Australia and also determines the freight differentials that will apply for carting petrol to country locations. This freight differential is applied to those areas outside the free delivery zone, which includes the metropolitan and near metropolitan area.

In general terms, the price of petrol in country areas depends on the wholesale price of petrol, the freight differentials that will apply and the fact that there is likely to be lower throughput of petrol in country locations than there is in the metropolitan area, which means that the unit cost of petrol is likely to be higher in some of those locations. That is coupled with the fact that, in the metropolitan area in South Australia in particular, there is considerable competition between oil companies and petrol resellers, which has led to extensive price discounting and which tends to accentuate the difference in petrol prices between metropolitan stations and those in country areas. So, because of all those factors, it would be difficult to make an immediate judgment about why it is that petrol prices being charged in Roxby Downs are as high as they currently are. However, I shall be happy to ask officers of the Department of Public and Consumer Affairs to look at the current prices being charged at Roxby Downs to attempt to determine whether or not any overcharging is occurring.

UNLEY COUNCIL

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Minister for Local Government Relations a question about Unley council.

Leave granted.

The Hon. J.C. IRWIN: The public has recently been witnessing a boxing match between Unley council and the member for Unley (Hon. Kym Mayes) over the demolition of a house in Arthur Street, Unley.

Members interjecting:

The Hon. J.C. IRWIN: He has gone overseas, I think. Unley council has photographs of last century, showing a house and barn not like the house now partially demolished. The bricks of the demolished part are of this century and were tested a couple of weeks ago. On Christmas Day there was a fire in the house which, at the time, was being inhabited by squatters. Three years ago the land was rezoned from A1 residential to district centre zone by the supplementary development plan process. The residents of Unley were very much aware of this rezoning prior to its being passed, and no doubt Mr Mayes was also aware of the rezoning.

Mr Mayes quoted from documents from the Department of Environment and Planning that showed that the house had 'never been assessed by the State Heritage Branch'. He even cited a letter from the Minister for Environment and Planning (Hon. Ms Lenehan) dated 20 February 1991, in which the Minister asked for a deferment of the planned demolition so that a review of the house could be carried out by the State Heritage Branch.

The villa was listed on the local heritage list. On 19 January this year the Unley council was advised by the State Heritage Branch that the Arthur Street house 'was not considered as being historically significant'. The very next day the Minister for Environment and Planning asked for a review. Local government is suffering from the Minister who does not know what her department is doing. And further, it appears that the Hon. Mr Mayes is keen to tell everyone who wants to listen that the Unley council 'will be paying dearly' for its decision. One is left wondering what a Minister means by this outrageous statement and when he will stop interfering, as he has done before, in the democratic processes of local government. My questions are:

1. Does the Minister for Local Government Relations agree with the stance the Hon. Kym Mayes is taking on the issue of the demolition of the villa in Unley?

2. Does the Minister believe that the democratic process being followed by the Unley council is being damaged by her ministerial colleagues? (I have not heard the Minister stand up for local government in this case at any time.)

3. Does the Minister believe it is good enough for the Minister for Environment and Planning (Ms Lenehan) to tell the Unley council one day that there is no historical significance to that house and the very next day tell the council that the decision will be reviewed?

The Hon. ANNE LEVY: As to the third question, I think it is a question for the Minister for Environment and Planning and not me, and I will refer the question to her and bring back a reply.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: Mr President, I do not make comments on matters outside my portfolio, and it would be quite improper for any Minister to do so.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: When matters refer to the portfolio of another Minister, the courteous procedure is to refer the question to that Minister, and I undertake to do so. The honourable member asks whether I agree with the stance of the Minister of Housing and Construction. I do not see that my personal view has anything whatsoever to do with the matter. As Minister—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: Mr President, they ask a question and then they do not want to listen to the answer.

The PRESIDENT: I agree completely. Honourable members should have the courtesy to hear the answer after they have asked the question.

The Hon. ANNE LEVY: As Minister for Local Government Relations, I am responsible for relations between the local government sector and the Government. I have not been approached by Unley council nor have I been approached by the Local Government Association on this matter. I think the honourable member is trying to buy into a fight that is occurring in the Unley area, and I fail to see why—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —honourable members opposite, including the persistent interjector, are bringing into Parliament a matter which is doubtless of great concern to the citizens of Unley but which is not of relevance outside the boundaries of Unley.

POLICE PROSECUTION RESOURCES

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

Leave granted.

The Hon. K.T. GRIFFIN: On Thursday last week in the Christies Beach Magistrates Court a magistrate threw out three cases: one involving robbery with violence, another involving indecent assault and another involving housebreaking. The reason why these cases were thrown out of

court without being heard was that police were too slow in preparing the cases. It appears that they did not have statements of evidence ready within a five-week period. The Police Prosecutor said that police were understaffed and could not do the paperwork in time. The police at Christies Beach had suffered promotions, postings and were one officer short.

Naturally, there is some anger in the community about the magistrate's action and concern that a lot of time, effort and money are expended catching criminals and all that is thrown away because of a shortage of police resources and some procedural rule established, it appears, by the magistrate that papers for the hearing have to be prepared within five weeks. There is also concern that the three persons charged will walk away from the court without having to face any penalty at all. My questions to the Attorney-General are:

1. Will the Attorney-General investigate these cases and determine how those charged may be brought back to face the court?

2. Why are the police experiencing staff shortages if, as a known consequence, defendants get off scot-free?

The Hon. C.J. SUMNER: I will certainly examine these matters with a view to seeing whether they can be brought back to court. I am not aware of the circumstances of the cases that the honourable member has raised in this Council, but it is certainly the first time that the issue of the lack of police resources in this respect has been drawn to my attention. However, I would have thought that it is unacceptable for a magistrate to deal with these serious matters in this way.

There are circumstances where, for one reason or another, it is not possible to get prosecution statements ready in time. That simply is no excuse for a magistrate to dismiss a case. There has to be some flexibility with respect to these matters. The fact of the matter is that considerable sums of public money—taxpayers' money—go into investigations of criminal cases and if the taxpayer, prosecution authorities and police put their resources into the investigation of these matters, one does not then expect the case to be dismissed by a magistrate in effect on technicalities because they say that the cases have not been prepared in what the magistrate considers to be the appropriate time.

I do not know the full circumstances of this matter, but I will examine it. Obviously at some point the moment might be reached when it would be appropriate for magistrates to take that action. However, generally, I believe that magistrates and judicial officers should show greater flexibility in this area. Sometimes there is insufficient understanding on the part of magistrates and the judiciary about the enormous amount of time, effort and taxpayers' money that has to go into the investigation and prosecution of cases. It simply is not good enough to have them thrown out on technicalities.

PARLIAMENT HOUSE ACCOMMODATION

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General a question about Parliament House accommodation.

Leave granted.

The Hon. I. GILFILLAN: On 7 February 1990 I wrote to you, Mr President, informing you of new staff allocations and requesting the use of the Subordinate Legislation Committee room until suitable accommodation was found. On 22 March 1990 Minister Mayes wrote to the PSA stating that a working party had been established to 'solve' the health and safety breaches in Parliament House. On 9 April 1990 Minister Mayes wrote to me asking for my assistance in resolving short-term accommodation problems in Parliament House. It is worth repeating that: Minister Mayes asked me to help with short-term accommodation problems in Parliament House. On 21 November 1990 the Premier wrote to me stating:

> It is acknowledged that the report identified the area currently occupied by the Democrats does not meet current accommodation standards. I am anxious to get early agreement on the extent of upgrading within the financial constraints we currently face, following consultation with members.

The Premier was referring to the report entitled 'Accommodation Review—Parliament House'. On 12 December 1990 Minister Mayes released a report on accommodation that recommended the conversion of offices of low use areas of conversion, such as the billiard room. On 8 January 1991, I wrote to Premier Bannon stating that the Department of Labour and the PSA labelled the working conditions in the Democrat offices as below the minimum required under health and safety regulations.

On 1 March Minister Mayes acknowledged in writing 'the need to release currently under-utilised space in Parliament House to enable some of the more pressing accommodation needs of the House to be met'. On 6 March you, Mr President, instituted a poll of members of this place regarding the potential or possible use of the billiard room on a temporary basis. My understanding is that early indications suggest that it is unlikely to be successful.

Mr President, in answer to a question from my colleague, you also said that you did not expect anything substantial to be done in your time. That certainly does not raise much optimism for those of us who are confined in substandard accommodation. You also acknowledged that the current situation is in contravention of occupational health and safety legislation and your personal opinion was that the only likely solution would be offshore accommodation or accommodation outside this building. Mr President, I ask—

Members interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: I am glad that members who do have adequate room have such a responsive sense of humour—

Members interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: —that they can—

Members interjecting:

The PRESIDENT: Order! The Council will come to order.

The Hon. I. GILFILLAN: Mr President, members seem to see the confinement of employees in substandard working conditions as a subject of mirth. If that is the standard of their sensitivity to people who are employed in this place, I have very little respect for their criterion in this matter. However, I turn to the Attorney-General because I believe he has more sensitivity and will not treat this as a subject of light-hearted mirth. The Attorney is the leading representative of the Government in this place and, in light of the letter that I quoted earlier from the Premier, will he undertake to represent personally to the Minister of Housing and Construction (Mr Mayes) the immediate requirement for urgent action to provide satisfactory accommodation for Democrat staff? As the Government Leader in this place, will he please undertake to see it through personally?

The Hon. C.J. SUMNER: I will refer the question to my colleague the Minister of Housing and Construction, and bring back a reply.

The Hon. I. GILFILLAN: I have a supplementary question. My question directly asked the Attorney-General whether he would personally represent the matter and fol-

low it through. Will he please answer the second part of my question?

The Hon. C.J. SUMNER: The answer is 'No'.

OPTICIANS ACT

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Health, a question about the Opticians Act.

Leave granted.

The Hon. J.C. BURDETT: The Opticians Act Amendment Act was assented to on 5 May 1988, nearly three years ago. It was to come into operation on a date to be fixed by proclamation. No proclamation has so far been made. I have spoken to the Australian Optometrical Association (South Australian Division), which has made representations to the Government with respect to doing something about it.

My questions are: when will the Opticians Act Amendment Act, assented to on 5 May 1988, be proclaimed? What are the reasons for the delays in proclaiming it? I might add that it was a bipartisan Bill which was referred to a select committee of the Legislative Council, and that select committee came up with a unanimous report supporting the Bill and recommending amendments which were agreed to by the Council. Perhaps a third question is: in view of the agreement of all sides of the Council (including the Democrats), for what reason has the proclamation of the Act been delayed for so long?

The Hon. BARBARA WIESE: I will refer the honourable member's question to my colleague in another place and bring back a reply.

BUSINESS SURVEY REPORT

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister of Small Business a question about a business survey report.

Leave granted.

The Hon. J.F. STEFANI: On Thursday 7 March 1991 the Westpac Banking Corporation and the Confederation of Australian Industry released the results of a joint quarterly survey of industrial trends conducted amongst manufacturers throughout Australia, including South Australia. Some of the key points which arose from the survey are as follows: 56 per cent of the respondents expect a deterioration in business conditions in the next six months. Demand remains weak in the December quarter, a net balance of −55 per cent of respondents reported a fall in new orders in the March quarter. New orders are expected to remain weak over the next three months.

A net balance of −43 per cent of manufacturers surveyed reported a fall in output in the March quarter, compared with −41 per cent in the December quarter. This is a similar result to that recorded during the 1982-83 recession. Output is not expected to pick up in the near future.

Consistent with the subdued outlook for production, a growing proportion of respondents (70 per cent) reported operating below the normal level of capacity. A further rundown in stocks was reported and this is expected to continue into the June quarter.

Over 60 per cent of respondents reported a decline in numbers employed in the March quarter. Both employment and overtime are expected to remain weak over the next three months.

For the fifth consecutive quarter, capital expenditure plans on buildings, plant and machinery for the next 12 months remain weak. The results are similar to those reported by respondents in the 1982-83 recession.

The general business outlook for the next six months is the most pessimistic in Queensland (net balance of −69 per cent) and South Australia (−56 per cent).

Employment levels continued to fall in the March quarter. Those States where the largest falls in employment are expected in the next three months are Western Australia, South Australia and Victoria.

Western Australia (net balance of −76 per cent) and South Australia (−60 per cent) recorded the biggest falls in new orders.

More respondents expect costs to rise in Victoria in the next three months than in any other State. Selling prices fell in Western Australia, South Australia and Victoria, though only South Australia expects selling prices to continue to fall over the next three months. In view of these disastrous trends, my questions to the Minister are:

1. What strategies has the Bannon Government implemented to avert the collapse of more manufacturing businesses which will add to unemployment?

2. What emergency plans have been developed to retain manufacturing businesses in South Australia during the difficult times expected ahead?

3. What will the Bannon Government do to assist those who expect to lose their jobs over the next six months?

Members interjecting:

The PRESIDENT: Order! There is too much conversation.

The Hon. BARBARA WIESE: It is a well known fact that in South Australia economic conditions over the next six months are likely to be very difficult, so the honourable member certainly is not telling us anything new with the trends and indications to which he has referred that have come from the Westpac survey of manufacturing industries. The Bannon Government is very much aware of the expectations of people in the manufacturing sector over the next few months and has been working very closely with many of the companies and organisations that are concerned about the way in which the economy is likely to impact on their businesses and also the way in which potential Federal Government decisions are likely to impact on them.

I suppose key among the sectors of manufacturing at the moment that are very distressed about potential decisions would be the car industry with the Federal Government's foreshadowing cuts in tariffs in the next few years. This matter has been taken up vigorously by the State Government, both by the Premier and the Minister of Industry, Trade and Technology, with Federal Ministers who have responsibility in this area to try to convince the Federal Government that the reduction in tariffs should be smaller and more gradual than seems to be the preference at the Federal level. A number of issues of this kind have been directly taken up by the Bannon Government where appropriate, and action has been taken to attempt to ease the burden on people in the manufacturing sector to enable the South Australian economy to get through this recession period in the best possible shape.

Certainly, the policies pursued by this Government during the entire period that it has been in office have been designed to diversify our economy and to enable the South Australian economy to ride through economic storms in a much better way than has previously been the case, with a much narrower economic base. The fact that the South Australian economy has held up better than some other parts of Australia so far during tough economic times is an indication

of the success of the policies that we have pursued. However, I would like to warn the Hon. Mr Stefani against raising questions of doom and gloom—

The Hon. J.F. Stefani: I asked what you were going to do about it.

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —in this place with respect to the economy—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —and I refer him to an article in last Friday's *Advertiser* where all employer organisations representing industry in South Australia strongly took the Hon. Mr Davis to task on his stories of doom and gloom, because they are very concerned about the impact that this sort of approach will have on the South Australian economy.

LEGAL PRACTITIONERS (MISCELLANEOUS) AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Legal Practitioners Act 1981. Read a first time.

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

That this Bill be now read a second time.

This Bill seeks to make several amendments to the Legal Practitioners Act 1981 ('the Act'). First, the Bill amends section 51 of the Act to allow a legal practitioner acting on the instructions of the Australian Securities Commission (ASC) to be entitled to appear before any court or tribunal established under the law of South Australia. On 1 January 1991 the Corporations (South Australia) Act 1990 came into operation. One of the effects of this was that the ASC replaced the Corporate Affairs Commission (CAC) as the body administering corporate law in South Australia. Reference to officers of the CAC is made to allow legal practitioners acting on the instructions of the CAC to deal with matters arising under legislation that has remained with the State.

Secondly, the Bill amends section 70 (6) of the Act to allow the Legal Practitioners Complaints Committee (the committee) to operate out of the same premises as the Law Society (the society). Until last year the society occupied premises in Gilbert Place where accommodation was inadequate, and it was thought that, to preserve its independence, the committee should not meet at the premises of the society. Since that time, the society has moved into premises in Waymouth Street and the secretariat of the committee is situated on the first floor of those premises, completely separate from the Law Society's general office and staff. This amendment to the Act is supported by both the committee and the society. I commend the Bill to members. I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 amends section 51 of the principal Act by striking out paragraph *(c)* of subsection (1), which gave legal practitioners employed by the Department of Corporate Affairs the right of audience, and substituting new paragraphs *(c)* and *(ca)* that give, respectively, the right of audience to legal practitioners acting on the instructions of the Corporate Affairs Commission or the Australian Securities Commission. It is necessary to make these amendments as a result of the recent Commonwealth legislation in the area of corporate law.

Clause 4 amends section 70 of the principal Act by inserting after 'Society' in subsection (6) 'except with the approval of the Attorney-General'.

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

PHYSIOTHERAPISTS BILL

Adjourned debate on second reading.

(Continued from 7 March. Page 3358.)

The Hon. J.C. BURDETT: I support the second reading. The Bill is one of a series of occupational Bills that is in the process of being brought before Parliament, most of which are in the medical area, as part of a program to upgrade the practice of these various occupations in accordance with modern standards. The Liberal Party agrees with the general thrust of that bracket of Bills, and supports the present Bill as it now stands, having been amended in the other place.

The physiotherapy profession is a vital component in the health sphere, and it has been improved in recent times. There are high standards of practice in that profession in South Australia, compared with the rest of Australia, and that has raised community expectations. That has had a snowballing effect: because the standards are high, higher standards still are expected. Physiotherapists have always been important but, in the present circumstances, they are especially important for various reasons. First, more emphasis is being put on home care and ambulatory care within the community, and this is due partly because of financial pressure on hospitals to decrease bed stays, partly because of the increase in day surgery and partly because patients just like to be at home rather than in a hospital situation, which may not be to their liking, and that is understandable.

Another factor that has affected the practice of physiotherapy in recent times has been the greatly increased use of technology. In this respect the Bill requires that when a practitioner has not practised for a certain time there must be a re-training period; because of the greatly increased use of technology, which might not have applied before, of course this is a necessary provision and I support it. The greater use of technology also, of course, implies a greater degree of responsibility.

The budgetary question in regard to the training of physiotherapists is important because, with the present budget allocation and with the prospect of budget restraints, it is difficult to see that physiotherapy students will be able to have the practical experience which they have been having at present. Thus it is important that the Government carefully consider the budgetary question. It is a bit of a circular argument because the use of physiotherapy students in the hospital at present reduces the costs to the hospital and, therefore, the cost to Medicare. If costs are reduced in one area they must be increased in others.

Another aspect which must be considered in regard to the whole question of physiotherapy is the question of country health. Not only in regard to physiotherapy but also across the board there has been a great strain recently on country health, threats to close country hospitals and many services in country areas have been reduced. As I under-

stand it, it will not be possible to maintain, under the present budgeting proposed by the Government, the present standards of physiotherapy in country areas. In particular, people on Yorke Peninsula have expressed concerns about the reductions in physiotherapy services. It is not peculiar to country areas: it applies in the city also.

Recently, I have had reports from persons who have sought medical help in the Modbury Hospital and who have been prescribed physiotherapy treatment. I am told that in a hospital situation if the doctor prescribes physiotherapy treatment one would normally expect that treatment to be available almost immediately. Persons have been to the Modbury Hospital, have been prescribed physiotherapy treatment and have not been able to get it for 2½ weeks. That has not been the pattern in the past; it is not the pattern that one would expect; and it is not the pattern which is most beneficial to the patient. I am informed that, when some of those people have gone back to the doctor at the Modbury Hospital who prescribed the physiotherapy treatment, the doctor has been surprised and quite amazed that there has been a 2½ week waiting period for that treatment.

One thing about the second reading speech rather alarmed me. The original second reading explanation of this Bill made in the other place in December has obviously been lifted straight out and used in the second reading explanation which was made in this Council last week. This is dated 7 March 1991. The speech which was read as a second reading explanation in this Council last week concludes by saying:

> A good deal of consultation has occurred. There will be the opportunity for further consultation prior to debate commencing in the autumn session.

That is ridiculous, because we are well into the autumn session. It is clear that no upgrading or updating of the speech has been done.

The Hon. C.J. Sumner interjecting:

The Hon. J.C. BURDETT: It is all very well for the Attorney-General to click his tongue. That is a very minor example, but there have been many more serious ones where second reading explanations have not been upgraded. We deserve that upgrading in this Council; it is also deserved in the Assembly if it goes the other way. The second reading explanation ought to be related to the Chamber in which it is made. It is sloppy and not good enough to lift out a speech without considering how it applies to the House where it is to be made. The explanation of the clauses has been upgraded. The member for Adelaide in the other place moved two amendments, which were accepted by the Government, and they improved the Bill considerably. I am pleased to note that the explanation of clauses has been upgraded and that the Bill represents the explanation of clauses as it has come to us.

This Bill is obviously much needed. It has the support of the Physiotherapy Association, and I hope that it comes into effect reasonably soon. I mentioned in explaining a question that the Opticians Act Amendment Act, assented to on 5 May 1988, to come into effect on a date to be proclaimed, has not yet been proclaimed. I also mentioned in explaining that question that that Bill had been subject to a select committee of this Council and that there was a unanimous report. One wonders what powers Parliament has. Parliament solemnly deliberates, even goes to the point of a select committee, recommends amendments, the amendments are proposed and made by the Council, and the Bill as such is then accepted by the Parliament, yet it is not proclaimed.

There are many other examples of this. Is it just the act of the Executive Government setting at nought what Parliament has done? What is the point in Parliament handling sometimes controversial legislation—this is not such an example—and solemnly dealing with it and then the legislation, when it has been passed by the Parliament and assented to by the Government, is not proclaimed by the Executive Government? Certainly, however, this Bill has the support of the Opposition and I indicate accordingly.

The Hon. R.J. RITSON secured the adjournment of the debate.

WORKERS REHABILITATION AND COMPENSATION ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 6 March. Page 3292.)

The Hon. C.J. SUMNER (Attorney-General): The Hon. Mr Griffin, in his address, pointed out that this Bill was essentially a Committee Bill. I agree with him on that point and accordingly will respond in detail to the various points raised by members opposite in the Committee stage.

I propose instead to limit myself to some general comments about this Bill and the general question of the funding of the WorkCover scheme. First, it should be pointed out that this Bill has resulted from extensive consultation between the Government, employer and employee interests. It represents part of the ongoing process of fine tuning of the WorkCover system which is taking place at both the adminsitrative and legislative levels.

It should also be noted that the Government has consistently moved to shore up the integrity of the original Act. On a previous occasion the Government amended the Act to tighten the definition of 'disease' as a result of a Supreme Court decision which gave a liberal interpretation to that definition.

In this Bill the Government is proposing to tighten the provisions relating to the inclusion of overtime in weekly compensation payments—again in response to a Supreme Court decision which gave a liberal interpretation to the existing provision.

It is the Government's firm belief that the scheme will operate on a proper financial basis if the integrity of the original Act is maintained. Thus, the Government will be moving an urgent amendment to this Bill to overcome a potential problem that may prohibit the adjustment of benefits to workers under what is known as the second year review process. Pursuant to section 35 (1) (B) (II) of the Act, workers who are partially incapacitated and who have been on benefits for in excess of two years are currently having their benefits adjusted downwards to reflect their earning potential. This is a critical review and the scheme's funding totally rests on the ability to make these adjustments.

Indeed, WorkCover's actuaries have indicated that, on the basis of the reduction in benefits being currently achieved by WorkCover, as a result of this second year review process, the estimated book deficit as at 30 June 1990 of $150 million would be reduced by approximately $126 million. In other words, the proper operation of the second year review process will turn the funding of the scheme right around and put it back on track for full funding by 1995, if not sooner.

It is critical, therefore, that the integrity of the Act be maintained in this area as in the other areas addressed by this Bill. The Government is committed to a program of ensuring that the integrity of the original Act is maintained and no doubt will need to keep coming back to Parliament

should further interpretations by the courts of this complex Act depart from the Act's original intent.

I also add that, where such adjustments prove necessary, as is the case with overtime, there certainly will be no delay in proclaiming the amendments once they have been passed by Parliament, as the Hon. Mr Griffin suggests there might be.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

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

Part 1—

Line 15—Leave out 'This' and substitute 'Subject to subsection (2), this'.

After line 15—Insert new subsection as follows:

(2) If a provision of this Act is not brought into operation before the expiration of three months after assent, the provision will come into operation three months after assent.

One amendment is consequential upon the other. Clause 2 provides that the Act will come into operation on a day to be fixed by proclamation. Under the Acts Interpretations Act, that will allow any particular provision of the Act to be suspended and not come into operation so that it can be done on a piecemeal basis rather than as a whole.

It seems to me that, depending on what comes out of the Committee stages of the consideration of this Bill, it may be that, if there are aspects of the Bill which the Government or WorkCover does not like, it will be a real temptation to suspend the operation of certain provisions. For that reason, I think we need to treat the Bill as a whole and provide that, if a provision is not brought into operation before the expiration of three months after assent, the provision will come into operation three months after assent.

In effect, it is a trigger point at which the whole Bill comes into operation if it has not been brought into operation before that time. To ensure that the good and the bad might come into operation at some time within a reasonable period and that the provision not be suspended from coming into operation, it seems to me that we have to put in this sort of provision. Whether it is two months, three months, four months or six months is, I think, a matter for debate. However, three months ought to be enough time within which to do all the necessary groundwork in preparation for bringing the whole Act into operation.

We really do not want the situation that we have with the Opticians Act to which my colleague the Hon. Mr Burdett referred where several years have elapsed since it was enacted and it still has not been brought into operation. Therefore, I think that we ought to ensure, because of that occurrence and others which occur from time to time, that we indicate, as a Parliament, that we want this—the good and the bad—brought into operation as soon as possible.

Amendments carried; clause as amended passed.

Clause 3—'Interpretation.'

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

Page 1, lines 23 and 24—After 'subsection (1)' insert—

'and substituting the following paragraph:

(c) by way of overtime;'.

Clause 3 deals with section 3 of the principal Act, and that deals with a variety of definitions. The heading is 'Interpretation', and one of the amendments in the Bill seeks to modify the extent to which overtime is taken into consideration in calculating average weekly earnings for the purposes of an award of weekly payments of compensation.

Currently, there is a case before the courts involving General Motors, an exempt employer, which has this very issue of overtime before it. In that particular case, as I recollect it, the exempt employer took a decision to reduce the weekly payment of compensation by virtue of the fact that overtime was no longer being paid to other workers of a similar classification at work, and that has been challenged.

I think it is inconsistent with the general concept of compensation for injury at work that a person who is injured at work can get more on compensation for not working than he or she can get by attending at the workplace and working. It is a disincentive to return to work if the benefits of staying on compensation are significant.

During the course of the second reading stage of the Bill, I referred to some specific examples and, if I may for a moment or two, I will repeat those examples. Currently in one case there is a load checker on compensation who is presently getting $562.16, whereas a person who occupies that position at work currently receives $438.70, a variation of $123.46 incentive to remain on compensation.

In the same category, an electrician is on workers compensation of $898.58 whilst an electrician at work doing exactly the same work and in the same classification is getting $624.40, and the incentive there to remain on compensation is $274.18. Another electrician is getting $915.99, with an incentive to remain on compensation of $291.59. A trades assistant at work is getting $599.80, but an injured trades assistant is getting $728.19, with an incentive of $128.39 to stay on compensation. A machine operator at work is receiving $475.20 whilst an injured worker on the same classification is receiving $538.67 weekly compensation, with an incentive of $63.47 to remain on compensation.

The Liberal Party takes the view that that is totally unsatisfactory. There is no incentive to come off compensation and return to work and, even if there is an attempt, whether it is by WorkCover or an exempt employer, to reduce the weekly compensation because of the reduction in the amount of overtime being worked in the particular business, there is the sort of challenge which is currently before the courts.

It is our view, therefore, that from the calculation of average weekly earnings, and notional weekly earnings, any overtime work should be excluded. This amendment effectively does that and relates the compensation to the standard wage being paid for a particular classification of work. This clause will have that effect.

The Hon. C.J. SUMNER: The Government opposes the amendment. The Bill introduced by the Government does limit overtime by allowing only overtime worked in a regular, established pattern of hours which would have continued to be worked had the worker not been injured. That is, regular overtime which clearly forms a part of the normal pay of some workers should be included in average weekly earnings.

The Bill also provides that if overtime ceases at the workplace then the injured worker is no longer entitled to overtime. The Opposition's amendment to totally exclude all overtime from average weekly earnings will clearly disadvantage many workers.

The Hon. I. GILFILLAN: Some matters included in the Bill will be more fully and properly dealt with after the report of the current joint select committee, of which I am a member. Overtime is one such matter which is and will be receiving attention by the select committee. However, as this matter is dealt with in the Bill, we need to respond to the current situation. I make those remarks because on some of the matters we will be reluctant to support change on the grounds that the matter has not been properly assessed by the committee, which I think is doing a thorough and diligent task in reviewing the whole WorkCover legislation.

As to the measure before us, the area not yet clearly defined is what constitutes the regular pattern of overtime.

I understand that a case is currently attempting to define that, but my opinion is that it applies only to a pattern of overtime that is predictable and without variation, week after week, month after month, and has become an entrenched part of the employment pattern and the wage structure for that employment. The Bill allows for a reduction of compensation when overtime has patently been reduced and, in the circumstances, I see no reason to support the amendment and I will oppose it.

The Hon. J.F. STEFANI: Will the Attorney advise the Committee whether the payments that are now being allocated to injured workers, including average weekly earnings, cover a second job such as a temporary barman's earnings? I understand that that practice exists.

The Hon. C.J. SUMNER: Yes.

The Committee divided on the amendment:

Ayes (10)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, K.T. Griffin (teller), J.C. Irwin, Diana Laidlaw, R.I. Lucas, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

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

Majority of 1 for the Noes.

Amendment thus negatived.

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

Page 2, lines 1 to 4—Leave out subsection (8) and substitute:

(8) A regulation under subsection (7) cannot be made unless the board agrees to the making of the regulation.

Paragraph *(d)* provides that regulations may exclude specified classes of workers wholly or partially from the application of the Act, but a regulation cannot be made unless the board, by unanimous resolution of the members present at a meeting of the board, agrees to the making of the regulation, but this requirement does not extend to a regulation revoking or reducing the scope of an exclusion. There was some debate in the second reading stage whether the decision should be made by unanimous resolution or an ordinary resolution. I made the point that, if there is to be a revocation or reduction in the scope of an exclusion by an ordinary resolution, it seems to me to be appropriate to limit the exclusion to an ordinary resolution.

I am yet to be persuaded that the exclusion from the operation of the Act ought to be by unanimous resolution: I would have thought that that could be made comfortably by an ordinary resolution. If the employers or the employees are concerned that the other group will attempt to push it through, there are adequate balances within the members of the corporation without having to worry about getting a unanimous resolution.

There are some independent members on the corporation and I would have thought that it was adequate for them, in effect, to hold the balance of power between employers and employees if those two groups vote *en bloc*. Rather than importing something like this into the Act, it ought to remain as it would normally be, that decisions relating to exclusions as well as revocations or reductions in the ambit of exclusions should be made by ordinary resolution. My amendment seeks to establish that a regulation cannot be made unless the board agrees to the making of the regulation, and that means a simple resolution.

The Hon. C.J. SUMNER: The Government opposes the amendment. The effect of a regulation such as this is to take away the protection of the Act from specified classes of workers. This is a very serious step and should be exercised with caution only in special circumstances. Because of the serious consequences, the Government believes all board members should be satisfied that such a regulation is warranted.

The Hon. J.F. STEFANI: The Attorney's response to my colleague the Hon. Trevor Griffin's amendment is somewhat strange because, if we consider that the board is not making serious decisions at all times (and this is no more or less a serious decision than others that it takes) then I think that we have to question the decisions that the board has made in the past that may not be considered as serious, and I believe that they have been. If we adopt an attitude that the board has to vote as a block—unanimously—on this matter, then I think we restrict the democratic right of a board to express its feelings about a particular issue. I believe that, if the majority of the board has arrived at a decision, that decision should be equally applicable to any deliberations that the board may undertake in the discharge of its duties.

The Committee divided on the amendment:

Ayes (10)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, K.T. Griffin (teller), J.C. Irwin, Diana Laidlaw, R.I. Lucas, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

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

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clause 4—'Average weekly earnings.'

The Hon. K.T. GRIFFIN: I indicated that I would oppose this clause but, having lost my amendment to the clause relating to overtime, it is no longer appropriate to oppose this clause. At least it tries to come to grips with aspects of overtime that are taken into consideration in the calculation of average weekly earnings. What is in this clause is certainly not as good as my amendment to clause 3, but it is better than the *status quo*. Concern has been expressed to me that this will not achieve the objective of being able to exclude a certain amount of overtime. Nevertheless, if there is not to be a total exclusion of overtime, some attempt has to be made to come to grips with the problem of all overtime being taken into consideration in the calculation of average weekly earnings. Of course, it may be that the decision of the court in the case presently before it will certainly assist in establishing some greater equity in relation to compensation and overtime than is the case at present. In summary, I will not oppose the clause.

Clause passed.

Clause 5 passed.

Clause 6—'Compensation for medical expenses, etc.'

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

Page 3—Lines 13 to 20—Leave our subsections (4) and (5) and substitute:

(4) Where—

(a) a worker has been charged more than the amount that the worker is entitled to claim for the provision of a service in respect of which compensation is payable under this section;

and

(b) the corporation considers that the amount charged is unreasonable,

the corporation may reduce the charge by the amount of the excess.

(5) Where—

(a) services of a kind to which this section applies were provided to a worker in relation to a compensable disability;

and

(b) the corporation considers that the services were, in the circumstances of the case, inappropriate or unnecessary,

the corporation may disallow charges for the services.

This amendment is subtle and has almost the same effect as the Government's amending Bill. However, new subsection (4) merely deals with excess charges being refused

because they are excess. My amendment adds another ingredient that, where a charge is excessive in relation to what it ought to have been and the corporation considers the amount charged to be unreasonable, the corporation should not automatically disallow a fee that is higher than the agreed fee but, in fact, should examine it to see whether it is unreasonable. That is the only substantial difference between my amendment and the amending Bill that we have before us. For the benefit of members, I might add that the fee that ought to have been charged will, in most instances, be a fee with an item number from the book of AMA recommended fees, and the amending Bill requires the WorkCover Corporation to consult the AMA before varying these fees.

In my experience, relationships between the two organisations in the past have been cordial and the fees charged have, by and large, adhered to that scale of fees. As I mentioned in my second reading speech, outside that scale of agreed fees for consultations and operations, all sorts of fringe areas have been springing up. Some of the alternative healing arts that one normally does not associate with orthodox medical practices are, from time to time, practised by people who are registered medical practitioners and who render accounts to injured workers or to the WorkCover Corporation for services not itemised in the AMA schedule of fees and not agreed in any way with WorkCover. I do not know what sums of money are involved, but I suspect that the WorkCover Corporation is principally amending this section of the Act to give it some control over what it pays around the fringes rather than over the agreed fees for standard consultations with medical practitioners.

I would like to see that ingredient of reasonableness linked in the Bill with a fee in excess of what ought to have been charged. That 'what ought to have been charged', when one looks at the rest of the Bill, should be either an agreed amount for an agreed item number or a reasonable amount where there is no item number and no agreement. I rather liked an amendment on file by my colleague the Hon. Mr Griffin which made clear within clause 6 that, where there was an item number, an excessive fee was a fee that exceeded the scale. Here, it still means the same thing but the reader must turn to other parts of the Act and read it in conjunction with them.

However, the amendment on file by the Hon. Mr Griffin differs a little from mine in that it does not then link 'unreasonableness' with 'excess' in relation to the scale fee. It is important that that be done because, within the orthodox stream of medicine, there are some very complicated procedures for which the reasonable fee will be in excess of the agreed fee. Rarely, but indeed justly, certain procedures performed by certain people with exclusive excellence, procedures of extraordinary difficulty, ought to be considered on their merits.

As I mentioned in my second reading speech, the ideal is not to try to deal with those exceptions or make room for them (those in excess of agreed charges) in the Act but to require prior approval. They are usually elective rather than urgent procedures. The Government should give prior approval consideration in due course.

The reasonableness in relationship to charges which might exceed an agreed charge should be tested and, in an amendment which I hope to move later, I have provided for the review authority to contain the optional additional ingredient of the medical advisory committee in case of a dispute between the provider and the WorkCover Corporation. I ask the Government to consider this small change of linking 'unreasonableness' with a charge that is in excess of the scale fee, so that a policy cannot be put in place administratively where every charge above the scale fee was rejected without considering its reasonableness. I commend the amendment to the Committee.

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

The Hon. K.T. GRIFFIN: I deferred to the Hon. Dr Ritson because it seemed to me that his amendment gave more flexibility than merely relating the fee for service to a scale. Nevertheless, the latter part of the clause still allows the scales to be fixed. Obviously they will have some relevance to the determination whether or not the charge is reasonable or unreasonable. I am quite comfortable with that amendment of my colleague.

The Hon. I. GILFILLAN: I indicate that the Democrats oppose the amendment. I make an acknowledgment that it may appear as if it is a rather excessive power that WorkCover has in this instance, but it is another matter which will benefit from a more thorough assessment through the course of the work of the select committee. In the meantime, the need for WorkCover to be able to have this power for containment of costs is important. If the result of the scale of charges proves to be unacceptable to the professions involved, then one assumes they would no longer contract to do the work for WorkCover or be involved in it, in which case WorkCover would then have to revise scales to keep people able to provide the services. I am sorry that I have not had longer in which to consider the implications of Dr Ritson's amendment. However, I give him the assurance that, as this matter will be part of the considerations of the select committee, it will receive recommendations and proper attention then.

Amendment carried.

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

Page 3, lines 43 to 46.

Page 4, lines 1 to 7—Leave out subsections (9) and (10) and substitute:

(9) Subject to subsection (10), the corporation—

(a) will, by notice published in the *Gazette*, fix scales of charges for the purposes of this section (ensuring so far as practicable that the scales comprehensively cover the various kinds of services to which this section applies):

and

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

(10) A scale cannot be fixed or varied in relation to services of a particular class except by agreement between the corporation and an association or person who, in the opinion of the corporation, is fairly representative of the persons who provide services of the relevant class.

New subsections (9) and (10) had their origins in some proposals moved by the member for Bragg (Mr Ingerson) in the House of Assembly. I seek not to oppose but to refine them, because it seems to me that, if the corporation fixes the scales and they become relevant in determing what may or may not be a reasonable charge for services, at least there ought to be some agreement between the person or association representing persons who provide the services of the relevant class and, in my view, there should be not only consultation but also agreement.

So, my amendment preserves the capacity to fix scales by notice in the *Gazette* and to vary the scales by notice in the *Gazette*, but to require that the scale is to be fixed by agreement between the WorkCover Corporation and an association or person who, in the opinion of the corporation, is fairly representative of the person who provides services of the relevant class. I would envisage that the scales would be guides to practitioners. If the scales are not agreed, then it does not prejudice the power of the corporation under the amendments which have just been approved by the Committee because the corporation still has a role in deter-

mining whether or not a charge is reasonable. However, the scales ought to be fixed by agreement rather than by a unilateral decision against which there is no appeal or in respect of which there is no right of review by either House of Parliament as there would be if the scales were fixed by regulation.

The Hon. C.J. SUMNER: The Government does not object to the redrafting of new subsection (9), which does not do anything. However, the proposed new subsection (10) is unacceptable in requiring agreement between the corporation and the association, or persons representing the service providers. The original proposal required consultation, which is appropriate—that is the Government's proposal—but ultimately the corporation must be responsible for determining the appropriate amount of reimbursement to be fixed by the scale if it is to be held accountable for the control of costs.

The inability to reach agreement would prevent a scale from being fixed and thereby undermine the effect of the amendment. Obviously, principles of supply and demand will dictate that the corporation take into account the views of the representatives, as an unreasonably low reimbursement scale could result in the withdrawal of that service by the provider.

The Hon. R.J. RITSON: I am sorry the Government objects to proposed new subsection (10) because the present AMA item numbers are agreed between the two and, indeed, promulgation of them forthwith at the present level could take place. I remind the Attorney that, if under Mr Griffin's amendment, agreement about subsequent increases is not reached by the two parties, there is nothing to stop WorkCover leaving those fees at the present level forever in spite of inflation. It is not really a question of succumbing to the AMA's bargaining power and being screwed for higher fees. In fact, the AMA, and doctors generally with whom I work, are happy with the present WorkCover fees in the orthodox medical field: they are fair, they are paid promptly and there is no difficulty as to fees with most doctors. I am sure a promulgation of the present level of fees would be the easiest thing in the world.

If we require agreement to vary fees, and the medical profession wants 20 per cent more and will not budge and there is no agreement, surely that entitles WorkCover to leave them at their present level. I think that WorkCover has the whip hand and, if it were contemplated a little more, it would see that the honourable Mr Griffin's amendment is not at all about giving any group power to raise fees enormously, but is simply one which will keep the peace. As was pointed out, the agreement will come as a matter of supply and demand. If it does not come, then WorkCover, not the medical profession, has the whip hand. I say again that the real problem is to deal with the money that is leaking out of the fringes. This sort of legislation is not necessarily the way to do that, but that is another matter for future consideration. I do not know why the Attorney is so anxious about this: it will produce industrial harmony and not give power to the providers in great measure.

The Hon. I. GILFILLAN: The Democrats will oppose proposed subsection (10).

Amendments to new subsection (9) carried; amendment to new subsection (10) negatived; clause as amended passed.

New clause 6a—'Weekly payments.'

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

Page 4, after line 7—Insert new clause as follows:

6a. Section 35 of the principal Act is amended by inserting after subsection (2) the following subsection:

(2a) Where—

(a) a period of incapacity for work exceeds two years;

(b) an assessment of the weekly earnings that the worker is earning or could earn in suitable employment is made under subsection (1) *(b)* (ii); and

(c) the worker's actual weekly earnings subsequently exceed the amount so assessed,

the Corporation cannot reduce the weekly payments to reflect the worker's actual weekly earnings except to the extent that the aggregate of the weekly payment plus the actual weekly earnings (excluding prescribed allowances) exceeds the notional weekly earnings of the worker.

This provision addresses a potential anomaly in the principal Act in relation to weekly payments after two years of incapacity. Section 38 (4) of the principal Act was intended to apply to partially incapacitated workers who have been incapacitated for more than two years and whose earning capacity has been assessed under section 35 (1) *(b)* (ii) following the expiration of the two year 'partial deemed total incapacity' provisions of section 35 (2) *(a)*. For those workers, it was intended that their weekly payments should not be further reduced if their earning capacity improved, until their actual earnings plus weekly payments exceeded their notional weekly earning (100 per cent) as adjusted. In other words, they could earn more, to effectively replace the 20 per cent reduction at the 12 month assessment without a reduction in weekly payments.

However, due to the drafting of the provisions, which assumed a theoretical review precisely at the expiration of the two year partial deemed total period, there is now a potential argument that any review of weekly payments done after the two years of incapacity is subject to section 38 (4) and that weekly payments cannot be reduced to take account of assessed earning capacity. That is clearly not the intenton of the original Act. This provision addresses that issue and effectively puts the protection of the current section 38 (4) provision into section 35. This will apply after an assessment of earning capacity has been made under section 35 (1) *(b)* (ii) following the expiration of two years of incapacity, and where the worker's actual weekly earnings subsequently exceed the amount of assessed earning capacity.

The Hon. I. GILFILLAN: I regard these as very important ingredients of the Bill. They are mechanics which put into effect the intention of the original Act. I have sympathy with those who have difficulty unravelling the wording, but the intention of the original Act was that an injured worker after a period would be reassessed, and the compensation WorkCover would cover only the actual loss of earning ability, and would not cover the loss of earning through the unemployment factor.

Therefore, there would be a marked reduction for a worker carrying an injury past two years, which may be only a 20 or 30 per cent incapacity, with a capacity for employment of 70 per cent or 80 per cent. There has been some confusion in the actuarial accounting in estimating the unfunded liability, and there has been some uncertainty as to whether a legal challenge to the intention of the Act would leave WorkCover liable for a full wage loss compensation. It drops to 80 per cent, but, regardless of that, it would be the full 80 per cent compensation after two years.

To put it beyond any doubt, this amendment is essential, so that there can be the required reduction in the long-term payment. Evidence that has been put to us has shown that several million dollars are involved in the long-term liability. I regard this as a very important amendment. The earlier one relates to overtime and possibly they should be discussed in different categories. I assure the Opposition that my opinion and advice is that both these amendments reduce the obligation of WorkCover to a level which was the intention of the original Act.

The Hon. K.T. GRIFFIN: I sent these amendments to some practitioners for observations after I became aware of the amendments on file, but I have not yet had a full explanation as to whether or not they are satisfied with them.

I should like to pick up one point with the Attorney-General. Section 35 is to be amended in a way which provides that the corporation cannot reduce the weekly payments to reflect the worker's actual weekly earnings except to the extent that the aggregate of the weekly payment, plus the actual weekly earnings (excluding prescribed allowances), exceeds the notional weekly earnings of the worker.

It seems to me that that is putting the issue a different way. I should have thought that it ought to be permissive rather than restrictive and indicate that the corporation may reduce the weekly payments to reflect the worker's actual weekly earnings in certain circumstances. Does this drafting mean that, if a worker has actual weekly earnings of what might be 20 per cent of notional weekly earnings and receives a weekly payment, the corporation cannot reduce the weekly payment below the notional weekly earnings of the worker, even after two years? I suggest that is what it says.

The Hon. I. GILFILLAN: Unless the Attorney-General is ready to speak, perhaps I can make a couple of observations. I had not adjusted my comments previously to the actual wording of the amendments, but I am sure that the Attorney-General will be able to flesh this out. My understanding, having discussed this matter, is that the principle that I outlined, namely, the capacity for WorkCover to reduce the compensation past the two-year period to reflect the actual working capacity of the injured worker, is enshrined in the original Act. That injured worker may begin paid work, and the money received for the paid work can go up to 100 per cent of what was the notional wage, whereas if that person was totally incapacitated he would be getting only 80 per cent.

There is not much point in my talking unless the Hon. Mr Griffin pays attention, because, as I see it, this is the neat point. An injured worker, after two years of total incapacity, will get 80 per cent of the notional wage. If that same person is earning to supplement he can earn up to 100 per cent of the notional wage before there will be any reduction in compensation.

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

The Hon. J.F. STEFANI: Has this amendment been referred to the board or is it just a Government amendment?

The Hon. C.J. SUMNER: It is a Government amendment.

New clause inserted.

Clause 7 passed.

Clause 8—'Review of weekly payments.'

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

Page 6—

Line 8—After 'amended' insert:

—

(a)

After line 9—

Insert new paragraphs as follows:

(b) by striking out subsection (4)

and

(c) by striking out subsection (7).

These amendments are consequential.

Amendments carried; clause as amended passed.

Clauses 9 to 12 passed.

Clause 13—'Exempt employers.'

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

Page 8, lines 10 to 13—Leave out paragraph *(b)*.

Clause 13 is one of the key clauses of the Bill and relates to exempt employers. Paragraph *(b)* seeks to allow the corporation to require an exempt employer to be registered but compels it to comply with standards which the corporation fixes. Those standards, as I indicated during the second reading debate, are more erroneous on exempt employers than they are on the corporation.

There are performance standards which the corporation will seek to impose and which are essentially of an administrative nature and should not be the concern of the WorkCover Corporation. They are procedures such as date stamping incoming accounts, determining whether an expense is fair and reasonable, and determining the date by which an expense must be paid. These are matters which, in the Opposition's view, should be left to the discretion of the exempt employer.

The corporation complains about the expense of administration and the unfunded liability. It would seem to me that it could save itself some administrative costs if it did not get involved in performance standards or intervened in the affairs of an exempt employer—remembering, of course, that it is the exempt employer who carries the costs of workers compensation and rehabilitation for workers of that exempt employer who might be injured at work.

At the moment there is no power to allow the corporation to impose performance standards as a condition of registration as an exempt employer. It seems to me that it is an area which could be left well alone, particularly whilst the select committee is considering these sorts of matters which affect the whole area of workers rehabilitation and compensation.

It must be remembered that about 40 per cent of the work force is employed by exempt employers. Some even suggest that it is up to 60 per cent, but I think 35 to 45 per cent is about the figure. They are substantial employers, most of whom have good records in relation to safety and in dealing with injuries at work and rehabilitation. It is in the interests of those exempt employers to get workers back to work. They do undertake a personal level of counselling and support of injured workers which, I suggest, is not followed either by the WorkCover Corporation or by employers who are not exempt employers. We ought to maintain the *status quo* in respect of exempt employers so far as registration and the question of standards are concerned.

The Hon. I. GILFILLAN: Performance standards have been agreed between WorkCover and exempt employers. I have a copy of them here. They deal exhaustively with the matters that are critical in the relationship between exempts and WorkCover. I am of the opinion that they are adequate for the time being. I have sympathy with the point made by the Hon. Mr Griffin that, as the select committee is sitting, it seems wiser to wait until it reports before making substantial changes to these standards. I do not see any argument that these standards have been deficient, but I would correct what I think was the Hon. Mr Griffin's impression that there are no standards with which exempts are expected to comply.

The Hon. K.T. Griffin interjecting:

The Hon. I. GILFILLAN: They conform to them. If they do not conform, there is a reasonable argument that their exempt status should be questioned. It is quite pointless to believe that the exempts are all snowy haired, halo-ridden employers. It is a worthy and worthwhile area in which workers compensation can be exercised.

The Democrats have staunchly defended exempt employer categories because of the advantages we see in the way injuries can be treated and the general relations between the work force and employers. We are strong advocates of there being an acceptance of exempt employers, but that does not

mean that they are an authority unto themselves and that they should be detached from any surveillance from WorkCover.

I thought it was rather unfortunate that, when arguing their case to me, the exempts tried to denigrate WorkCover as if that was some reason to let exempts go sailing off in their own ships without reference to any authority or surveillance. With those words, I indicate that we will support the amendment.

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

Amendment carried.

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

Page 8, lines 31 to 38—Leave out paragraph *(d)* and substitute:

(d) subject to this section has effect for an initial period of three years and may, on further application to the corporation, be renewed from time to time for a further period of three years.

Paragraph *(c)* of this clause enacts a new subsection (4), which deals with the nature and extent of a registration as an exempt employer. Amongst other things, it provides that the registration as an exempt employer has effect for an initial period not exceeding three years determined by the corporation and may on further application to the corporation be renewed from time to time for a further period not exceeding three years determined by the corporation at the time of the renewal.

I seek to fix the period at three years for both the initial and subsequent periods of renewal. If there is a period less than three years, I suggest that it does not give an employer who initially becomes registered as an exempt employer adequate time or certainty to plan for the period of registration if it is less than three years. Even in respect of a renewal, in terms of an exempt employer arranging adequate disaster cover and to maintain adequately a rehabilitation program as well as to focus on safety at work, which is a continuing obligation anyway, a period of three years for a renewal is appropriate.

In addition, my recollection is that the principal Act provides for a fixed three year period, that is, for the initial period and for any renewal period. Again, if there is to be any variation to that, it should come later rather than at present. It is for those reasons that I strongly believe that the period should be fixed rather than flexible, which the Bill seeks to give to the WorkCover Corporation.

The Hon. I. GILFILLAN: The Democrats oppose this amendment, particularly as it is recognised that there are standards that will not be changed. Because of the earlier amendment, there is no need for exempts to fear that unrealistic standards will be imposed on them. The proposal in the Bill is satisfactory.

The Hon. K.T. GRIFFIN: I do not see how this has anything to do with performance standards: it is the question of the initial granting of a period of exemption and the renewal of that from time to time. If the initial period is for one year, which is certainly an option that the corporation may grant, it may be that, unrelated to performance standards, the corporation will determine that the period will not be renewed.

The exempt employer may find that, even complying with the standards, a period of one year is quite inadequate to allow appropriate planning and management of the workers rehabilitation and compensation scheme within that employer's operation. It is an untenable position to give the corporation the power to say, 'We will grant you exemption for one year or after three years of registration as an exempt employer we have now decided that we want to terminate that exemption because we need the money that otherwise you would be spending on workers compensation and rehabilitation'. For no reason it can then terminate the exemption.

It seems to me that, if an exempt employer is good enough to get exemption in the first place, and a condition of exemption is compliance with certain terms and conditions, it is quite unreasonable for the period of registration to be for anything less than three years initially and then, after that three year period has expired, for renewal to occur for what might be a period of months rather than years. In my view, that would make management of that employer's operations impossible as far as they relate to WorkCover. It also puts the exempt employer very much at the mercy of a body that is not accountable for the decisions that it makes in relation to whether or not to grant an exemption or renewal of exemption.

The Hon. I. GILFILLAN: The Bill spells out that, once an exempt employer has been registered, WorkCover cannot decide to renew or not renew, taking into effect the registration on the compensation fund. The fear that the honourable member has expressed that WorkCover will or will not arbitrarily continue exemptions on this basis would be an infringement against its own Act. The other criteria are reasonably clearly spelt out so that, if there are to be variations in the nature of renewal, it would be because, in its deliberations, WorkCover has considered that the exempt employer is doubtful in the performance of one or several of the categories listed in the Bill, and that is reasonable.

Because WorkCover cannot make a decision to improve its own financial position, one can assume—and I do not see that it is fair to make any other assumption—that the decision will be made on the basis of the ability of the exempt employer to fulfil its workers compensation obligations. Therefore, a guaranteed three years for a poor performing exempt employer exposes workers to a risk of inadequate financial resources to cover their compensation or inferior rehabilitation. I do not have any difficulty with that one, two or three year option as far as renewals are concerned.

The Hon. C.J. SUMNER: The Government opposes the amendment. The proposal put forward by the Hon. Mr Griffin, which is in fact the current situation of a fixed three year term, means the exemption must be extended three years or be cancelled. This lack of flexibility may mean that an exemption is cancelled which otherwise may have been extended for a one year period to allow the employer to address the performance concerns. The proposed flexibility is considered to be in the interests of exempt employers.

The Committee divided on the amendment:

Ayes (9)—The Hons J.C. Burdett, Peter Dunn, K.T. Griffin (teller), J.C. Irwin, Diana Laidlaw, R.I. Lucas, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

Noes (10)—The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Anne Levy, Carolyn Pickles, R.R. Roberts, T.G. Roberts, G. Weatherill and Barbara Wiese (teller).

Pair—Aye—The Hon. L.H. Davis. No—The Hon. C.J. Sumner.

Majority of 1 for the Noes.

Amendment thus negatived.

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

Page 8, lines 43 to 45—Leave out all words in these lines.

This amendment is consequential upon my earlier amendment relating to performance standards, which was successful.

The Hon. C.J. SUMNER: This is consequential and the Government therefore supports it.

Amendment carried.

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

Page 9, lines 20 to 22—Leave out all words in these lines and substitute 'but the corporation must not consider the effect of the registration on the Compensation Fund'.

This amendment seeks to reinstate the position of some time ago, whereby the corporation, in determining whether or not an employer or group ought to be registered as an exempt employer, must not consider the effect of registration on the compensation fund—that is, both initial registration and the renewal of registration. This is pretty straightforward and I do not intend to speak at length on it. However, there should be an assessment independent of the effect on the fund as to whether or not an employer is suitable to be registered initially as an exempt employer and then, of course, not to take into account the effect on the fund of any application to renew.

The Hon. BARBARA WIESE: The Government opposes this amendment. This proposal means that the corporation must not consider the effect on the fund of any exempt application or renewal. The Government's proposed amendment states that the effect on the fund must not be taken into account in considering a renewal of exemption but, by implication, this can be taken into account in an initial application for exemption. It is considered important to retain the consideration of the effect on the fund on an initial application, as the levy rates are set on an actuarial assessment which could significantly change if, for example, several major employers applied for exemption at any one time.

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

Amendment negatived; clause as amended passed.

New clause 13a—'The Crown and certain agencies to be exempt employers.'

The Hon. BARBARA WIESE: I move:

Page 9, after line 27—Insert new clause as follows:

13a. Section 61 of the principal Act is amended by inserting after subsection (3) the following subsection:

(4) In this section—

'agency or instrumentality of the Crown' includes any body, or body of a specified class, prescribed by regulation for the purposes of this definition.

This proposal will allow bodies other than Crown agencies to be prescribed by regulation to be included as Crown agencies for the purposes of section 61 of the Act, which relates to the exempt employer status of the Crown. In the review of exempt employer status, it became apparent that some bodies covered under the South Australian Health Commission exempt employer status under this Act are not in fact Crown agencies even though they are substantially funded and generally controlled by the commission. It is undesirable to split the group into some exempt and some non-exempt. This provision will simply allow a regulation to prescribe those bodies to be included under the general provisions for Crown exemption under section 61.

The Hon. K.T. GRIFFIN: Can the Minister indicate specifically the names of those agencies?

The Hon. BARBARA WIESE: I do not have a list of the agencies intended to be covered by this new clause, but they would include bodies such as country hospitals and organisations of that kind. If the honourable member would like a list of those agencies, it would be possible for me to arrange for it to be provided to him.

The Hon. K.T. GRIFFIN: I certainly would like to have that list. I must say it is a curious provision that the Liberal Party has resisted in the past in areas such as the South Australian Government financing legislation, where we resisted agencies being either proclaimed to be or declared by regulation to be covered by that sort of legislation, even though technically they are not instrumentalities of the Crown. I do not intend to resist the Minister's proposal but express the view that it is unfortunate that bodies which are not in any way instrumentalities of the Crown and which may in fact be largely dependent upon Government funding, nevertheless should be prescribed by legislation to be agencies or instrumentalities of the Crown.

I would have thought the better way of doing this would have been merely to allow by regulation bodies to be prescribed as exempt bodies. That would not have introduced this concept but, in some way, at least for the purposes of this Act, they would be regarded as agencies or instrumentalities of the Crown. If the Minister is able, could she indicate whether by virtue of this prescription such agencies or instrumentalities in any way then become subject to any jurisdiction of the Government? I do not think they do, but I would like that confirmed.

The Hon. BARBARA WIESE: These organisations would operate under the same conditions as the Crown as an exempt employer, so this arrangement would not change their status.

New clause inserted.

Clause 14—'Delegation to exempt employer.'

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

Page 9, after line 29—Insert new paragraph as follows:

(aa) by inserting in paragraph *(a)* of subsection (1) the following items:

Section 26

Section 32;.

This clause deals with delegations to exempt employers. The Managed Employers Association—the exempt employers association is probably a better way of describing it—has made the point that, if its members are to be made responsible for rehabilitation as part of their responsibilities as exempt employers, and if they are to deal with the payment of costs incurred both for medical treatment and rehabilitation, they ought to be given the opportunity to exercise responsibility under sections 26 and 32 of the principal Act. I have some sympathy for that. Already, by virtue of the operation of section 63, they are given responsibility, as delegates of the corporation, for a wide range of decisions listed in section 63 as being sections 35, 36, 37, 38, 39, 41, 42, 43, 44, 45, 53 (other than the power to approve recognised medical experts for the purposes of section 53 (2)), and 108. So, while this section is before us, it is a good opportunity to pick up the other two areas where exempt employers have considerable responsibilities and to move an amendment to include sections 26 and 32 in the delegated provisions in section 63.

The Hon. BARBARA WIESE: The Government will support this amendment.

Amendment carried; clause as amended passed.

Clause 15—'Imposition of levies.'

The Hon. K.T. GRIFFIN: The Opposition opposes this clause for the reason that it establishes minimum levies. In the second reading debate we heard that it is intended to impose a $50 minimum levy on, as I recollect the number, about 5 000 registered employers who are not in fact employing persons at present but who were encouraged to register by either their particular association of employers or by the WorkCover Corporation itself.

This will mean that a significant number of organisations, for the benefit of having taken the initiative and registered in good faith, will now be paying this minimum levy. The Opposition objects to that. As I say, a number of organisations have made representation to the Opposition on that. For example, the Master Plumbers Association said:

We note, with a certain amount of concern, WorkCover's intention to charge a minimum fee of $50, and in the plumbing industry this is of little consequence. However, many of our members, mainly sole operators or small partnerships, have on

the advice of this association registered their businesses with WorkCover even though they were not employing at the time. The advice was given to ensure that our members did not overlook the matter of registration with WorkCover once they started employing. If a minimum of $50 is to apply then these members are being penalised and the association will have to reissue its advice suggesting that they now not register and, in fact, cancel their registration.

That is the tenor of other advice and representations made to us. We can see no merit in the proposal for a minimum levy, and therefore, we indicate our very strong opposition to this clause.

The Hon. I. GILFILLAN: It is hard to understand how the Opposition can retain in WorkCover an expensive function of servicing approximately 5 000 accounts which return nothing. The cost of maintaining that is borne by the very people the Hon. Trevor Griffin represents or plans to represent in this place. It is quite ridiculous to protect an inert cluster of accounts—

The Hon. K.T. Griffin interjecting:

The Hon. I. GILFILLAN: I support the principle that will have the very effect which the Hon. Trevor Griffin has outlined—people who do not see their accounts operating in the foreseeable future will drop off. That will be to everyone's advantage. It will reduce the amount of bookwork and accounting that WorkCover is involved in, and it will therefore reduce the cost.

I would like to make clear that there is in the Act a 14-day grace period so that anyone who has employed a person has 14 days in which to register with WorkCover to be fully covered for the full time of that employment, and anyone who is not reminded when they employ that they have a responsibility to do this would have a short memory, indeed. There are obligations involved in employment and the paying of wages and, if the Master Plumbers Association wishes to give good advice to its members, I suggest that it send a memo each year as a reminder to those who may employ but who are not normal employers to bear in mind that, upon the engagement of an employee, they have 14 days in which to register. I support the clause.

The Hon. C.J. SUMNER: The Government supports the clause.

Clause passed.

Clause 16 passed.

Clause 17—'Special levy for exempt employers.'

The Hon. K.T. GRIFFIN: I do not oppose this clause. It relates to a remission of levy that otherwise would be payable by the exempt employer, and in those circumstances it would be foolish of me to oppose something which might, in fact, be a benefit rather than a detriment to an employer. Although I have indicated on my list of amendments that I intend to oppose the clauses, I do not intend to proceed with that course of action.

Clause passed.

Clause 18 passed.

Clause 19—'Review of levy, penalty interest or fine.'

The Hon. K.T. GRIFFIN: This clause seeks to repeal section 72 and enact a new section 72. It relates to a review of a levy, penalty interest or a fine. Under proposed subsection (3), the review is to be conducted in accordance with procedures determined by the board. Will the Attorney-General indicate whether any procedures have been developed and, if so, what those procedures might be?

The Hon. C.J. SUMNER: The procedures are yet to be determined, but there are apparently in place some procedures dealing with what has to be done by an employer when a review is sought. Copies can be made available for the honourable member.

The Hon. K.T. GRIFFIN: I take it that they are not just matters which an employer must undertake, but also relate to the procedures undertaken by the board itself. I interpret the clause to mean that the review is to be conducted in accordance with procedures determined by the board, and that relates as much to the procedures of the board or the committee or person to whom the power of review has been delegated as to the behaviour of parties.

The Hon. C.J. SUMNER: Yes, I believe so.

The Hon. K.T. GRIFFIN: I would appreciate a copy in due course.

Clause passed.

Clauses 20 to 24 passed.

Clause 25—'Confidentiality.'

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

Page 13—
Line 8—Leave out 'or'.
After line 9—Insert:
or
(c) if the disclosure is required by or under another Act or law.

This amendment seeks to ensure that if other Acts or laws require the disclosure of information relating to a matter before a medical advisory panel, that can be done. One can envisage a parliamentary select committee or some other parliamentary committee, maybe the police in the course of investigations, the National Crime Authority and, I suppose, even the Federal tax department being required to disclose such information. If new section 85a stands as it is, the medical advisory panel is in an invidious position if it cannot disclose such information, even though there may be other laws which would ordinarily allow or require it. The amendment is merely to tidy it up.

The Hon. C.J. SUMNER: I agree with the amendment.

Amendment carried; clause as amended passed.

Clauses 26 and 27 passed.

New clause 27a—'Principles on which review authority is to act.'

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

Page 13, after line 15—Insert new clause as follows:
27a. Section 88 of the principal Act is amended by inserting 'and in any event endeavour to ensure that any proceedings are completed within six months of commencement' after 'as expeditiously as possible' in subsection (4).

One of the difficulties that has been expressed to me is the considerable delay in proceedings before review authorities. I am told that it is even longer now than it used to be under the old workers compensation scheme when matters went to the Industrial Court. I am seeking to ensure that at least some signal is given to review authorities that they should endeavour to complete any proceedings within six months of commencement. There is a requirement to deal with matters as expeditiously as possible, but, rather than merely expressing that in general terms, I think it would be helpful for parties, as well as for the review authority, to get the message that, whether it is in relation to a review of a matter raised by an employer, an employee or WorkCover, a matter should not hang around for much longer than six months. I move the amendment in the hope that it will give that signal that matters should be dealt with not only as expeditiously as possible, but within six months of commencement.

The Hon. C.J. SUMNER: The amendment is not considered necessary. Delays by the tribunal currently are not considered excessive. In relation to review officers, the corporation has taken steps to ensure a quicker process. In February, 31 per cent of review decisions were delivered at the hearing and a further 54 per cent were handed down within one month of the final hearing. The total time from commencement to completion cannot be controlled by strict timeframes without denying natural justice to the parties—

for example, when allowing, say, three months for referral to a medical expert for assessment, and so on.

The Hon. I. GILFILLAN: The Democrats oppose the new clause.

New clause negatived.

Clauses 28 and 29 passed.

Clause 30—'Representation.'

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

Page 13, lines 30 to 38—Leave out this clause and insert new clause as follows:

30. Section 92 of the principal Act is repealed and the following section is substituted:

92. (1) A person is entitled to appear personally, or by representative, in proceedings before a review authority subject to the qualification that a person is not entitled to be represented by—

(a) a member of the board;

or

(b) a person whose name has been struck off the roll of legal practitioners or who, although a legal practitioner, is not entitled to practise the profession of law because of disciplinary action taken against him or her.

(2) Representation will not be allowed before a medical advisory panel (although a worker who is to appear before a medical advisory panel is entitled to be accompanied by a relative or friend to provide advice and moral support).

One matter which has come to the attention of the Opposition is that members of the WorkCover Board are appearing before review authorities, not in their own right, but as representatives. We find that particularly objectionable, remembering that review officers are appointed by WorkCover, are accountable to WorkCover, and have their salaries paid by WorkCover, although in their review function they are required to be independent. It seems to me that there is a blatant conflict if members of the board of WorkCover actually appear before review officers.

Anybody objectively looking at such a position would believe that it was quite inappropriate—in fact, objectionable—and that it ought not to occur. If it cannot occur through the commonsense of the members of the board, then it should be included in the statute. It is for that reason that I move this amendment, which relates to the whole issue of representation.

The Hon. I. GILFILLAN: I wonder whether this sensitivity to the involvement of board members and the activities of companies excluding members of boards in the private sector would be initiated by the Hon. Mr Griffin. I think that he has raised a very important point, the ethics of which should be before us all in relation to activities in various companies and public entities recently in the news. I support the principle. This may be a minor incident where a board member, who should be detached and remote from personal involvement, is involved, but very much in an open and overt way. However, I believe this point is important. In indicating support for the amendment, I observe that this same code or ethic, if it applies to the board of WorkCover, ought to be of wider ramification than just in this instance, and the private sector should ask for it as well.

The Hon. K.T. GRIFFIN: I do not disagree with what the Hon. Mr Gilfillan has said. The only thing is that, in my view, there is no comparison between what is happening in respect of a review authority under the WorkCover scheme and the private sector. We have a review authority making decisions, among other things, about the benefits which an injured worker will receive from WorkCover. The review authority really takes the place of what would normally be an independent tribunal which, under the old scheme, was the Industrial Court.

In effect, it is a creature of legislation designed to adjudicate in a quasi-judicial manner on a dispute which might involve WorkCover as a party before the review authority. With the WorkCover Board appointing the review authority, paying the salary of the review authority and a member of the board actually appearing before the review authority to argue, in effect, against the interests of the WorkCover Board, of which he or she is a member, seems to me to present a significant conflict. I suggest that there is nothing in the private sector which could compare with that. In terms of the principle of ethical behaviour and elimination of conflicts, the Hon. Mr Gilfillan and I are on the same wavelength.

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

Amendment carried; clause as amended passed.

Clause 31—'Costs.'

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

Page 14, lines 15 to 18—Leave out subsection (3).

This clause relates to the question of costs. The first provision that I wish to have deleted is new subsection (3), which provides as follows:

A review authority may decide against awarding costs to which a party would otherwise be entitled under this section, or reduce the amount of such costs, if of the opinion that the party acted unreasonably in bringing, or in relation to the conduct of, the proceedings.

New subsection (5) provides:

An award or decision of a review authority under this section is not subject to review or appeal.

The question whether or not a party acts unreasonably in bringing a matter before a review authority is a very difficult one to determine. It may be that it is not frivolous or vexatious, but the party which brought it may be regarded by the review authority as having been unreasonable in bringing the proceedings because it caused tension on the part of a party, or it may have created some hardship unrelated to the merits of the matter. In those circumstances I think it is wrong in principle to provide that a review authority can make that decision and that the decision is not subject to any review or appeal. It puts the review authority in a position of absolute power and makes it unaccountable for the decision which is taken.

So far as the question of costs is concerned, where the proceedings are frivolous or vexatious that is already dealt with in section 92, which provides that:

Where frivolous or vexatious proceedings are brought before a review authority, the authority may order the party by whom the proceedings were brought to pay to any other party such costs as may be fixed by the authority.

That is a reasonable provision but, when you start to talk about a party being judged to have acted unreasonably, even though it may not be frivolous or vexatious in bringing an action, I think that we are moving into very dangerous waters where a party, who may be an injured worker, brings a matter. It may be a question which is causing concern and which has not previously been addressed by a review authority so there is no precedent for it. It may be a minor matter which is not frivolous or vexatious but which the review authority may regard as being unreasonable. I think that to have that provision is in itself unreasonable, but then to compound it by saying that it is not subject to any review or appeal is, I think, outrageous.

If this provision remains, there ought to be a right of review or appeal, but in my view frivolous or vexatious proceedings are adequately addressed both in section 92 and in new section 92a, and there is no reason at all to bring into the authority of a review authority a decision of whether or not a matter is reasonable or unreasonable. The question ought to be addressed on its merits if it is not frivolous or vexatious.

The Hon. I. GILFILLAN: I believe that it is a reasonable amendment to use the word 'unreasonable' instead of 'frivolous and vexatious', but I have misgivings about the removal of the power for review or appeal. I support the second part of the honourable member's proposed amendment but not the first part which he has already moved.

The Hon. C.J. SUMNER: The Government opposes not only this amendment but also the amendment which the honourable member still has to move.

Amendment negatived.

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

Page 14, after line 20—Insert new subsection as follows:

(4a) Unless otherwise ordered by the review authority, costs awarded under section 1 *(a)* or *(b)* are payable by the corporation or an exempt employer (according to whether the corporation or the exempt employer is the compensating authority).

This proposal is to clarify who is liable to pay the costs of representation payable under this section. If WorkCover is the compensating authority, then costs are paid by WorkCover Corporation. Alternatively, if the exempt employer is the compensating authority, then that employer must pay the representation costs of its workers.

Amendment carried.

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

Page 14, lines 21 and 22—Leave out subsection (5).

Amendment carried; clause as amended passed.

Clause 32 passed.

Clause 33—'Reference of matters to medical advisory panels.'

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

Page 14—

Lines 31 and 32—Leave out all words in these lines after 'refer' in line 31 and substitute:

(a) a medical question arising in the proceedings;

or

(b) a decision by the corporation to disallow or reduce a charge for a service under section 32,

to a medical advisory panel for advice.

Line 34—Leave out 'on a medical question'.

My amendment follows from an amendment to clause 6 of the amending Bill in respect of section 32 of the principal Act. The clause will now read:

A review authority may, on its own initiative, or on the application of a party to proceedings before the authority, refer a medical question arising in the proceedings or a decision by the corporation to disallow or reduce a charge for service under section 32 to a medical advisory panel for advice.

The expression 'on a medical question' is taken out. The amendment to clause 6 required the consideration of unreasonableness as well as excessiveness in the case where there was a scheduled fee. That matter may now be referred by the reviewing authority to the medical advisory panel. That means that a group of medical peers may then review not only the medical matters already provided for but also fee matters that were so referred to it.

Initially, I drafted the amendment using the word 'must' instead of 'may' with the view that all such decisions should have the benefit of this peer review. However, I took further advice and, on reflection, what we do not want is typographical errors or small excesses, which might be picked up by the corporation and not complained of by the provider, to be sent along creating unnecessary administrative work. Where there is a real problem of explanation about procedures or services of unusual complexity, the provider will appreciate access to the medical advisory panel and will be given it by the administration of WorkCover Corporation.

The Hon. C.J. SUMNER: The amendments are agreed to.

Amendments carried; clause as amended passed.

Clauses 34 and 35 passed.

Clause 36—'Appeals to the tribunal.'

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

Page 15, after line 14—Insert new paragraph as follows:

(ca) by striking out paragraphs *(c)* and *(d)* of subsection (4e) and substituting the following paragraph:

(c) take evidence (or further evidence) if the evidence is relevant to the appeal and the tribunal considers that it is appropriate to admit the evidence to the proceedings;.

This amendment arises from a concern that I have about clause 28, which amends section 89 of the principal Act. That section relates to certain proceedings before a review officer. Clause 28 provides that the review officer is not obliged to hear evidence from a witness, either generally or on a particular subject, if satisfied that the evidence is not relevant or if of the opinion that the evidence would merely provide unnecessary corroboration of other evidence admitted by the review officer.

The concern I have about that (and it is shared by others who have made representations to me) is that it really puts the review officer in a paramount position in making a decision about what evidence is or is not relevant, and thereby putting a party in a position of prejudice if the matter goes on appeal. If the review officer has decided that certain evidence is not necessary to be called and subsequently the matter goes on appeal, the appeal is not an appeal by way of rehearing, which would allow new evidence to be called.

It is because there may be prejudice to one or other of the parties before the review authority that it is important to amend this clause, which relates to appeals, to ensure that the tribunal is able to take evidence or further evidence, if it is relevant to the appeal, and the tribunal considers it appropriate to admit the evidence to the proceedings.

In this context one has to remember that that decision remains a matter of discretion in the hands of the tribunal, but it does not prevent the tribunal from taking new evidence, hearing other evidence or rehearing evidence if it considers that it is appropriate. After all, what we want out of this is justice: if a review officer has wrongly excluded evidence or said to a party that it cannot present particular evidence, but subsequently it is critical to the matter before the review authority and to one party's position if it is not admitted then, as section 97 of the principal Act is drawn at present, the tribunal will not be able to hear the evidence that has been excluded.

On matters of equity and justice, the tribunal hearing the appeal ought to have the power to hear the evidence that might have been excluded by the review authority. It also helps to keep the review officer accountable but, more particularly, it will ensure that there is no injustice as a result of a wrong decision by the review officer, who can still make the decisions envisaged by clause 28. The tribunal will have an overriding right to take into account matters which might have been raised but on which evidence was not permitted to be laid before the review officer.

This amendment gives effect to what I regard as an important principle; that is, to ensure that the tribunal can hear all relevant information to determine whether or not the decision of the review officer has been a proper decision.

The Hon. I. GILFILLAN: I listened with some appreciation to the point made by the Hon. Trevor Griffin. I will not support the amendment, not because I think the issue ought not to be assessed but because I am advised that a lot of time is taken up in this process and there is good reason to urge that all the evidence be presented to the review officer at the first hearing. The honourable member makes the point that the review officer has the power to reject some of that material and that a party could be unfairly discriminated against in that respect.

The Hon. K.T. Griffin interjecting:

The Hon. I. GILFILLAN: I take the point, but because I feel that a high priority is to facilitate the original review and to limit what might be unnecessary time taken in the tribunal for appeal, I do not support the amendment. However, for what it is worth, I certainly assure the honourable member that it is a matter that I will look at very closely in the select committee.

The Hon. K.T. GRIFFIN: I make a plea to the Hon. Mr Gilfillan that if he is going to look at it in the select committee it is better to look at it in the select committee without having prejudged it as we are doing with the amendment to clause 28. It is clause 28 that introduces a restriction that is not presently in the Act. It is clause 28 that has the potential to create injustice. I would have thought that, if the Hon. Mr Gilfillan wants to consider this matter before the select committee, it would be better for us to recommit clause 28 and reject it, maintaining the *status quo*, rather than doing what he is now suggesting, that is, the adoption of clause 28, which takes away rights and alters the *status quo*, and then not be prepared to allow the tribunal to consider the injustice that might have been created as a result of the amendment in clause 28.

This is a critical point. Whilst one understands the need to deal quickly with matters before the review authority, I suggest that what is more important is to ensure that the decision is a just decision and not one that might be kangaroo court justice delivered by the review authority—maybe not intentionally, but mistakenly. Then there is no right of review. Members should remember that this can have very significant consequences for an injured worker; it can relate to the quantum of compensation as much as it can relate to a detriment to WorkCover or to an exempt employer.

So, I plead with the Hon. Mr Gilfillan that, if he wants to maintain the *status quo*, we recommit clause 28 and remove paragraph *(a)*, which maintains the *status quo*, or, if we change the *status quo* by giving the review officer power not to hear evidence under clause 28, we at least put in some balancing mechanism that ultimately ensures there is a greater possibility of justice being done. If one follows that line, it does not stop the review officer from excluding evidence, and no-one may take objection to that. However, in those circumstances where it is objected to but the review officer persists then the tribunal can make the final decision. One could have the best of both worlds by following the latter course rather than by changing the *status quo* in clause 28 and not providing a safeguard or a mechanism to protect against any abuse of power.

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

The Hon. I. GILFILLAN: I feel that I am obliged to comment on the argument put forward by the Hon. Trevor Griffin. I am persuaded by the information that has been given to me that there is a problem of an overload of this process. I do not want to repeat myself. I am aware of the observations made and I can understand that there is a point that needs resolution, but the select committee is cheerfully expecting to sit for at least 12 months and this has been requested by the board.

The Hon. K.T. Griffin: You have taken away people's rights.

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

The Hon. I. GILFILLAN: The honourable member may provoke the Attorney to actually stand up and respond, but in default of that I indicate that I continue to oppose the amendment but recognise the importance of looking at the issue.

The Hon. C.J. SUMNER: I do not accept what the Hon. Mr Griffin has said about depriving people of their rights. Clause 28 states that a review officer is not obliged to hear evidence from a witness if satisfied that that evidence is not relevant. That is a basic rule of evidence. One does not have to hear evidence that is not relevant, and that applies to any tribunal. It should also apply to Parliament. In addition, the clause provides that if, in the opinion of the review officer the evidence would merely provide unnecessary corroboration of other evidence—in other words, if a review officer does not feel that he needs the other evidence in order to make the decision—he does not have to hear it. That is all that is being provided for and I do not see that that is any different from the basic rules that apply at present to tribunals or, for that matter, to courts. So, that being the case, I do not see that there is any basis for the honourable—

The Hon. K.T. Griffin: There is an ultimate limitation on the appeal.

The Hon. C.J. SUMNER: Sure, if it is not relevant.

The Hon. K.T Griffin interjecting:

The Hon. C.J. SUMNER: That is not right because one can still appeal and the appellate authority can take further evidence if the evidence is relevant to the appeal and the party seeking to introduce it could not reasonably have been expected to do so in the proceedings before the review officer. As I understand the section, the matter is taken on appeal to the tribunal, and if the evidence is relevant, then it can be admitted by the tribunal. I refer to section 97 (4e) of the principal Act, which provides that:

> The appellate authority must, on the application of a party to appeal—
>
> *(c)* . . . take further evidence if the evidence is relevant to the appeal and the party seeking to introduce it could not reasonably be expected to have done so in the proceedings before the review officer;
>
> *(d)* take evidence if—
>
> (i) the evidence is relevant to the appeal; and
>
> (ii) there is some substantial reason for admitting the evidence in the interests of justice.

Obviously, if the tribunal takes the view that the evidence was relevant before the review officer, then, in my view, either under subsection (4e), *(c)* or *(d)*, it can be admitted before the tribunal. I do not understand the problem.

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

The Hon. K.T. GRIFFIN: In response to my most recent observation on the amendment and the existing clause, the Attorney-General made some observations about paragraphs *(c)* and *(d)* of section 97 and said, 'You have paragraphs *(c)* and *(d)* there, so why worry?' The difficulty is that I want to repeal paragraphs *(c)* and *(d)* and put in their place a paragraph that does not raise any questions about what the tribunal may do. Section 97 (4e) of the principal Act deals with a number of areas of responsibility of the appellate authority. It provides:

> [It] must, on the application of a party to the appeal—*(a)* rehear evidence taken before the review officer if the evidence is relevant to the appeal and the record of the evidence is incomplete or inaccurate in a material particular;.

That, I would suggest, does not allow the evidence which the review officer has declined to hear under the amendment in clause 28 because the evidence was not taken before the review officer.

Paragraph *(b)* provides:

> . . . hear oral evidence relevant to the appeal from the witness from whom evidence was taken in documentary form by the review officer.

Again, that does not apply because the evidence may not have been taken by the review officer. Paragraph *(c)* provides:

. . . take further evidence if the evidence is relevant to the appeal and the party seeking to introduce it could not reasonably be expected to have done so in the proceedings before the review officer.

That does not apply either because the party seeking to introduce the evidence may have already tried to do that before the review officer but that request may have been rejected. So, paragraph *(c)* does not apply. Paragraph *(d)* provides:

. . . take evidence, if—
(i) the evidence is relevant to the appeal;
and
(ii) there is some substantial reason for admitting the evidence in the interests of justice.

There has to be a substantial reason for admitting the evidence. I guess that is a matter for debate before the appeal tribunal. It may in a sense be relevant to the appeal but also it could be arguable that it is not relevant to the appeal but that it was relevant to the original application before the review officer.

If paragraphs *(c)* and *(d)* were removed and replaced by new paragraph *(c)* in my amendment, that overcomes all those problems without creating any prejudice to the WorkCover Corporation or any of the parties, but enables the appeal tribunal to take further evidence if the evidence is relevant to the appeal and the tribunal considers that it is appropriate to admit the evidence to the proceedings. It overcomes all the technical objections that could be raised if one sought to rely on paragraphs *(c)* and *(d)*.

Where the review officer decided not to hear from a witness, if the review officer did not regard the evidence as relevant or if the review officer said that it would provide only unnecessary corroboration of other evidence admitted by the review officer, in that last respect, it may be that the party seeking to adduce that evidence on the basis of corroborating other evidence might have had a judgment or order made in his or her favour but, on the appeal by the other party, it may become obvious that what the review officer regarded as unnecessary corroboration becomes necessary corroboration.

Under my proposal, that can be taken into consideration by the appeal tribunal if it thinks it is appropriate to admit that evidence. I believe there is a very strong argument in favour of my amendment in view of the acceptance by the Committee of clause 28 in the Bill.

The Committee divided on the amendment:

Ayes (10)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, K.T. Griffin (teller), J.C. Irwin, Diana Laidlaw, R.I. Lucas, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

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

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clauses 37 to 41 passed.

Clause 42—'Powers of entry and inspection.'

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

Page 16, lines 43 and 44—Leave out subsection (3) and substitute:

(3) A person is not required—
(a) to provide information under this section that is privileged on the ground of legal professional privilege;
or
(b) to answer a question under this section if the answer would tend to incriminate that person of an offence.

Section 110 (4) of the principal Act provides:

A person is not required to answer a question under this section if the answer would tend to incriminate that person of an offence.

Subsection (5) provides:

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

I cannot understand why those two provisions were not included in the rewrite of section 110, which is contained in this Bill. It seems to me it must have been deliberate but I cannot understand the reason why. If it was not deliberate, I am surprised that those basic protections, which are in the principal Act, were not incorporated. I will correct one thing I said: there is a provision that protects information that is privileged on the ground of legal professional privilege. However, I am surprised that the protection against self-incrimination is not there because it is in the present Act.

The Hon. C.J. SUMNER: Agreed.

Amendment carried.

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

Page 17, after line 5—Insert new subsection as follows:

(5*a*) Where anything has been seized under subsection (4) the following provisions apply:

(a) the thing seized must be held pending proceedings for an offence against this Act related to the things seized, unless the Minister, on application, authorises its release to the person from whom it was seized, or any person who had legal title to it at the time of its seizure, subject to such conditions as the Minister thinks fit (including conditions as to the giving of security for satisfaction of an order under paragraph *(b)* (ii));

(b) when proceedings for an offence against this Act relating to the thing seized are instituted within six months of its seizure and the person charged is found guilty of the offence, the court may—
(i) order that it be forfeited to the Crown;
or
(ii) where it has been released pursuant to paragraph *(a)*—order that it be forfeited to the Crown or that the person to whom it was released pay to the Minister an amount equal to its market value at the time of its seizure, as the court thinks fit;

(c) where—
(i) proceedings are not instituted for an offence against this Act relating to the thing seized within six months after its seizure;
or
(ii) proceedings having been so instituted—
(A) the person charged is found not guilty of the offence;
or
(B) the person charged is found guilty of the offence but no order for forfeiture is made under paragraph *(b)*,

the person from whom the thing was seized, or any person with legal title to it, is entitled to recover from the Minister, by action in a court of competent jurisdiction, the thing itself, or if it has deteroriated or been destroyed, compensation of an amount equal to its market value at the time of its seizure.

This clause provides that an authorised officer, who suspects on reasonable grounds that an offence against this Act has been committed, may seize and retain anything that affords evidence of that offence. That could be books and records, computer tape or disc, and a number of other items. However, there is no procedure for dealing with the way in which a person can get back those items that have been seized. The power of seizure does not exist in present section 110 so it is new to the Act.

It is desirable, to avoid disputes, to establish a procedure by which either the items that are seized can be retained by the Minister or, if proceedings are not instituted within a period—and I have said six months—they should be returned. Also, if the person charged is found not guilty of an offence, in those circumstances the item is to be returned, or if there is no order for forfeiture in those circumstances the items are similarly returned. I would hope that this is not a controversial issue; it is just a matter of expanding

the new section to deal with those circumstances where items are seized and provide that procedure for dealing with those items.

The Hon. C.J. SUMNER: Agreed.

Amendment carried; clause as amended passed.

Clauses 43 and 44 passed.

Clause 45—'Expiation of offences.'

The Hon. K.T. GRIFFIN: The Opposition strongly opposes this provision for expiation fees. Clause 45 seeks to include a new section which allows the corporation to cause to be served on a person a notice to the effect that an offence may be expiated by payment to the corporation of the expiation fee specified in the notice within 60 days of the date of the notice and, if the offence is so expiated, no prosecution of the alleged offence may be commenced. The expiation fee is, in fact, to be fixed by the regulations.

I have a serious concern about importing expiation of offences into what is essentially a code for dealing with the workers compensation and rehabilitation of injured workers. I have even more of a concern where the corporation is to be the master of its destiny in relation to the expiation of those offences. It is to be the prosecutor, the judge and ultimately may be the executioner. There are so many inherent conflicts in that situation that it would be intolerable for those who are affected by any of the penal provisions of the Act.

There may be an argument that this might save court time, but I suggest that there have not been many prosecutions for breaches of the WorkCover Act that would take up an inordinate amount of court time. I suggest also there would be very much a tendency on the part of the corporation, as there is with other Government law enforcement agencies, to hand out expiation notices rather than merely exercising some discretion and indicating that a warning or reprimand is given; provided the breach is remedied within a particular time nothing further happens.

That is particularly relevant in relation to first offenders. We must remember that many people will be affected by the fine points of this legislation, even by its generality, and they will not necessarily be aware of an obligation to register or to undertake and fulfil a responsibility within what in some instances might be a very short time. To have the corporation not only issue the expiation notice but also be the body which judges that an offence has been committed and collects the expiation fee rather than that going into general revenue does not seem right. The Liberal Party has grave concerns about the significant expansion of the use of expiation notices for a range of offences in a wide area of Government activity.

The Hon. C.J. Sumner: You started it all.

The Hon. K.T. GRIFFIN: Of course we did, but only in relation to some traffic offences. It has been expanded dramatically.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: Well, it is. What you have done by the expansion is allow bodies to move away from what used to be a caution or the exercise of discretion to the issue of a notice. In this case an employer or a worker might be compelled to pay, even though that person might dispute the offence on the basis that the notice has been issued and it is cheaper to expiate it than to go to court and fight it. It has some difficult consequences in the context of this legislation, and for that reason we oppose clause 45.

The Hon. I. GILFILLAN: The Democrats support the clause. There are many so-called offences in the Act which are minor in so far as the moral terpitude surrounding it is concerned, and there is little point in taking up the time of WorkCover and the offender by going through the court procedure. I think this is an excellent extension of the brilliant idea which I understand historically is to be credited to the Hon. Mr Griffin.

It is good to see that a good idea is taken up without prejudice by another Party. For that matter, I think it is a reflection of the bigness of the character of the Attorney-General and others in the Government that they have seen fit to adopt it. I see that it may well deprive some of Mr Griffin's legal confreres with an area of burgeoning work, and from that point of view it may throw some lawyers onto unemployment benefits, which would be much lamented. In these circumstances, I think that the practice of the expiation fee is appropriate. If the so-called guilty party disputes a matter and wishes to take it to court, he has that option.

The Hon. C.J. SUMNER: The Government supports the remarks made by the Hon. Mr Gilfillan and opposes the proposition put forward by the Opposition.

The Council divided on the clause:

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

Noes (10)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, K.T. Griffin (teller), J.C. Irwin, Diana Laidlaw, R.I. Lucas, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

Majority of 1 for the Ayes.

Clause thus passed.

Clause 46—'Right of intervention.'

The Hon. K.T. GRIFFIN: This is a new clause which gives the WorkCover Corporation the right to intervene in any proceedings under this Act before a review officer or the tribunal or any proceedings before a court in which the interpretation or application of this Act is in issue or in which the corporation's interests may be directly or indirectly affected. The Liberal Party opposes the clause. We do not see any reason for the corporation to become involved in proceedings to which it is not a party, particularly in court proceedings.

The corporation seems to be taking upon itself a wide-ranging role where it undertakes a number of functions, some of which are in conflict. I must say that to give the corporation a right to intervene is unusual in proceedings where it may not be a party. I have no difficulty, where it is a party, in the corporation's making whatever representations it likes, but where it is not a party there is no reason that I have been persuaded about why the corporation ought to have the right to intervene. I indicate opposition to the clause.

The Hon. I. GILFILLAN: The Democrats support the intention of the clause. There may be occasions when WorkCover may, quite properly, see fit to intervene in a case which involves an exempt employer. Just because the issue under jurisdiction is between an exempt employer and employee does not mean that WorkCover is thereby eliminated from having an interest or to a degree some responsibility. It may not necessarily act against the interests of either party. I feel that WorkCover can be expected to intervene if it chooses to do so on the basis of the more efficient and proper administration of the Act.

Clause passed.

New clause 47—'Transitional provision.'

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

Page 18, after line 40—Insert new clause as follows:

47. (1) The amendments effected by this Act to those provisions of the principal Act that relate to weekly payments of compensation apply as from the commencement of this Act to

persons whose entitlements to weekly payments arose before or after the commencement of this Act.

(2) Where a worker became entitled to weekly payments before the commencement of this Act, the corporation or an exempt employer may assess or reassess the amount of the weekly payments as from the commencement of this Act on the basis of the provisions of the principal Act as amended by this Act.

(3) Where such a reassessment is made, it cannot give rise to a right to repayment of any amount paid on the basis of a former assessment.

This proposal is intended to clarify the effect of other amendments in this Bill which relate to weekly payments such as overtime, correction of errors, and so on. It is proposed that all current weekly payments to claimants be raised in accordance with the amended provisions of this Bill and that the revised payments apply from the time of such reassessment. However, it is not proposed to have a retrospective effect, and no repayment of amounts paid under an earlier assessment will be required.

New clause inserted.

Title passed.

Bill read a third time and passed.

ROAD TRAFFIC ACT AMENDMENT BILL (No. 4)

Adjourned debate on second reading.

(Continued from 7 March. Page 3360.)

The Hon. DIANA LAIDLAW: The Liberal Party will support the second reading of this Bill. However, we object most strongly to a number of the key provisions in it. We also find most objectionable the manner in which these matters were introduced into public debate by the Federal Government. Each of the four matters in this Bill stem from a 10 point so-called road safety package that was first mooted by the Federal Government prior to the 1989 Federal election.

The Liberal Party are of the view that, while these 10 points were dressed up as road safety measures, the package itself was an election stunt. Certainly, it took the Premier of this State and the Transport Ministers of this State and other States by surprise. The Liberal Party does not accept that matters as important as road safety should be handled in such a cavalier fashion by the Federal Government.

We maintain very strongly that such issues should be treated on their merits. We also find it objectionable that the Government, in introducing the package, sought to extract the acceptance of all States and Territories by blackmail.

It is quite clear that, as a trade-off for accepting these measures, by the State's capitulating to the will of the Federal Government, we would be tossed a handful of dollars, essentially amounting to $12 million over three years from a national package of $120 million. While I do not scoff at that figure, which amounts to $3 million or $4 million a year, it represents an absolute pittance of the amount that the same Federal Government has cut from road funding to the States generally and to this State particularly over the past five years.

So, we find the key provisions in this Bill unacceptable. We also find the manner in which the Federal Government introduced these measures to the agenda unacceptable. The Bill deals essentially with road safety measures, and the Liberal Party has objection to a number of the key provisions. It is also important to place on record that the Liberal Party has a genuine commitment to road safety issues in this State and, as I indicated earlier, we believe that these should be dealt with on an issue by issue basis.

For instance, the Liberal Party has actively campaigned for the installation in hotels and licensed clubs in South Australia of self-testing breath machines. We find it quite objectionable that, after so many years of random breath testing and breath alcohol concentration limits being applied in this State, the only time people can measure what is their limit or have any understanding of their capacity to drink and absorb alochol is if they are caught by the police.

If random breath testing and BAC limits are to be a deterrent and a positive influence in controlling road deaths and accidents in South Australia, we believe strongly that there should be a greater measure of self-testing and a greater number of facilities for self-testing available in this State.

Accordingly, last year the Liberal Party introduced such a Bill to remove the legal impediments considered by the licensed clubs and hotels in South Australia to be a restricting factor in respect of the installation of such machines. That Bill passed with the unanimous support of this Council and is now before another place.

We have also championed the cause of ignition devices. Such devices are fitted to a car and the driver is required to blow into the device before the driver is able to start the engine. We believe that these devices are a most necessary instrument to seek to control repeat offenders in this State. We also believe that these devices should be a condition of relicensing. The Government has been less enthusiastic to accept these suggestions compared with the earlier self-testing breath analysing machines.

In addition, while the Government is promoting this Bill as a road safety measure, I would point out the hypocrisy in respect of recent road safety decisions by the Government. I will cite just one instance: this year the Education Department has got rid of the road safety teachers advisory position, a key position over 10 or 12 years in the department's curriculum committee. This has been a cost cutting measure, one that the Liberal Party deplores. The Liberal Party believes that the position should be reinstated through the allocation of funds raised from speed camera offences.

It is a most important position because, by influencing the curriculum, the past incumbent of the position (Trevor Harden) was able to ensure that road safety was treated not just as a discrete subject within schools but was used as an example to illustrate a whole lot of mathematical, science, physics and other subjects so that students came to understand that road safety was not just an issue for roads: they came to understand that it was an everyday part of their lives. Indeed, that is the way in which we believe road safety should be regarded.

It is a backward step for the Government to have deleted this major and important position from the curriculum section of the Education Department. I hope that the Government will see how silly it has been in this matter and will seek to reintroduce the position in the near future. Against that background I note that the Liberal Party is conscious of the number of road accidents and deaths in this State. In 1990 motor vehicle accidents claimed the lives of 2 331 Australians. While the figure is alarmingly high, it should be put into perspective because it represents a downward trend or a reduction of 500 compared with 1989.

The drop from 1989 to 1990 reflects a downward national trend in deaths that has been evident since tighter road safety and drink driving laws were introduced throughout Australia in the mid 1970s. While we have that downward trend, it is also a fact that death and injury statistics, plus the emotional trauma and financial costs of injury to individuals, families and the community as a whole, are a major concern in our community. Last year only South Australia

and the Northern Territory recorded a greater number of road deaths in comparison with the previous year. South Australia's figure was 225.

In addition to drink driving laws, the overall reduction in deaths can be attributed to improved medical retrievals of road trauma victims, but such advances involve tremendous costs, and the Bureau of Transport and Communications estimates the annual cost of road accidents to be about $5.7 billion, when account is taken of rehabilitation expenses, social security benefits and compensation payments for bodily injury.

In respect of spinal injuries, Australia has one of the highest rates in the world. I have had extensive discussions on this subject with Mr Richard Llewellyn, Executive Director, Paraplegic and Quadraplegic Association of South Australia. Perhaps one of the saddest aspects of going to Hampstead and seeing the Spinal Injuries Unit is to note not only the number of victims who have so-called 'survived' a car accident but also how young they are.

One wonders about the life ahead for them and their family. That brings me to the issue of the blood alcohol concentration limit. When the Federal Government first mooted the prospect of adopting a national limit of .05, the Premier of this State indicated that 'no-one will ever persuade me that there is any road safety merit in it at all'. He was followed on successive days by the Minister of Transport, Mr Blevins, who agreed that a reduction to .05 would make little difference in reducing our road toll. Certainly, that has been the evidence that the Liberal Party has been provided with from the Road Accident Research Unit based at the University of Adelaide.

The work of that institute has been respected over many years by both Federal and State Governments of all persuasions. However, it is interesting that, in this matter, the Federal Government has chosen to ignore the advice of the Road Accident Research Unit. It is also interesting that, in ignoring that advice, it insists that all other States with a .08 limit must, likewise, ignore such advice.

However, the Liberal Party is not prepared to follow that course of action and it bases the amendments on file on evidence produced by the Road Accident Research Unit. In respect of the Minister's second reading explanation, it is very interesting that there is no reference to any research on the subject, whether in favour of .08 or .05. That matter has been totally overlooked and yet I would have thought the scientific evidence to be most important in making any adjustment to the blood alcohol concentration limit in this State.

The Minister mentioned public opinion, and the Liberal Party acknowledges that there has been an increasing trend in public opinion polls supporting a .05 limit. However, I find it most interesting that, when I speak on an individual level to many of the people, particularly women, who support such a limit, and tell them that it represents one or two drinks, they often change their mind. The .05 limit sounds terrific emotionally because it gives people a warm inner glow and they think they are doing something about road safety. However, when it is put to them in terms of the number of drinks that it involves, particularly for women, it is quite a shock when they realise the restriction that it will impose on their lifestyle without its having any corresponding impact on the road safety statistics, as has been established by research undertaken by the Road Accident Research Unit. Without question, it is quite a discriminatory measure for women.

I have been provided with evidence from Dr Ross Homel from the School of Behavioural Sciences at Macquarie University, which indicates in respect of New South Wales that there was a drop in the number of accidents and fatalities after the .05 limit was introduced in that State. That was particularly so on Friday and Saturday nights. However, the graphic evidence must be seen against the recommendations and observations that Dr Homel makes in print.

In his report, Dr Homel states that the .05 law may have had an impact—that is, in respect of fatal crashes in New South Wales—on Saturday nights, although clearly random breath tests are still the major factor. The Liberal Party is aware of other evidence in New South Wales that shows the very dramatic impact of the increased provision of random breath test units. That State has had a decrease in both accidents and fatalities. We are also aware that part of that success was attributed to the fact that the provision of those machines and vans was accompanied by a very strong public relations campaign. It is that course of action that the Liberal Party believes should be adopted in this State: the increased provision of random breath test units accompanied by strong and continuous public relations campaigns. It is following such campaigns that the greatest drop has occurred.

If we know that that is where the success has been in the past, I cannot believe that we would deny history and move in the manner proposed by both the Federal Government and now accepted by the State Government. Therefore the Liberal Party proposes an amendment that continues the .08 blood alcohol limit for fully licensed drivers, but it confines the limit to persons 24 years old and over. We have made that distinction on the basis of age because it is quite apparent from all the statistics available that it is persons aged 24 years and younger, particularly boys—but we have not sought to be discriminatory in terms of gender—who make up the great bulk of accident victims and fatalities in this State. It is a fact that persons aged from 16 years to 24 years hold 18.5 per cent of licences issued but represent 40.95 per cent of drivers involved in crashes. So, we know that that is where the trouble is on our roads.

We also know that the greatest trouble in terms of fatalities relates to those driving with a blood alcohol concentration level of .15 and above. Therefore, the Liberal Party believes that its amendment proposing a .05 limit for fully licensed drivers under the age of 24 years will acknowledge the fact that people in that age group, particularly boys, are a major problem in terms of drink driving and accidents on our roads. We also believe that maintaining a level of .08 for fully licensed drivers aged 24 years and over acknowledges that there is little evidence to prove in road accident and fatality terms that that is a danger level. The dangerous blood alcohol level on the road is .15 and above, but this Bill does nothing to address that.

In addition, in respect of the amendment and the distinction in relation to age, I point out that insurance companies make a similar distinction with respect to motor vehicle cover. They set higher no-claim bonuses for drivers under the age of 25 years and they also insist on an age excess at that level. I seek leave to incorporate in *Hansard* a statistical table provided by the Insurance Council of Australia outlining comprehensive insurance, no-claim bonuses and excess rates.

Leave granted.

	Premium—No No-claim Bonus	Basic Excess Removable	Age Excess Irremovable	Inexperienced Drivers Additional to Age Excess
	Comprehensive Insurance—Average Vehicle 1980 Commodore—$10 000			
	Premium—No No-claim Bonus	Basic Excess Removable	Age Excess Irremovable	Inexperienced Drivers Additional to Age Excess
Company A	16-22yrs—$1 283 22-25yrs—$1 137 over 25—$1 008	$250 $250	16-22yrs—$350 22-25yrs—$200	$ 50 $ 50
Company B	16-19yrs—$1 486 20-24yrs—$1 177 over 25—$ 978	$300 $300	16-21yrs—$500 22-25yrs—$400	
Company C	16-18yrs—$1 431 19-20yrs—$1 242 21-24yrs—$1 027 25-29yrs—$ 854 over 30—$ 588	$250 $250 $250 $250	16-20yrs—$400 21-24yrs—$250	$200 $200
Company D	16-20yrs—$1 150 21-24yrs—$ 765 over 25—$ 665	$250 $250	16-20yrs—$600 21-24yrs—$250	$250 $250
Company E	16-21yrs—$1 382 (male) 22-24yrs—$1 057 (male) 16-21yrs—$1 237 (female) 22-24yrs—$ 947 (female) Male and Female over 25—$ 723	$250 $250 $250 $250	16-21yrs—$500 (male) 22-24yrs—$350 (male) 16-21yrs—$500 (female) 22-24yrs—$350 (female)	$200 $200 $200 $200

The Hon. DIANA LAIDLAW: The second of the four issues addressed in this Bill relates to the setting of 100 km/h as the general speed limit. I have received considerable correspondence on this matter from local councils in this State, particularly country councils. Each one of those councils, other than the Tea Tree Gully council, has resoundingly rejected the lowering of the general speed limit to 100 km/h and none of them is prepared to accept the Minister's assurance that there will be some *ad hoc* arrangement where he may deem at some ministerial whim to designate some roads as 110 km/h and others as 100 km/h. They are just not prepared to live with such an arbitrary system when they know that the 110 km/h on our main arterial rural roads is a completely acceptable and reasonable maximum speed.

In fact, some of my colleagues and people outside this Chamber would argue very strongly that many of those roads in South Australia have been built to such a standard—and carry limited traffic—that it would be quite acceptable to travel above that speed limit of 110 km/h on those roads. It is not an argument that the Liberal Party endorses, but it is felt strongly by some individual members. With respect to the 100 km/h, a submission received in May last year from the Royal Automobile Association included a very strong argument supporting 110 km/h on open roads. The submission indicated that, at that time, ATAC had supported the national road traffic code of 110 km/h, and it went on to outline well documented evidence in support of this limit, particularly with respect to South Australia.

It is a fact that we do have a superior road service and network in this State compared with other States. Also, we do not have the traffic loads or the weather conditions that can so easily destroy road surfaces and edges. We do not have the problem with bridges and access to those bridges that other States would have, with much higher rainfall and many more rivers. South Australia is renowned for having an excellent sealed road system. It seems crazy not to maximise the advantage of that asset to which all taxpayers have contributed over many years. It also seems that a general limit of 100 km/h makes absolutely no sense considering the arguments in 1987, again pushed by the Federal Government but certainly accepted in this State, which sought (again on road safety grounds) to maintain a distinction between the limit for heavy vehicles, set then at 100 km/h, and all other vehicles at 110 km/h.

I will refer also to the issue of speed limiters. The Bill proposes that a person must not drive a vehicle that does not comply with regulations limiting the speed of the vehicle and, if a vehicle is driven in contravention of this provision, both the owner and the driver will be guilty of an offence. However, I note in the second reading explanation (but not the Bill) a reference to 'the fitting of effective speed limiting devices' which suggests that changing gear ratios to achieve the same outcome would not be an acceptable practice. The Liberal Party believes very strongly that the changing of gear ratios, rather than the necessary fitting of specific devices, should be acceptable to the Government in this matter. Also, we have concerns about the uncertainty between the second reading explanation and the Bill with respect to the maximum speed capacity being limited to 100 km/h which suggests there will be no tolerance to allow for overtaking and the like. Certainly, in all the representations made to me, it has been indicated that, if speed limited vehicles are not to be a road hazard and a menace in road safety terms, this matter of a tolerance with respect to speed limiters is one that must be addressed in the regulations.

There is also a retrospective aspect in this Bill. As so much of the factual material and the application of speed limiters will be dependent upon regulations rather than the provisions in the Bill, the Liberal Party is very keen to see the matters I have listed briefly addressed in the regulations. If they are not, the Liberal Party gives notice at this time that it would be prepared to move for the disallowance of those regulations.

The last issue I raise is the compulsory wearing of helmets for pedal cyclists. I have been involved in this issue for a number of years. Members may recall that I have introduced motions on this matter in the past, particularly noting petitions that have called for the compulsory wearing of helmets for pedal cyclists. I became involved in the subject some years ago initially when a friend of my niece was

killed when riding home from school. Whilst not wearing a helmet, she was knocked by a car and died of head injuries. Later, I was approached by teachers and students at Scotch College after one of the students, whilst riding home on a bicycle and not wearing a helmet, actually just hit the kerb, fell, hit his head and died of head injuries. I believe passionately in the wearing of helmets by cyclists of all ages.

The Liberal Party has difficulty not with the principle of this Bill but with the actual proposed implementation of the compulsory wearing of helmets. The Bill proposes a traffic infringement notice will be issued to cyclists over the age of 16 who commit an offence. When the Bill was first introduced last November, that fine was $32, but it is now $34. A defence clause is provided in respect of the fine for persons 16 years and over if they are not wearing a helmet. The Liberal Party believes very strongly that it should be not only compulsory but there should be a fine and a high penalty for those cyclists in the older age group not wearing a helmet.

However, the Government also proposes in clause 15 *(a)* (2a):

> A parent or other person having the custody or care of a child under the age of 16 years must not cause or permit the child to ride or be carried on a cycle unless the child is wearing a safety helmet that complies with the regulations or is properly adjusted and securely fastened.

Of course, the regulations refer to the Australian design standard. In the *Advertiser* of 2 March, Transport Minister Blevins is reported as saying that parental responsibility had been part of equivalent legislation in other States—but that is just not so. Certainly, Victoria and New South Wales have been recognised for some time for having compulsory wearing of helmets. However, when one looks at the actual wording of their regulations, it is clear that this issue is not addressed. I point out that the Victorian Government has had legislation for the compulsory wearing of helmets since 1 July last year. New South Wales introduced the compulsory wearing of helmets for persons 16 years of age and above from 1 January this year. As I say, they are recognised Australia wide as being States where it is compulsory to wear a helmet. However, the regulations do not state how that will be enforced for persons 16 years of age and younger.

My extensive discussions with the police, road safety officers and various members of Parliament in both States confirm that essentially, in terms of the requirements and penalties for persons 16 years of age and under, much of it is based on bluff. It is also a fact that those States require the parents to enforce the compulsory wearing of helmets by asking those parents to withdraw the bicycle if, in fact, the child is not wearing the helmet. The Liberal Party believes that that is reasonable and fair in this instance. We certainly do not accept that it is reasonable and fair for a parent to be fined if their child is caught not wearing a helmet. That child may have left the schoolyard or have left home, gone around the block and been out of sight, if not out of mind, of the parent and taken off that helmet for a variety of reasons. That reason may be sheer defiance, and that would be a great pity. Reasons may also include peer group pressure or the fact that the helmet being worn is uncomfortable or not environmentally sound in terms of the heat of the day. I make this point, which may appear to be quite trite, but it is in fact, crucial to the wearing of helmets.

The *Australian Cyclist* magazine of February/March 1991 over several pages assesses, 'How cool is your helmet?' It actually tested 13 helmets. One of the helmets tested was the Flying Horse (hard shell) brand, which the magazine noted as being a 'cooker'. The article stated:

> This helmet was extremely hot, even over short distances. Although some heat was able to escape from vents on top of the helmet, the liner had no cooling holes to allow the vents in the hard shell to properly ventilate the interior.

I could go on, but the point I want to make is that this same helmet, which has been dismissed by the *Australian Cyclist* magazine as being a 'cooker' and as being extremely hot even over short distances, is readily available at the very reasonable price of $25 through many of the schools with which I have made contact recently. It is cheaper than many of the other helmets and, therefore, probably more attractive to many parents who would not be able to gain access to a rebate.

Rebates certainly have applied in the past, but they will not apply when this legislation is introduced. It is of great concern to me that such helmets that are clearly unsuitable in many respects to the hot Australian climate are the ones that are most reasonably priced, and also are most freely available for schools. It will be no little surprise to me if a lot of persons 16 years of age and younger did choose, for heat reasons alone, to take off that helmet, no matter what was the advice of one's parents. In such circumstances, the Liberal Party believes it is totally unreasonable that parents should be responsible for such action. The Liberal Party believes in this matter and in so many others that it should be the individual who is responsible.

From my earlier work in community welfare, I am well aware that on most occasions one can guarantee that children 10 years of age and above can well reason and rationalise what is good and bad and what is right and wrong. I have no doubt that in this matter of wearing a helmet they can rationalise the benefits of those helmets if they are encouraged to do so. They should be wearing those helmets, and be accountable for their decision to wear such a helmet.

As I said earlier, if the parent is not happy that the child is not wearing the helmet, the parent always has the authority to withdraw the bicycle. I find it quite appalling that parental responsibility in this matter could be exercised only by the Government's applying the fine. I also believe it is unacceptable that the Government would be prepared to fine parents at a rate of $34 where a child would not be wearing a helmet, yet refuse those very same parents access to a rebate of $10 to allow that parent to even buy the helmet in the first place. There seems to be no logic in that matter. It has certainly been suggested to me that this may be yet another instance of the Government grabbing every dollar it can get.

The Liberal Party is very keen to see that this legislation is introduced in two parts, and that would follow the model established in New South Wales where, for persons 16 years of age and above, the New South Wales Government made it compulsory to wear helmets from 1 January this year, and that from 1 July this year it will be compulsory for persons 15 years of age and younger. The rationale behind this measure is that if we can get older people to wear those helmets, if they can be seen freely in the community, and be seen as acceptable by older people (and that would include people 16 to 19 years of age who would still be conscious of their appearance), there is every reason to believe that we could persuade people 15 years of age and under to do the same.

There is peer group pressure on many secondary school students who are reluctant to wear helmets, but if they see kids of 16 years and over wearing them and it becomes compulsory and is reinforced by a fine, I think we would find common acceptance for helmets by persons of 15 years and younger within at least six months before the second part of the legislation became effective.

The Liberal Party is keen to see the introduction of this provision followed by a major publicity campaign. We should also like to see it accompanied by an extensive rebate system, available if not to all persons who need to purchase helmets, at least to families who are in need in our community, families on low incomes or with many children and who may not already have such helmets.

The Liberal Party will support the second reading of this Bill. I have outlined the fact that we have major objections to a number of key provisions and will be seeking not only to move amendments but also to oppose and question some provisions in more detail during the Committee stage of the Bill.

The Hon. PETER DUNN: I wish to speak briefly to some parts of this Bill to which I object fairly violently. If I had to make a statement about this Bill, I could only call it the Judas Bill. It can be quite freely said that the Hon. Frank Blevins sold his soul for 30 pieces of silver—in this case $12 million for the State—because he was told that he would not get or maintain his rights, or he would not get his $12 million, unless he was prepared to forgo some of his rights, and some of those rights are—

The Hon. Diana Laidlaw: Our rights.

The Hon. PETER DUNN: Our rights. They are not his rights. He did not have any say in it, but he has agreed to lower the blood alcohol level from .08 to .05, to reduce the speed limit from 110 to 100 km/h and to make kids wear helmets. I agree that there is a lot of merit in that. But when, within 20 seconds, a child can be around the corner and out of sight, I do not see how we can make parents responsible for the wearing of head gear. This is the greatest blackmail Bill that has been in the Parliament since I have been here.

Members interjecting:

The Hon. PETER DUNN: If the three wise monkeys over there will let me have a go, I will explain. This is a blackmail Bill which has been presented by the Federal Government—Minister Brown. He might be brown but he is endeavouring to fix up some black spots, as he calls them. He says that there are some black spots on the roads of Australia. There certainly are, but most of them are between Melbourne and Brisbane. I guess the Great Dividing Range has some bearing on the fact that there are some very dangerous spots along there.

Recently I travelled from Sydney to Melbourne and for a short distance I was in the Yass area. I noted that it now has a four-lane highway. I should have thought that it was the responsibility of the Government, anyway, in the interests of moving traffic from those two very large centres of population as quickly and efficiently as possible, but that appears not to be the case. It seems to be able to rip the money off the poor old motorist in the form of taxation for his fuel, but put some criteria on it when it hands it back. Therefore, the Government acts like Judas and betrays the public of this State.

Let me start with the blood alcohol content provision. This is absolutely ridiculous in the silliest sense. We know that some very good research work has been performed in this State by the Royal Adelaide Hospital and the University of Adelaide on the effects of alcohol on driving. We should bear in mind that it is legal to drink. Indeed, it is a very social action which is indulged in by many people, although not by all. I understand that .08 is equivalent to six or seven butcher glasses, to use that term, for a reasonable sized person. I understand that the bigger the person, the more he can drink before his blood alcohol level goes up, and the smaller he or she is the less he or she can drink. As you would know, Madam Acting President, you can probably drink three whiskeys and still be under .08, but the Hon. Trevor Crothers would probably need close to a dozen.

Members interjecting:

The Hon. PETER DUNN: It is an accepted practice within the community.

An honourable member: In the interests of research, he is prepared to try it.

The Hon. PETER DUNN: If it is an accepted social practice, if it is legal, if the Government takes taxes out of it like it does, then it ought to be prepared to put a little more of that tax back into research. The research that I have seen cannot prove conclusively that dropping the blood alcohol content from .08 to .05 will have a very great bearing at all. Of course, it will have some bearing, but so will many other things. I suppose if one wore sand shoes instead of slippery leather soled shoes, that would stop accidents, too. I suppose if one kept awake all the time while driving, that would prevent accidents. There are a myriad things that we can name. However, because the Minister believes that there is good political point scoring in this, he has decided to run down this track and use it.

I have mentioned before in this place the effect that this has on country people, and I will mention it again for the benefit of those gentlemen in the back row of the Government benches. In the country there are many areas where people do not have a lot of social contact. Therefore, on a weekly basis a man will go to his club—it may be a sports club, a golf club, or anything. The social contact there is normal. Here in the city we meet much of the time, but in the country it does not happen, so social contact usually takes place on a Saturday or perhaps on a Sunday morning. It is reasonable to assume that people ought to be able to have a couple of beers and a little let down. It is hard enough out in the bush now. The present Government has created such conditions that the poor old bushman is just about buggered, and he needs a little alcohol to get a little relaxation early, late or even any time of the day to make life worth living.

An honourable member: Bushperson.

The Hon. PETER DUNN: Yes, bushperson.

An honourable member interjecting:

The Hon. PETER DUNN: That is exactly right. My colleague says that they can do it, but they cannot drive under this legislation. If you have three alcoholic cough lollies you would be over .05. So you are restricting people's social contact; they cannot call a taxi or get on a bus; they cannot make use of the $160 million loss of the STA and get on a bus, fall off at the stop and walk home. They cannot do that—they have to be driven home. In the case of my son, who is on his own at home, he cannot just get a ride home at the drop of a hat; he has to get home under his own steam. So you are saying to him that he can drink in the city but he cannot drink in the country. Once again, that is another imposition.

I happen to believe that .08 is a reasonable amount. I think most research indicates that .1 is about the level where people's reactions begin to be affected dramatically and it is at that point that they become silly. I agree with the Hon. Diana Laidlaw that the difficulty is in the younger age group, where people are learning to control their emotions and they tend to drive like wild men; they tend to drive beyond their capacity, if I can put it that way. For those reasons I think that the Hon. Diana Laidlaw's amendment is much better than what the Government proposes and I would have to support it on that basis.

All in all, I can find no substantial evidence nor has anybody come to me to say that the lowering of the alcohol limit from .08 to .05 will dramatically change or, for that matter, change very much the accident rate in this State. As for the figures that were given in the second reading speech, I think that the Minister plucked them out of the air. An $8 million saving in this State was referred to; that sum might be saved in grog, but I doubt that it will be saved in any other way. That is about the only saving I can see to be had in that.

The Bill is a blackmail Bill. It is for the ego of the Federal Minister and the pittance of $12 million they are giving us. Goodness gracious me—you cannot spend more than $2 million of that in any one spot. This money is really being handed out under false pretences.

Just before I leave the subject of .08, the Minister, Mr Blevins. is not fairdinkum about it. He has put a grading into this and has said 'between .05 and .08'. Therefore by that, in itself, he admits that .08 is not too bad. In fact, I think that, privately, he would say that .08 is a pretty reasonable figure. He said that people would get a $100 fine and three demerit points and, if they do it again, they will get a bit more; also, if they want to take it to court they will get a $700 fine. But, there again, they have introduced expiation—a little more money for jam, and the Government is very fond of doing that. We have just seen it in a Bill that has gone through this House and we are seeing it ever increasingly. It is a good fundraiser.

In relation to reducing the speed limit from 110 km/h per hour to 100 km/h, I think all of us understand what that is doing. We are doing the opposite to what the rest of the world is doing. The rest of the world reduced their speed limits when there was a fuel hike and it was difficult to get fuel. America dropped their speed limit to 90 km/h in places, as did Europe. But they are now all back to 100 km/h or 110 km/h. If you go to Europe today and travel on the highways and freeways you will see that the average speed is in excess of 80 miles an hour.

The Hon. T.G. Roberts interjecting:

The Hon. PETER DUNN: No, they are not any better than our roads. The honourable member says that their roads are better than ours. Admittedly, their tollways and main arterial roads may be a little better because there may be three to six lanes on either side of a freeway; but most of them have overways on them. I have travelled on roads in England where the average speed is in excess of 80 mph, and they still have islands to travel around at intersections. So, the member is wrong when he says that their roads are better than ours. I do not believe their roads are much better than ours. However, once again we are going against them. If the roads in the Eastern States are so poor that you have to drive at 100 km/h, that is their problem, and let them fix it up. Why should we agree to that when we have pretty good roads here? I cite to you the road from Port Augusta to Alice Springs, which is a superb, beautifully engineered and constructed road that, in my opinion, one should be allowed to travel on at 130 km/h. In fact, we are fooling ourselves if, in the long term, we do not increase speeds to that limit, because that is a cost saving. We know what costs are in this country. I live 600 kilometres from Adelaide and, if I am going home and have to drop 10 km/h all the way, it adds another hour to my trip, and that means that I would probably stop another time. In fact, it works out to about an hour and a half longer to get home. I am therefore more tired and more likely to have an accident, so that offsets the reduction to .05 from the word go.

Therefore I do not agree with dropping the speed limit. There is a lot of argument about that, but I shall not pursue it any longer, except to say that we are going against the tide and against the rest of the world. Cars are now far better than they were, and I suggest that the drop in the accident rate is more to do with the mechanical excellence of cars and better roads than it is to do with speed.

In relation to speed limiters, that is an interesting point. I have not yet seen a speed limiter on any vehicle that cannot in some fashion be bypassed, and I suggest that they probably will be bypassed. By changing the gearing in vehicles, as the Hon. Diana Laidlaw suggested, that will be achieved. Even that has its limitations because the governor on the engine can be opened up, and once again the speed can increase. There are problems with speed limiters, as we all know, such as in passing big trucks, because of the long time that it takes to do so. Sometimes one needs to exceed the speed limit for a short distance to get past other trucks or slower-moving vehicles. However, I suggest that there is a case for speed limiters, because there is no doubt that heavy trucks travelling at high speeds are very detrimental to our roads.

I notice that all vehicles will be required to have speed limiters on them and that there will be retro-fitting of these devices to vehicles that have been purchased since 1988, particularly in the 15 to 20 tonnes range. I suppose it is a fact of life that they will be put on there. I would be more inclined to put tachographs on vehicles and to require persons to submit their tachograph record to a place to be reviewed. If one was found to have been speeding for any length of time, a fine would be imposed. I think that would probably have been a better way of doing it than the present system.

In relation to pushbike helmets, this is an interesting point. The only comment I wish to make about that is one that I made earlier: as an adult, one might be responsible for a child up to the age of 16. However, that child might hop on his or her bike, zip around the corner and take off the helmet. It could then be put in the parcel carrier because of the image factor. This has nothing to do with safety, it is usually to do with image and peer group pressure. So, I think that is a very difficult one to sustain. I think an education process is needed and, if we were really keen to introduce all these things properly, they would all start with much more emphasis on education processes than this Bill alludes to. Indeed, it does not even allude to it in a sense.

In fact, as the Hon. Diana Laidlaw said, they have taken away the education process in the schools, and how ridiculous can that be, when cars are probably the most important part of our lives than just about anything else, as most families today have just about two cars or not quite two cars? Everybody uses them at some stage or another yet they have taken away from the schools the adviser on road safety. That is just another hypocritical action taken by this Government. However, if they act in that fashion at that point in the education of our children, I would not expect them to accept reasonable and sound arguments as I have put this evening.

The Hon. R.I. LUCAS (Leader of the Opposition): I support the second reading of this Bill and, in doing so, congratulate my colleague, the Hon. Diana Laidlaw, for her very thorough and comprehensive summary of most of the issues covered in the Bill. I will be addressing it in greater detail in the Committee stages. Therefore, for those reasons, I do not intend to cover all the issues that my colleague has covered.

I really only want to comment on two matters in any detail. I suppose that, at the outset, I would agree with the comments of the Hon. Peter Dunn and the Hon. Diana Laidlaw in saying that this Bill is one further example of the funding shotgun being held at the head of the smaller States in particular, where the Commonwealth seeks to impose its will on the States in an increasing range of areas. It is not just this area: it is in the area of schools, universities and a whole range of other areas where the Commonwealth is seeking to extend its tentacles that are not within its constitutional or traditional responsibility.

From our vantage point here in South Australia we can see the mess that people like Hawke and Keating have made of issues within their own constitutional responsibility, for example, the economy and we can ask, 'Why on earth should we in South Australia let people like Hawke and Keating have any increased responsibility for issues like road safety or what is taught in our schools, how our universities are funded or the priorities within our universities?' It certainly gives no-one comfort to look at their past record and think that there is any greater wisdom in Canberra for solving major issues, whether they be in this area or within schools and universities.

The two matters I want to address concern the blood alcohol content and the compulsory wearing of helmets for cyclists. First, I have always been a strong supporter of the .08 limit, and I remain a strong supporter. For the reasons I will outline, I will be supporting strongly the amendment that my colleague the Hon. Diana Laidlaw will move in the spirit of compromise between the conflicting views that exist within the community and the Parliament and between Governments and Parliaments as well.

My initial view concerning .08 was coloured by the bias of having been raised outside the metropolitan area, very much the same as my colleage the Hon. Peter Dunn. Whilst he talks of the wide expanses of the West Coast and the problem of getting to and from the Rudall Football Club and so on, I can talk from the background of a provincial city—Mount Gambier—in the South-East, and with the knowledge that many country people (non-metropolitan dwellers) travel long distances on Saturday evenings in particular for social intercourse, fun and entertainment.

I refer to the people who came many years ago to the Barn Palais (as it used to be) in the South-East. They would travel 60 to 80 miles from perhaps as far away as Naracoorte and Padthaway for what was the local Saturday night dance in the Lower South-East for the opportunity to meet people, to drink and have fun and entertainment. It is not just in the wide expanses of the West Coast that people in country South Australia travel long distances to enjoy themselves at social engagements, and that was my original bias.

Having entered Parliament, I must say that colleagues such as the Hon. Legh Davis and the Hon. Bob Ritson, who served on a select committee of this Council about five to eight years ago (I cannot recall exactly), have always quoted that select committee as being one of the examples of how effective the select committee system of the Parliament can be. Since that select committee and whenever the matter is raised within the Party room or Parliament, the Hon. Legh Davis and the Hon. Bob Ritson have cited the evidence gathered by that select committee.

That evidence does not seem to have changed to this day when we debate the merits or otherwise of .08 and .05. The Hon. Diana Laidlaw and the Hon. Peter Dunn have referred to evidence from the Road Accident Research Unit and to other evidence indicating that the major problems concerning driver fatalities are with blood alcohol concentrations of .1 or over. I note from the speaking list that the Hon. Dr Ritson is speaking next and he may be in a better position to give the Council the exact figures, the percentages and the results of the Road Accident Research Unit. But, in essence, that is the figure, that is what the researchers said: the problems are caused at .1 and over.

The problems are not between .05 and .08, which we are now considering. That is still the view of the Road Accident Research Unit. Relying on that, I indicate that while I had the original bias on entering Parliament of always supporting .08, that bias can now be supported on the basis of the evidence. Both the Commonwealth and the State Governments have failed to produce any evidence to the contrary about why we should move from .08 to .05, other than the politics of the warm inner glow, the politics that the community supported it and that, therefore, we should move to it; the politics that because there are pressure and lobby groups who say that we ought to move towards it, even though there is no evidence to support it, then, irrespective, we ought to move towards the level of .05.

I note that the Hon. Bob Brown is a member of the Centre Left Faction in Canberra, so the politics of the warm inner glow probably carry much significance for that Minister. The Hon. Diana Laidlaw referred to the work of the Road Accident Research Unit and the work by Ross Homel from Macquarie University in New South Wales and the paper 'Drink Driving, Counter Measures in Australia'.

It is one of the sad facts that for whatever reason we can no longer have incorporated into *Hansard* illuminating graphs, because the graph produced by Ross Homel, which looks at the experience in New South Wales, is informative and I will try to give a word picture of it. I refer to the cumulative sum graph of daily fatal crashes in New South Wales between 1975 and 1986. The graph shows when .05 and random breath testing were introduced. One can see from the graph that there is a plateau, in statistical terms, that bubbles up and down but basically it is a horizontal line for the first 4½ years.

Between 1975 and 1980, there is a horizontal straight line relating to this particular measure. Then, when .05 was introduced, but before random breath testing was introduced, there is no significant statistical difference. The line stays horizontal and it continues right across the page, with a bubble up and down here and there. The trend line is horizontal and it clearly indicates that, in relation to daily fatal crashes in New South Wales during that period, the trend line that existed prior to the introduction of the .05 level in New South Wales remained the same afterwards.

Then, for some 18 months to two years later, when random breath testing was introduced, one sees that it heads to the bottom of the graph paper at an angle of 45 degrees or greater. Quite clearly, in statistical terms, it is a significant change and the introduction of random breath testing in New South Wales, as distinct from a change in the law to .05 has been responsible for the dramatic drop in daily fatal crashes in that State.

My colleague the Hon. Diana Laidlaw referred to Dr Homel's summary in relation to the cumulative sum graph for Saturday fatal crashes in New South Wales between 1975 and 1986. From memory, the Hon. Diana Laidlaw said that Ross Homel stated that .05 may have had—and he made no finding—some effect on Saturday fatal crashes but, certainly, random breath testing did have a significant effect. If one looks with a statistician's mind at the graph relating to Saturday fatal crashes, one can see that prior to the introduction of .05 there is virtually a horizontal trend line, although there is some argument that it might have been increasing slightly just prior to the introduction of .05, but that is a marginal argument.

Certainly, from the introduction of .05 until the introduction of random breath testing, there is the possibility of some statistical support that there might have been a very slight reduction in Saturday fatal crashes. One would need to do some statistical tests on the trend line to provide support or otherwise as to whether it is a significant measure. Not having read Ross Homel's complete paper and not knowing his background, I am not sure whether those statistical tests have been done on the data that has been provided. Nevertheless, if Ross Homel concluded that it may have, it is certainly nothing stronger than that. There is no conclusive evidence of a significant effect of .05 in relation to Saturday crashes. Certainly, once random breath testing was introduced, again as it was for daily fatal crashes and Saturday fatal crashes, there was a significant decline in fatalities in New South Wales.

The only other comment I wish to make about Ross Homel's work is that, if one tries to use the argument that .05 has led to a marginal reduction in Saturday fatal crashes, it needs to be interpreted together with the first graph in relation to daily fatal crashes; that is, the average figure suggests that there has been no change, it is a horizontal line. If one were to argue that there has been a small reduction in Saturday crashes, the laws of statistics say that there must have been a slight increase for one other day of the week, say Monday nights.

For those who seek solace from Ross Homel's research to argue that there has been some effect as a result of the change to .05, that is, that it has reduced Saturday fatal crashes, they will need to rationalise for themselves and those whom they seek to convince, the reason that the introduction of .05 has increased fatal crashes, let us say, on Monday evening. I suggest that that highlights the weakness in the argument of those who seek to use Ross Homel's research in support of the fact that the introduction of .05 in New South Wales has had any significant effect at all. For the reasons I have outlined, I support the .08 level. However, as I said, given the background of this issue, I am prepared to support, and to support strongly, what I would call the compromise position that has been put by the Hon. Diana Laidlaw, and I urge members to give it very close consideration.

The second matter to which I wish to address my remarks relates to the compulsory wearing of helmets for pedal cyclists. I think that Premier Bannon and the Minister of Transport have been too long in the Paul Keating school of arrogance. They are out of touch. I believe in the politics of the warm inner glow that we see in this Bill. However, in the politics of this decision that we see before us and the way in which it is being implemented, I consider that Premier Bannon and the Minister of Transport have lost touch with the fact that there are many in our community who just cannot afford, and who will not be able to afford, to purchase helmets for their children, irrespective of what fine laws the Government and Parliament pass in relation to this, unless we take administrative action in addition to this legislative action.

Secondly, I believe that Premier Bannon and the Minister of Transport are out of touch and do not understand how people who cannot afford to purchase the helmets will react in relation to a new compulsion to purchase helmets for their children. We ought to consider the cost of these helmets. The Hon. Diana Laidlaw referred to a helmet that the *Cyclist* magazine describes as a cooker and being unsuitable but being sold through schools at $25. Perhaps the sad fact is that this Government has been in power for so long and is of such an age that not many within the Cabinet and the Government have too many young sons or daughters perhaps of cycling age.

The Hon. Peter Dunn: They haven't got it in them!

The Hon. R.I. LUCAS: I am not sure how I should respond to that interjection; perhaps I should not respond. The average price for the helmets that are recommended is about $40 to $50. The helmet that has been marketed as the first helmet suitable for under 7s, a helmet called a Joey, is retailing at the moment for about $70. For a variety of reasons, the under 7s need a specially designed helmet and it is more expensive. I know that not many families at the moment have as many children as the Lucas family or the Arnold family have.

The Hon. M.S. Feleppa: They cost a lot of money.

The Hon. R.I. LUCAS: It costs a lot of money, as the Hon. Mario Feleppa says. There are a few who have larger families—not as many as there used to be when the Hon. Ron Roberts or the Hon. George Weatherill were nippers. Certainly, there would be a lot more families with two or three children and, if you are looking at purchasing a helmet for three or four children, you are looking at about $150 to $200 on average. If one of them happens to be under seven (or if you happen to be the Hon. Lynn Arnold with probably half a dozen still under seven), you are looking at about $70 for these little Joeys for the young ones to wear. A figure of $150 to $200 is an extraordinary large amount of money for a family or, even worse, for single supporting parents to purchase helmets for their children.

I hear the argument that comes back from, I think, the Minister who, as I said, is increasingly out of touch with people struggling in the community, that if they can afford to spend a couple of hundred dollars on a bike, they can afford to spend $40 or $50 on a helmet. I say to the Minister of Transport that he is out of touch if he believes that, because the sort of people we are talking about in this Chamber—the sort of people who might live in the Iron Triangle or in the Housing Trust areas of Elizabeth or Munno Para, or Hackham or Christies Beach in the south—do not purchase new bikes for $100 to $200. If they purchase bikes for their children, they purchase secondhand bikes. They comb the private sales and the classifieds in the *Advertiser*, or go to auctions or garage sales and pick up bikes for maybe $20, $30 or $40. Then they will do them up themselves or they might know somebody who will do them up for them for maybe an extra $10. They do not spend much more than $40 or $50 for a secondhand bike, which they do up or have done up for them.

So, it is a nonsense for the Minister of Transport to use the argument that, because people can afford to spend $100 or $200 to buy a bike, what is the difference in throwing in an extra $40 or $50—or up to $70—to put a helmet on the child who happens to be riding a cycle. As I said, it just indicates how out of touch they are. So, what will happen? What will the strugglers, the workers in our community, the unemployed, the single supporting parents or those just on average weekly earnings and struggling to pay off their mortgage do when we as a Parliament, all agreeing in principle, pass this fine new law which says they will ensure that their children wear helmets but that the Parliament, and members opposite as the Government, are not prepared to do anything to assist those who need help in the purchase of the helmets?

As I said, Premier Bannon and Transport Minister Blevins, having graduated recently from the Paul Keating school of arrogance, indifference, and being out of touch, do not realise what happens when people struggle to pay their bills. If they have to buy a jumper, a pair of trousers or a pair of shoes for their child, they buy something that is two or

three sizes too big so that they grow into it and get two or three years wear out of it. If you are buying a pair of school shoes for your child you buy them a couple of sizes too big and for the first year the child wears two or three pairs of socks and flops around in the shoes for 12 months.

The Hon. Anne Levy: They would get blisters.

The Hon. R.I. LUCAS: The Hon. Anne Levy says that they would get blisters; that is right. That is how out of touch this Government is; it does not realise that kids out there are getting blisters because their parents cannot afford to be spending $50 or $60 a year for a pair of Clarks school shoes or to put their kids in a school uniform. If they buy their children a jumper they buy it two or three sizes too big and roll up the sleeves. With trousers, they hitch up the cuff, whack on a belt and pull it in so that the child gets two or three years wear out of it.

That is exactly the same thing as these people will do in relation to helmets. They will look around garage sales or wherever they can get a helmet, or perhaps they will get one of these $25 helmets at school and they will buy one that is too big for the child. They will buy one that can be used by the child for two or three years, because that is the way they purchase all expensive items; they cannot afford to be changing helmets every year because of the increasing size of the child's head. They cannot afford to be purchasing a new jumper, a new pair of trousers or a new pair of shoes, because the child happens to grow each year.

I want to quote from some material that was provided to me today by the Department of Road Transport Road Safety Branch about fitting a bicycle helmet and about ill-fitting bicycle helmets. It states:

> It is essential that the user tries on the helmet and ensures a correct fit before purchasing. An ill-fitting helmet is unlikely to be effective in an accident.

Certainly, the number of road safety experts who have spoken to me say that you can say it in stronger language than that: an ill-fitting helmet is as good as worthless; you might as well not be wearing a helmet if it is as ill-fitting as some of these helmets will be on some young children.

On the second page, with regard to sizing, the document states:

> It is impossible to over emphasise the need for a correctly fitted helmet. Parents should be strongly advised to seek expert assistance in choosing and fitting helmets for their children, irrespective of how the child or sales person may feel about this.

As I said, the sort of people I am talking about will not be going along to the trendy retail outlet and having the child's head measured and fitted correctly. They will be grabbing these helmets at secondhand sales, through garage sales or through the *Advertiser*. There will be none of this correct measurement and fitting of cycle helmets.

Under the heading 'Be headstrong', the final page shows three diagrams which cannot be incorporated in *Hansard* but which indicate what a correctly fitted helmet looks like and what the incorrectly fitted helmets look like. Again, one of those figures—if I can just put it into a word picture for members—is one that members have already seen, I am sure, and it will become an increasingly common sight. It is where the helmet sits at a 45 degree angle on the head, with the forehead exposed. The helmet is dangling on the nape of the neck, and is very loosely fitted. As I have said, it is the sort of helmet that a well meaning parent, trying to comply with the impending law, will purchase for their child, to try to get perhaps two or three years wear out of it.

The research has been done. That is only one example and I am advised there are many reputable experts in the area who are critical. They support the publication from the Department of Road Transport's Road Safety Branch. My contention in relation to helmets is that we cannot simply satisfy ourselves with the simple fact of passing legislative reforms in the nature of this Bill before us without backing it up through the Government and the appropriate department with some support for those in the community who need it, as my colleague the Hon. Diana Laidlaw indicated. I do not support a general rebate scheme being available to all and sundry. If we are to provide assistance, we ought to provide it to those who truly need it. They will need more assistance than $10 off a $50 helmet. Even if we help people to that degree, with three children they are still looking at $100 to $150 to purchase the helmets.

The single supporting parents, the unemployed. the strugglers and so on will need some sort of concession or rebate scheme specifically targeted at them. Any rebate scheme that the Government might develop ought not to be all embracing so that anyone with an income of $40 000 to $60 000 per annum can avail themselves of the scheme, particularly just prior to Christmas when the child is bought a new helmet. Those in the community earning that sort of money will have to pay for it and absorb the costs themselves. They are better able to afford it, but those who are struggling need some assistance.

It is up to the likes of the Hon. Ron Roberts or the Hon. Mario Feleppa within the Labor Party Caucus to take up the battle for the strugglers and workers in the community.

The Hon. Diana Laidlaw: Social justice.

The Hon. R.I. LUCAS: That is a fine concept, but there is precious little action. For all that we say in the Chamber on this side of the House, in practical terms in the Labor Caucus and its factions we will not be able to effect administratively what needs to be done. Certainly the Hon. Ron Roberts from the centre left and the Hon. Mario Feleppa from the left should be putting pressure on Premier Bannon and Minister Blevins to do something for the strugglers and workers in the community once we pass this legislation. If there is a phase-in period, as the Hon. Diana Laidlaw has suggested, the Government will have more time to come up with a scheme to assist the people to whom we are referring. If the Democrats do not support the phase-in, we do not have much time. I am not sure of the Democrats' position in relation to the phase-in.

I urge those on the back bench and those in the Caucus of the Labor Party to take up this issue as they, in their own way, represent the areas where there are many strugglers and battlers. It is on their shoulders, as their Cabinet is out of touch. Their Cabinet does not recognise the struggle that many families are going through at the moment. If anyone might be in touch, it is those on the back bench who may be circulating to a greater degree with those who are suffering under the policies of the Hawke and Bannon Labor Governments in Canberra and Adelaide. I indicate my broad support for what the Hon. Diana Laidlaw has said and I shall support with strength her amendments in the Committee stages.

The Hon. R.J. RITSON: The hour is groaning on and it is now closer to midnight than it is to dinnertime, so I will not take much time of the Council. I will not canvass the breadth of the Bill—

An honourable member interjecting:

The Hon. R.J. RITSON: I will if there are more interjections. I will not canvass the whole breadth of the Bill, because my colleagues have done that very well: I shall confine myself to a few remarks about the .05-.08 controversy. The keynote of my remarks will be hypocrisy. The

hypocrisy of the Government in bringing in this legislation is extraordinary.

For four years I served on two select committees. I know that all the evidence that has been laid on the table tonight is correct. I know that the accident risk related to alcohol is a linear slight increase until one reaches .1 or .12, and then it goes up in an exponential fashion. The Labor Party knows that and the Hon. Mr Blevins knows that, but unfortunately the legislation has been purchased by Canberra.

The Federal Government has a list of powers under the Constitution. Theoretically, if an area of legislation is not in that list, it does not have the power. But, of course, the Federal Government under Labor has been gathering power *de facto* unto itself. Even though it is not given that power in the Constitution, it has been gathering *de facto* power to change the States by the power to give or to withhold the grant unless we legislate to its effect.

It appears that the Labor Government here, although it knows that this change will produce more convictions without producing fewer accidents, has legislated to please the Federal Government in order to get $10 million. If the parlous state of the South Australian Government's finances gets very much worse, maybe $10 million will be a lifesaver. I think it is absolutely hypocritical of the Government to sell out what it knows to be right for that money and at the same time to further the process of *de facto* centralism, giving more power to the Federal Government.

I suppose if we just looked at the change we could say that it does not matter very much, but there is something that does matter very much, and that is what the Government is not doing. The answer is not in varying the level at the lower end. That costs only the ink that it takes to print the amendment. It is like changing the speed limit. What matters is enforcement. Everyone who was on those committees, everyone who has ever read the reports of those committees and the research upon which the reports were based or who has spoken to the people who really know, knows that the one thing that matters is the perception in the community of the risk of being apprehended.

To elevate the perceived risk of apprehension, you do not worry whether it is .05 or .08; you pay for more police officers, more police vehicles and more equipment, and you go after those people who are offending repeatedly at the higher levels and you make sure that they never drive again. That is where the effort should go, but that costs money, and this Government is not interested in spending money on enforcement; it is interested only in moving a trivial amendment that costs only the price of the ink to print the darn Bill so that it will get $10 million. We are not going to see an increased level of enforcement or more flashing blue lights on Saturday nights because that will cost money.

I am aware that the public is in favour of the .05 level. My colleague Mr Lucas recounted the experience of the New South Wales Government which, after discovering that .05 made no difference, intended to increase the level to .08 because that was to be the Australian standard and because it did not want to waste time processing people at the lower level of blood alcohol concentration because it knew that that was not where the accidents were happening. The New South Wales Government wanted random breath testing and the resources to go after the small group of people who were causing most of the alcohol related accidents and people who drove with levels of .15 or greater. That is what the New South Wales police thought of .05. They wanted to increase the level to .08 after the .05 level failed to make any difference.

At the same time, they wanted to introduce random breath testing, but it was thought in New South Wales that it was not possible or politically wise to increase the level from .05 to .08 whilst the Government was trying to get the public to accept random breath testing. All the evidence indicated that it made no difference whatsoever and that the one thing that mattered was enforcement and the perception of the likelihood of being caught.

I predict that after an initial little blip our alcohol related accidents will remain the same because those anti-social and hostile drink-drivers who drive every night with a blood alcohol content of .15 will continue to do so. No matter how many people receive infringement notices for .05, these people who drive every night with the higher level will continue to do so. It is appalling that we are making a fuss over this issue. The Government does not see the beam in its own eye. It does not see that it is backing off from its responsibility to enforce the law against serious offenders. I will not go to the barricades at the third reading because it probably does not matter in the greater scheme of things whether a few extra people get a ticket for .05. However, I grieve for all the people who will die because we are fiddling around and wasting time on this issue and because we are not spending money on enforcement of the law against serious offenders.

As time goes by and as we see no improvement as a result of this change in the law and as the coffins get lowered into the graves as a result of fatal accidents caused by people with a very high blood alcohol content, we will know of the futility of wasting time, money and ink on this legislation, when the Labor Government does not have the guts to spend the proper amount of money to give the police the proper resources to apprehend serious offenders. I grieve for that fact, but I will do so in private.

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

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2)

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

The Hon. J.C. IRWIN: We have arrived at debate in Committee after what has now become a fairly tortuous course of consultation. This Bill was introduced in December last year. I was briefed by the Local Government Association in late January this year, and here we are, six weeks later, at a point where the Minister has agreed to some amendments to the Bill, which she will move, and the Opposition has distilled out a few remaining differences, which we will test by putting some amendments of our own.

I am not really complaining about that consultation process. It could be said that it is democracy working at its best, where the Opposition (the Liberals and the Democrats) can play some role—sometimes a major role—in making sure that the Government and the local government sector, in this case, go as far as they can in arriving at a mutually acceptable position prior to getting to the point that we are now at. I guess that this is doubly important now, having regard to the negotiating climate in which the Government and local government find themselves in another arena.

It disturbs me that more consultation was not done in the first place before the legislation was brought before Parliament so that the Government and in this case the LGA, representing councils, could get most of this sorted out before the Bill was even introduced. That has been said before and it is not good enough for a number of Ministers

who introduce legislation and then seek to amend their own legislation right from the beginning.

Again, I plead with the Government and other sectors where legislation concerns them to get their act together before we have to deal with such measures. My question is somewhat of a duplication of a question raised in the second reading. Does the Minister believe that the preference clause in the MOA award or any other union award allows for a proper consideration of applicants for positions on their merit and looked at on their merit in the EEO criteria? It seems that the very existence of a preference eliminates a sector of people who seek work.

The Hon. ANNE LEVY: I note the honourable member's comments about consultation. I stress that the Bill was drawn up with considerable consultation with the LGA before the memorandum of understanding was signed between the President of the LGA and the Premier. That was signed last October and a Bill had been derived long before then after considerable consultation. With the signing of the memorandum of understanding, it was immediately agreed that the form of the Bill as it then was was not appropriate (given the memorandum of understanding) and it was agreed that it would be considerably redrafted. That was done during November. The Bill was then introduced on the last day of the Parliament before the Christmas recess, so that there would be the entire Christmas break (a period of at least two months) for further consultation; the Bill would be public and views on it could be sought not only from the LGA but also from anyone else.

It is interesting to hear that the LGA briefed the Hon. Mr Irwin at the end of January, because it did not come back to me until late February and, when it did, it requested a fortnight's further adjournment. As the honourable member will know, we planned to debate this Bill several weeks ago but, at the request of the LGA, I deferred consideration of the Bill in Parliament for another fortnight.

With the fortnight expiring last Tuesday 5 March, at 5 p.m. on 4 March I received some suggested amendments from the LGA which meant that consideration of the Bill had to be put off for a further time so that negotiations could occur about the LGA's suggested amendments. I find it surprising that there should be criticism of the way consultation has occurred when I have bent over backwards to consult with the LGA and have given every possible opportunity for negotiation.

In fact, it took the LGA from 5 December to 4 March to come forward with any suggested amendments. I do not think that I can be criticised for having in any way rushed matters or not given every possible opportunity for consultation to occur. The numerous amendments that I have on file result from the negotiations that occurred last week after having received suggested amendments from the LGA. A number of the amendments have been accepted; others have been negotiated. So, while not taking exactly the form that had been suggested, nevertheless the content and spirit of what the LGA requested has been incorporated into the amendments now before the House. I for one regret that there was a period of nearly three months before any suggestions were received for amendment to the legislation.

With regard to the specific question asked by the honourable member concerning the principles of merit and equal employment, advice has been taken from the Attorney-General's Department—we did seek accurate legal advice on this matter—and we were advised that Commonwealth provisions always override State provisions and that specifics override general principles where there may be apparent conflict between different pieces of legislation. The MOA award, which is that under which a large number of local government employees are covered, is a Commonwealth award and is within the jurisdiction of the Federal Industrial Commission. So, the award therefore will override State legislation should there be any conflict in any particular area.

The Australian Workers Union Award is a State award, and a very large number of local government employees are members of the AWU. Although the AWU award is a State award, as it provides for a specific power within the Industrial Commission it overrides general principles that may be laid out in the Local Government Act, including principles about selection on the basis of merit. I think, in the light of this legal advice that we have received, there need be no concerns whatsoever on the matters that have been raised by the Hon. Mr Irwin.

I should stress also that there are similar provisions in the Government Management and Employment Act which apply to State Government employees and that no problems, ambiguities or difficulties have ever arisen since the GME Act came into force in 1985, despite that Act having exactly the same provisions in these matters as are in the Bill before us.

The Hon. J.C. IRWIN: I thank the Minister for the two explanations—one in relation to the consultation process and the other in relation to the merit provision. The Local Government Association certainly has not mentioned it to me, but I assume that its resources are fairly stretched at the moment and that the holiday period of January/February was difficult for it. With the negotiating process and other matters on its mind, maybe its resources are stretched to the limit. After I had consultations with the association, and as a result of the Hon. Mr Gilfillan's signalling something to the Minister across the Chamber, I picked up that there was a problem with consultation.

I assumed that the Local Government Association found that the Bill it thought was being introduced was not the Bill that was introduced. Whether that was as a result of my second reading debate in which I highlighted some of the factors that came to my attention because the association simply misread the Bill, I am not sure. I am happy with the explanation the Minister has given and I do not blame her at all in this case. However, I am just highlighting the sadness that I feel that we cannot get things sorted out between a major sector and the Minister before we get to this stage. It seems to happen in relation to a lot of Bills; this is not unique.

I do not want to drag out the merit argument any further; it has been dealt with *ad nauseam* in this place and elsewhere. No doubt the legal advice is correct and people are not breaking the law. I am not suggesting that. My commonsense tells me that, if we exclude a sector from getting a job, we exclude people who have merit—professional or any other sort of merit—from getting into the line up. I do not disagree with where the merit provisions will apply legally to all sections outlined by the Minister. I just point out that one sector that does not happen to be a member of any union is then excluded from the line-up. Because one section is totally excluded from the ballot, no-one can say that there is a 100 per cent lineup of people, all to be chosen on their merit.

Clause passed.

Clause 4—'General management functions and objectives.'

The Hon. ANNE LEVY: I move:

Page 2, lines 26 to 37—Leave out paragraphs *(b)* to *(f)* and insert—

(b) so as to enable decisions to be made, and action taken, efficiently and effectively through clear division of administrative responsibilities, delegation of authority

where appropriate, and flexible and responsive deployment of resources;

and

(c) with the goal of continued improvement inefficiency and effectiveness.

This amendment deals with the general management, functions and objectives of councils. The amendment states what are the functions of a council and the principles under which their operations and affairs should be managed. The wording has been changed as a result of consultation last week. The LGA expressed its concern that perhaps too much detail was being placed in the Bill. So, to accommodate its concerns in this regard, the principles have been summarised with a focus on those principles which, it is felt, are really required by the public interest. So, the functions of a council are in no way changed, but the operations and affairs of councils and the principles relating to those operations and affairs have been summarised in the amendment. I understand that the LGA is happy with it.

The Hon. J.C. IRWIN: The Opposition supports this amendment. In my second reading contribution I alluded to the fact that quite a lot of section 35a was motherhood legislation. It is all good stuff, but I did not see why it had to be reiterated in such great detail. I am happy to see that the new wording encapsulates almost everything in paragraphs *(b)*, *(c)*, *(d)*, *(e)* and *(f)*. One might call that word conservation, and that is something to be applauded.

Amendment carried; clause as amended passed.

Clause 5—'Annual reports.'

The Hon. J.C. IRWIN: Under section 42a (1) a council must, on or before the prescribed day in each year, prepare and adopt a report. Is a date envisaged for when that prescribed day will be?

The Hon. ANNE LEVY: There is no date in mind. Of course, it will be prescribed by regulation. As I stated in my second reading explanation, the regulations required for the functioning of this Bill will be drawn up in the Bureau of Local Government Services, where the management committee of the bureau has a majority of members nominated by the Local Government Association. They are all members from the local government sector. So, it will be for local government, acting through the management committee of the bureau, to propose the prescribed day. I imagine it will be a day similar to the days on which many councils now publish an annual report, fitting in with their cycle of budgeting and reporting. Numerous councils now prepare and provide annual reports and I presume they will want the prescribed day close to that time.

The Hon. J.C. IRWIN: I understand that the Minister cannot give a date and that it will come out in the regulations. It will be an interesting discussion, because I remember advice given to me as a councillor years ago that it would be a good idea to put out an annual report of the council when rate notices went out. However, that was quickly quashed by other advice that that would be the worst time to send it out because, even though it would save on postage, people are so annoyed when they receive their rates that they will not read the report. It will be an interesting discussion within local government and the bureau, and I hope the bureau will consult widely on that.

The prescribed day could be at the end of the financial year or just after the new financial year starts, which would be the logical time, but if it is just before or just after there could be difficulty because a number of new councillors are elected at the beginning of May every two years. It will be interesting to see what the regulations come up with, because it will not be an easy matter to define.

The Hon. ANNE LEVY: I can only say that I received the annual report of the City of Noarlunga in the past two or three weeks. I was just examining it, but no date is mentioned other than it is the annual report for the year 1989-90. Apart from that it is undated, but it was received quite recently. It is an excellent example of a council report, if anyone would care to examine it.

Clause passed.

Clauses 6 and 7 passed.

Clause 8—'Substitution of s. 67 and Division II of Part VI.'

The Hon. ANNE LEVY: I move:

Page 3, lines 37 to 42 and page 4, lines 1 to 8—Leave out proposed new section 67 and insert—

Management plans, etc.

67. The functions of the chief executive officer of a council include the implementation of the management plans and budgets determined by the council and the development and implementation of other management and financial plans and controls including programs for staff development and training.

This, similarly to the amendments to clause 4, and is an alternative wording for the management plans and discussion of the functions of a chief executive officer of a council. As in clause 4 it arose from discussions with the Local Government Association where the LGA wished to have a more general statement, nevertheless encompassing all the important principles that were stated in the original version in the Bill, and I understand it is happy with the new wording.

The Hon. J.C. IRWIN: I accept the amendment and I am quite happy to support it for the same reasons that I gave previously. With respect to the proposed amendment, what is meant by the words 'development and implementation of other management and financial plans and controls'? What other management and financial plans would the Minister know of; is it just an open catch-all provision for anything that might come up or is it meant to be specific?

The Hon. ANNE LEVY: It does relate to the day-to-day management of the council and the staff. The CEO has the responsibility to see that the office functions smoothly, and that is not necessarily something that is specifically determined by the council. There may be an overall management plan determined by the council, but the day-to-day running of it is the responsibility of the CEO.

The Hon. J.C. IRWIN: I intended to point out to the Minister that 'the functions of the chief executive officer of a council include the implementation of the management plans and budgets determined by the council'. The other matter I asked about previously seems to mean that they are not determined by the council; in other words, they are determined by perhaps a committee of employees or the CEO or some other people; it will not come from delegated power. Why can that part not come out, unless it has a function?

The Hon. ANNE LEVY: It comes from the delegated power. The council can delegate to the CEO the responsibility for seeing that the office runs properly, and it is then the CEO's responsibility to see that things function. There has not necessarily been a detailed plan from the council as to how the office is to run. The council tells the CEO, 'Run the office.' In doing so, the CEO may draw up a plan of how the office is to work, and that would be the plan referred to there. It is derived by delegation.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 4, line 11—After 'officer or employee' insert ', or a committee of officers or employees,'.

This amendment is to make quite sure that the power of delegation can be extended to a committee, not just to an individual. Parliamentary Counsel suggested that this was

probably covered by the Acts Interpretation Act anyway, but if the LGA felt that it would be happier with the committee specifically mentioned, we saw no objection to reassuring it in this way.

The Hon. J.C. IRWIN: I accept the amendment. New section 68 (1) provides:

> The chief executive officer of a council may, by instrument in writing, delegate to any other officer or employee of the council . . .

Will this be recorded every time and how will it be recorded? Referring to the word 'may', the new section provides:

> . . . a council may, by instrument in writing, delegate to any other officer . . .

Will this be recorded in the minutes, or will there be a separate book in which to record these instructions? If there are future legal actions, I assume they would be recorded. Will the council be informed on a regular monthly meeting basis when the CEO has delegated powers?

The Hon. ANNE LEVY: The legislation is not completely specific in this respect. It merely provides that any delegation must be recorded in writing. Whether a special book is kept for delegations or whether it is recorded in some official record of the council is for each council to determine. The legislation provides that it must be in writing; in other words, there must be an official delegation. It is a matter for the council to arrange with its CEO how it wishes him to report any delegation of his powers which he may have made and perhaps to cite the instrument in writing which conveys that delegation. Again, we are not being so prescriptive in the legislation; we are merely saying that it must be recorded in writing and it is up to each council to work that out for itself.

The Hon. J.C. IRWIN: Proposed new section 68 (3) *(b)* provides that 'a delegation by the Chief Executive Officer does not derogate from the power of the Chief Executive Officer to act personally in any matter'. I suggest that that will be confusing because, if the Chief Executive Officer has by an instrument in writing delegated that power to someone else and if he then acts personally in any matter, it may well be confusing for the person to whom that power has been delegated. Paragraph *(c)* provides that 'a delegation by the Chief Executive Officer is revokable at will by the Chief Executive Officer'. I do not disagree with that paragraph, but I suggest that such delegation should be recorded in writing together with the reasons for that delegation being revoked.

The Hon. ANNE LEVY: Section 68 (3) is the usual delegation section that occurs in all legislation. Under paragraphs *(a)*, *(b)* and *(c)* the power to delegate does not remove the power to act from the delegator; the delegator can always act in place of the delegatee. This is in no way unusual or different from delegation powers found in hundreds of Acts.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 4, lines 23 to 27—Leave out proposed new section 69.

This amendment was included in the Bill initially to ensure that the council received information from its CEO to enable it to prepare its own annual report. We have dealt with this matter previously in relation to clause 5 of the Bill. Under clause 5 the council itself prepares an annual report. Under clause 8, as drafted in the Bill, it is suggested that the CEO would have to present material to the council to enable it to prepare its own annual report. The LGA felt that this was unnecessary as the council has the power to get its CEO to provide a report to it, and, as it has other powers in the legislation, it does not need this additional power. The LGA suggested that rather than eliminating proposed new section 69 it become part of section 42a as mentioned in clause 5. However, Parliamentary Counsel felt that it sat rather uneasily in that place and that, given the general powers of the council over its CEO, it was probably unnecessary to have the clause any way. Hence, I have moved to delete it.

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

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 5—

Line 8—After 'employment' insert 'and proper access to training and development'.

Lines 11 to 17—Leave out paragraphs *(g)* to (i).

The Hon. ANNE LEVY: This refers to the general principles of personnel management. I may say that, initially, the Local Government Association suggested that provisions in this regard be omitted in their entirety, even any mention of merit. This was certainly not acceptable to me, and I suggested to the LGA that it consider a modification of the wording, so that the provisions accorded with what is good practice in local government. The compromise reached is to amend a number of these principles, so that they are reduced in number and so that the wording can be considered to be more acceptable by the LGA.

The amendment to insert in paragraph *(e)* the words 'and proper access to training and development' after 'employment' deals, in one phrase, with equal opportunities, for promotion and advancement as well as access to training and development. In doing this, it means that other points further down can be eliminated, namely, those in paragraphs *(g)*, *(h)* and *(i)*. These can be removed to simplify the provision. It is also a recognition that some of the principles that were mentioned in those paragraphs are upheld by other means, such as in awards or other legislation, which is general legislation applying to all sections of the work force, both private and public, State and local government. Hence, they are not really required in this legislation.

The Hon. J.C. IRWIN: I signal our opposition to new section 69b. If we can leave out those paragraphs *(g)*, *(h)* and *(i)*, I cannot see why we cannot leave out the rest of it. It is still very prescriptive. As the Minister said, what is left in there is pretty well covered by awards and other legislation, anyway. Both the Local Government Association and I cannot see how anything will be gained by leaving in new section 69b, even as amended. So, we will be opposing this. I have two questions. Can the Minister quote any cases where any member of the Local Gvoernment Association has been guilty of an offence under paragraph *(b)*, with regard to personnel management being exercised on the basis of nepotism or patronage? Is there any known example of where that has happened in local government? I have looked up my dictionary and have found that 'patronage' is given as a noun meaning 'aid or support given to an undertaking'. Coming back to the question of preference to unionists in awards, I point out that that is in fact patronage.

The Hon. ANNE LEVY: I certainly do not accept what the honourable member is saying. This cannot be regarded as prescriptive: it applies the general principles of personnel management. They are principles only and I find it incredible that in this day and age someone is suggesting that a principle such as merit should not be a general principle of personnel management.

Merit is enshrined in the GME Act in respect of State Government employees. It is provided in that Act that there shall be no nepotism or patronage in respect of State Government employees. I do not recall anyone objecting to that when the GME Act was passed in 1985. It is a general principle of good personnel management and it is not unreasonable to have in the Local Government Act general prin-

ciples of personnel management expressing what the community has come to accept as good personnel management—that in the work situation there should not be selection other than on merit, and that there should not be nepotism or patronage.

To indicate that these should not occur is not indicating that they do necessarily occur at present, any more than that clause in the GME Act indicated that nepotism and patronage were rife in State Government employment. I have never heard it suggested that they were, but it was regarded as a good principle of personnel management, a standard that the community has come to accept of any workplace, particularly public workplaces.

Local government is just as much part of the public sector as is the State Government. The general standard that the community accepts is that there should be selection on merit with no patronage or nepotism. It is not pointing a finger to put an important community standard as a principle in this way in the legislation at all.

The Hon. J.C. IRWIN: The Minister has already said that merit is in all of the awards that she mentioned—

The Hon. Anne Levy: I did not say that.

The Hon. J.C. IRWIN: The Minister named a number of areas where merit is already a principle.

The Hon. Anne Levy: I did not say that: I said 'if there was a conflict', which would take precedence.

The Hon. J.C. IRWIN: All right. I am still sticking with what the LGA indicated to me. It is going through the process of award restructuring and there are a number of areas where I am sure this aspect will be addressed by the association. If one considers the provisions that will remain if the Minister's amendment happens to carry the day, one can see the following:

> *(c)* officers and employees must be treated fairly and consistently and must not be subjected to arbitrary or capricious administrative acts or decisions.

I do not know where that has happened—where an employee has not been treated fairly and consistently in local government. Further:

> *(e)* officers and employees must be afforded equal opportunity . . .

They are. Another provision is:

> *(f)* officers and employees must be afforded reasonable avenues of redress . . .

All those things are already known and are accorded to employees. Why must those principles be duplicated in the Bill?

The Hon. ANNE LEVY: The fact that principles are put in legislation does not mean that great sins are to be corrected. I state again: these are principles that the community expects in any sphere of public employment. I cannot imagine that anyone disagrees with them. In this day and age I cannot believe that anyone would suggest that these principles should not apply. The fact that we are putting them into legislation does not mean that we are saying that they do not apply. They are, in fact, the principles upon which the best examples of local government act very properly indeed. But, the Local Government Act should contain the principles for employment in local government as the GME Act contains the principles that apply for employment in the State Government.

It is not unreasonable for these principles, which are standards the community accepts and regards as highly desirable, to be set out and enshrined for people to see that these are the principles to which that sphere of government is proud, and wishes, to adhere. There is no reason why these should not be in the Act. I suggest that to oppose them implies that the Hon. Mr Irwin does not approve of selection on merit, that he approves of nepotism and patronage. That can be the only reason for his opposing mention of merit as a selection principle in the legislation.

I am quite sure that it would be interpreted right throughout the community that the Liberal Party's opposing the incorporation of selection on merit implies that the Liberal Party does not believe in selection on merit, that it wants to have selection on other bases and that it approves of nepotism and patronage. Why else would it possibly oppose it?

The Hon. I. GILFILLAN: I think the Minister has a firm hold of a stick, but as far as I am concerned she has the wrong end. I have a copy of a communication, which the Minister has received, from the President of the Local Government Association which clearly states that the LGA has very serious continuing concerns about new sections 69b and 69c. The position which I understand the Hon. Jamie Irwin to take and one which I share in no way indicates any lack of recognition of the significance of the points made in this new section but it does indicate the inappropriateness of that principle being spelt out in a Bill which, theoretically, should be expressing the wishes in legislation of local government and the State Government through this Parliament in harmony for a new generation of local government. I think it is improper for us to insert particular details into a Bill at this time while the whole matter is currently being reviewed and negotiated, even though there are very few. These points are specifically identified by the association as being of concern to it.

With due respect to the Minister, I think it is a fatuous argument to say that, because we oppose this provision, we are promoting the reverse. In fairness to the Minister, I think that she does not believe that herself. In deference to the respect and dignity in which I hold the Local Government Association and the sensitivity of the climate of negotiation as the whole era of local government moves into a new sense of responsibility, it is important that we reflect its wishes in this matter. I intend to oppose this clause.

The CHAIRMAN: In clarification, Mr Gilfillan, you are opposing the whole clause and not just the amendment?

The Hon. I. GILFILLAN: Yes.

The Hon. ANNE LEVY: I am utterly amazed at and disappointed by the approach taken by the Hon. Mr Gilfillan. To have the Democrats, of all people, opposing merit and supporting nepotism and patronage is something that I never thought I would hear. I certainly would never have heard it from Janine Haines. It is absolutely unbelievable.

I think the honourable member is misunderstanding what is occurring at the moment. A negotiation process is occurring between the State Government and local government. However, I point out to the Hon. Mr Gilfillan that a negotiation process does not mean that the State abrogates its entire responsibility in matters relating to local government and that whatever local government says must take place. The State certainly has a responsibility to see that local government functions efficiently and in the public interest. In legislative matters, the State must ensure that the public interest is maintained.

It seems to me that the Hon. Mr Gilfillan is suggesting that anything that local government does not like the Parliament must therefore have no part in. The Hon. Mr Gilfillan is indicating that at some stage he intends to introduce legislation relating to prostitution which will impact on local government. Does that mean that he is giving local government the right to veto anything in his legislation that may happen to refer to local government? I do not believe that is the case. It is exactly the same as the situation where the Commonwealth Government legislates in relation to matters that will affect State Governments—hopefully after

consultation with State Governments. However, the relationship between Commonwealth and State Governments does not mean that State Governments can veto anything that a Commonwealth Government may suggest.

In like manner, the new relationship between State and local government certainly means that there is consultation between the two tiers of government, but it does not mean that one level of government has the right to veto what the other level of government feels is in the public interest. In this case, the State Government takes it as in the public interest to have inserted in legislation good principles of personnel management, as they apply to all parts of the public sector. They certainly apply under the GME Act to State Government employment practices and personnel management, and it is felt that these same principles should apply to personnel management under local government.

We do not accept that the LGA has the right to veto anything relating to local government and so cross the responsibility of the State Government to ensure that what it feels is in the public interest can be implemented. Public sector employment of all types should be guided by good principles of personnel management. They exist for the State public sector under the GME Act. They should also exist for the local government public sector under the Local Government Act. This is a matter of public interest, and defeat can only be interpreted, regardless of what the Hon. Mr Gilfillan says, as opposition to the principle of merit.

The Hon. I. GILFILLAN: I have had advice that, as new section 69b is part of an overall clause, and the process is too far down the track for an amendment to be introduced at this time, I signal that I will seek to recommit clause 8 after the due process has been completed.

I understand what the Minister is arguing, but it is a totally spurious argument. The fact that certain matters are not spelt out in a Bill does not mean, therefore, that one is promoting or discounting them as being issues which should be taken into consideration in the matter of principles of personnel management.

One can assume that employers in other areas outside the public sector, both local government and Government, will be observing these principles, and they are not spelt out in any legislation. So, I do not accept her argument; it just does not apply. I repeat the point which I think is overridingly important. I have been in this place for more than eight years, and many of those years have seen confrontation between the local government area and the State Government, from various Ministers and people involved in local government. Harmony and evolution of a climate in which the local government sphere of government is emerging have been painfully fought for over that period of time, and it seems to me that it is critical that, while we are at the point of evolving the definitive Act, there is no reason to fly against the wishes in matters which are not critical. They are, to coin a cliche, motherhood enunciations which this Bill does not need to have spelt out in detail.

In my mind, it is important to respond to the two matters of the many that have been discussed which the Local Government Association has emphasised as being of particular concern to it as an industry. It is a matter that will be most certainly considered and debated in the process of evolving the definitive final Act, which replaces all legislation involving local government, and that is the time at which the definitive wording should be finally and exhaustively debated.

With due respect to the feeling that the Minister has about it, the fact that I have moved this amendment does not discount the value of these matters in dealing with personnel management. I argue that it is inappropriate, in the face of the opposition expressed by the Local Government Association, for us to insist to put them in this Bill.

The Hon. ANNE LEVY: Is the Hon. Mr Gilfillan suggesting that the LGA can veto anything it does not like and that that veto must hold? Even if one compares State-local government relations with Commonwealth-State Government relations, the State Government certainly has no veto over matters on which the Commonwealth Government may wish to legislate and which affect State Governments. There may be consultation but the Commonwealth retains the right and the States have no veto. The Hon. Mr Gilfillan's own Bill, which has not yet been produced but which relates to the decriminalisation of prostitution, has obvious effects on local government.

If the LGA does not like it, will the honourable member accept that it has the right to veto it simply because for some reason it does not happen to like what is there? I say that that is abrogating the rights of this Parliament. It is this Parliament, not the Local Government Association, that makes the laws for this State. This Parliament has the responsibility—not just the power but the responsibility—to do so in the public interest and the principles of personnel management in both the State and the local public sector need to be enshrined in legislation that is passed by this Parliament. It is our responsibility to do so.

These are exactly the same principles as are in the GME Act; they are the principles of personnel management for State Government employees in this State. The fact that they were written in did not imply that they are not being followed, but legislation does not exist only to correct malpractice: it exists also to establish principles and standards that we as a community uphold. I would have thought that principles such as selection on merit and no nepotism or patronage are principles that this community expects of its public sector, and only this Parliament has the power and the responsibility to put that into legislation for the public sector generally, both State and local.

The Hon. J.C. IRWIN: The longer this goes on—and I hope I do not prolong it too much further—the more the Minister shows her colours. This Parliament can pass legislation only with the majority of both Houses, or with a combination involving a conference. It cannot pass legislation without the majority being found, and in some cases that majority may well be the Opposition and the Democrats as a combined Opposition defeating part or all of a proposed measure. I have been persuaded by what local government wants and what local government has advised me through its association more than once. It has had a very long consultation process on this matter; I think this went on through most of 1990, not just from late in the year to early this year. I have been to a number of local government meetings where this was a very hot issue. The members do not like proposed section 69*b* providing that the principles be spelt out. This does not mean that I, the Opposition or local government do not like the principles; it is just to say that they do not need to be spelt out.

I will read again from the letter, dated 6 March, from the President of the LGA to the Minister to which the Hon. Mr Gilfillan has already alluded:

> The LGA does not believe that the principles proposed in section 69b are necessary and further that, as a legislative instruction from State Parliament to local government, many councils would regard some of the principles as offensive.

It does not spell out which they are. The letter continues:

> All of these principles are currently covered by either other legislation or industrial awards. Certainly there is no evidence to suggest that current practices warrant legislative intervention.

That is the very point that I should like to make. If there is a demonstrated need for legislative intervention from

State Government to another tier of government, let us hear about it. We have not heard about that yet—just a torrent of words in another direction.

The Committee divided on the amendments:

Ayes (9)—The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Anne Levy (teller), Carolyn Pickles, R.R. Roberts, G. Weatherill and Barbara Wiese.

Noes (8)—The Hons L.H. Davis, Peter Dunn, J.C. Irwin (teller), Diana Laidlaw, R.I. Lucas, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

Pairs—Ayes—The Hons T.G. Roberts and C.J. Sumner. Noes—The Hons J.C. Burdett and K.T. Griffin.

Majority of 1 for the Ayes.

Amendments thus carried.

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

Page 5—

Line 22—Leave out 'five' and insert 'six'.

Line 26—Leave out 'four' and insert 'five'.

Line 27—Leave out 'two' and insert 'three'.

The advisory committee relates directly to the local government sector and, as has already been acknowledged, that sector must abide by the established laws in relation to equal employment opportunity. I accept the Minister's amendment to delete new subsection (5), but I seek to amend new section 69c by increasing the members of the committee to six and by giving the majority membership to the local government sector, that is, to the employers. That is quite a sizeable section. As the Bill is drafted, there will be an equal number of elected members of local government and union representatives, that is two of each. I do not accept the Minister's advice to the Local Government Association of 6 March in regard to section 69c that:

> The proposed change in the committee structure to give the Local Government Association a majority is not acceptable to the other participants. The employees have an equal interest and need an equal voice along with the employers. The State has no direct voice in the arrangement. The Equal Opportunity Commission has independent responsibilities and expertise. This mechanism is preferable to one reporting to the Minister.

I am persuaded that the arrangements should be acceptable to the LGA in preference to the other participants. In other words, I believe that it is not necessary to have equal numbers, that the LGA sector is, in a sense, more important and that it should have preference over the other participants, however important they may be.

Paragraph *(a)* provides that one of the committee of five members, and the one who will chair the committee, will be the person for the time being holding or acting in the office of the Commissioner for Equal Opportunity. There is no mention about voting, about whether the person chairing the committee will have a deliberative vote, a casting vote or no vote at all at committee meetings. What is the situation in that regard?

The Hon. ANNE LEVY: First, I indicate that I certainly oppose the group of amendments moved by the Hon. Mr Irwin. There is no doubt that, in considering equal employment opportunity in any workplace, there are two sides—the employer and the employee. In this matter, the council is the employer and the employees of the council are represented by the two unions which together cover the entire work force in the local government area. As in any such tripartite arrangement, it is normal for employer and employee to have equal representation. I stress that the proposal is for the Commissioner for Equal Opportunity to chair the committee, and in some ways that can be regarded as Government representation in the normal sense of a tripartite committee. Of course, the Commissioner cannot be instructed by the Government. The officer holding that position is an independent person and, consequently, can be regarded as being removed from State Government; certainly, removed from instruction by State Government.

With regard to voting rights and such matters, honourable members may notice that subsection (6) provides:

> Subject to the regulations, the committee may conduct its business as it thinks fit.

This committee does not make enormous decisions; it is an advisory committee only. It certainly has responsibilities to advise councils when requested to do so and to assist councils, but it is not a committee that is able to hang, draw and quarter people if they do not follow its dictates. It is advisory only and, as with many committees with which the Commissioner for Equal Opportunity is involved, the expectation is that this committee will work in a cooperative way, that there will be a solving of problems and that advice will be prepared for councils at their request.

It is not expected that it will be a fiercely antagonistic or highly competitive committee. However, should it turn out that there is great disagreement, that consensus and cooperation do not work and that more formal procedures are expected, other than the normal ones of discussion and consensus, which is certainly the method of approach always used by the Commissioner for Equal Opportunity, under subsection (6) there will be power to draw up regulations that will set out how the business of the committee is to be conducted. Such regulations, of course, will be drawn up by the Local Government Services Bureau, which has a management committee that is controlled by local government.

I feel it unwise at this stage to presuppose that this advisory committee will meet with great problems and that it will not work in the cooperative and consensus way that the Commissioner of Equal Opportunity manages to achieve in all her work. So, we do not need to be more prescriptive but, should problems arise, under new subsection (6) regulations can be drawn up to regularise whatever problems arise. As I say, it is not expected that there will be problems because that is not the way the Commissioner of Equal Opportunity works. However, in terms of the membership of the committee, it is important on both sides that employer and employee have equal representatives.

One point I should perhaps make—it is an argument that has not yet been raised, but I expect it might be—is that the LGA did suggest that it would like to have a CEO from a council as one of its members on the advisory committee, but for some reason it seemed to think that, because such an officer would be a member of the MOA, it would prevent him or her from representing the LGA; but that is certainly not the case. As to the two members from the LGA, it is entirely at the discretion of the association who it puts on such a committee.

It can have two elected people, it can have two officers of councils or it can have one of each: it is entirely up to the LGA to choose the composition of its members on the advisory committee. Anyone it appoints, regardless of what union they might belong to, will operate on behalf of the LGA on such a committee because they have been appointed by it. It is important that the balance be kept between employer and employee.

The Hon. I. GILFILLAN: I quote from the letter of 6 March to the Minister from the President of the LGA (David Plumridge), as follows:

> The LGA does not accept that equal employment opportunity is an issue in which the interests of 'employers' and 'employees' can be separated and balanced between the LGA, representing local government, and the major unions representing the industrial interests of most council employees. I would have liked to have been in the position of nominating a chief executive officer ('employee') as one of the LGA representatives, however if representation is to be divided in the way you propose this would be extremely difficult as most CEOs are members of the MOA.

The Hon. Anne Levy: That is not a reason.

The Hon. I. GILFILLAN: Excuse me, Mr Chairman, I am actually reading a letter and am not debating the matter at this stage. The letter further states:

> Consequently we would maintain our position that there should be five members of the committee, three of whom would be nominated by the LGA, or alternatively that the chairperson would have no voting rights. I accept your assurance that these provisions will be reconsidered in the development of a new legislative framework for local government, however, I would note that it is impossible to test this model of legislation against that framework, when we do not know how such a framework might look. I also accept that some work on this legislation had been undertaken prior to the signing of the memorandum of understanding, but we would certainly be looking for agreement over the process for developing legislation in any subsequent proposals. I would certainly hope we could develop a much more streamlined approach in future. I look forward to your response on those issues raised in your letter and those raised above.
>
> Yours sincerely.

I quoted that letter because it appears that there has been some constructive and reasonably amiable discussion about these matters between the Minister and the LGA. If I interpret the letter of the Local Government Association correctly, it would accept the clause spelt out in the Bill if it had a firm assurance that there would be unprejudiced reconsideration of this issue in the new legislative framework and there could be a time frame for the new legislation. As I understand it, that is one of the reasons why the LGA is concerned that the expiry date of June 1996 is too far away and leaves it a little uncertain whether it will accept a procedure with which it will not feel at ease. Is the Minister prepared to put into *Hansard* what she sees as the process whereby this will be reconsidered in due course for the evolution of the definitive legislation, and will she indicate whether she believes that this exercise and the production of the definitive Act will be completed by 1994?

The Hon. ANNE LEVY: The negotiation process that is currently occurring between the State Government and local government may lead to a complete revision of the Local Government Act—all aspects of it. If such a rewrite is to occur as a result of the negotiations, this section, along with every other section in the Local Government Act, can be part of those negotiations. There are no problems in that regard at all. I have indicated that to the Local Government Association.

A new framework may result in completely new legislation relating to local government, and that will mean that everything in the Local Government Act can be considered as part of that process, including this provision. I do not know to what extent such a completely new legislative framework is wanted by the Local Government Association. As I understand it, it has made no proposals in this regard in the negotiations so far. However, I appreciate that we are only 2½ months into an 18 month process and there may well be matters relating to this which it wants to bring up during the next 15½ months. I merely point out that it has not been top of its agenda, and that it certainly has not raised it at this stage. I have assured the LGA, and I am happy to assure the Committee, that any part of the Local Government Act can be re-negotiated if such is desired.

With regard to the sunset clause, it was inserted initially at the request of local government and the wish of the State Government. Local government felt that a five-year time frame was all that it needed to be able to ensure that equal employment opportunity plans had been drawn up and implemented in the local government sector as now occurs in public and private sectors throughout the country. The State Government wished to impose a time frame because the assistance required will be funded by the State Government.

There is no suggestion that local government will be paying for this. The State Government was happy to commit funds for this purpose for five years, but unwilling to make a financial commitment beyond that time. Of course, if in the negotiation process this section is renegotiated or changed in the light of a new framework, consideration can be given to changing the timeframe for the advisory committee at that time. However, given the current framework, the State Government was happy to make that commitment to that expense for a five-year period. Does that answer your question?

The Hon. I. Gilfillan: Yes.

The Hon. J.C. IRWIN: I certainly respect the way in which the Commissioner for Equal Opportunity works. I also do not think that the committee will be a battleground, certainly not in the early days, and I do not see why it will become a battleground. However, the Minister has not really answered my question about whether the Chair will have a vote, except to draw my attention to subclause (6), which provides that, subject to regulations, the committee can conduct its business as it thinks fit. I assume the Minister would not seek to write the voting pattern into regulations.

The Hon. Anne Levy: It could be.

The Hon. J.C. IRWIN: It could be, but at the moment the Minister is not putting in anything at all; she is not designating one thing or the other. This legislation is allowing the first committee to determine its own advice to the Minister's advisers as far as what is written into the legislation regarding how the committee works.

The Hon. ANNE LEVY: No, I expect the committee to work by consensus and cooperation. I would expect that votes would never be taken. However, if the committee does not work that way it will then be necessary, under subclause (6), to set up procedures for the committee by regulation. As I stressed, at the moment the regulations are drawn up by the Local Government Services Bureau, which is controlled by the LGA. So, if regulations are required, they will be drawn up under the influence of the management committee of the Local Government Services Bureau. However, I sincerely hope that no regulations relating to the operations of this commiteee will be required, and that it will work as intended as an advisory committee operating on consensus and cooperation.

The Hon. J.C. IRWIN: In conclusion, are the two people nominated by the Local Government Association nominated directly or will the association provide the Minister with a list?

The Hon. ANNE LEVY: They will be nominated by the LGA.

The Hon. J.C. IRWIN: I think that the Minister mentioned earlier that those people will not necessarily be elected members.

The Hon. ANNE LEVY: No, they do not have to be elected members; they do not have to be officers; they can be anyone off the street if the LGA so wishes. They will be the choice of the LGA and the other two members will be the choice of the two unions.

The Hon. J.C. IRWIN: I am prepared to withdraw my amendments relating to the composition of the committee in light of what the Minister has clarified in relation to voting rights, what that might lead to as far as regulations are concerned and how those regulations will be drawn up by the bureau. I imagine that there are a lot of processes and some assurances from the Minister that it will not necessarily start off as a voting body, that it will try to reach consensus. I do not see any reason why it cannot. I reiterate, as far as I see it, it is an advisory committee for local government and in the best interests of local govern-

ment. I assume that the four people—the two from the unions and the two from the association—will make it work, and I hope it does. I seek leave to withdraw my amendments.

Leave granted; amendments withdrawn.

The Hon. ANNE LEVY: I move:

Page 5, lines 38 and 39—Leave out subclause (5).

This provision was inserted as a standard type phrase which occurs in many pieces of legislation, but we are quite happy to remove it as requested.

Amendment carried.

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

Page 5, line 42—Leave out '1996' and insert '1994'.

I alluded to this amendment earlier. There are three references to the expiry of this section on 30 June 1996. In the light of what has been discussed with the Minister in Committee, I believe that we should try to achieve the 1994 date. I believe that the Minister, in reply to Mr Plumridge on 6 March, I think, did say that the provision should remain but that she was happy to review it after three years, anyway. Her words were that it should stay as 1996 but it would be reviewed after three years. I seek to formalise that and include the sunset clause as 1994, which will automatically produce that review.

The Hon. ANNE LEVY: I oppose the amendment. I am very happy to have recorded in *Hansard* a promise to review the workings after three years to see what has been achieved and what still has to be achieved, but the five years should remain, particularly as it implies a commitment on the part of the Government to provide the resources necessary to run the advisory committee system for five years. It is not often that local government knocks back money from State Government. If it were changed to 1994, it would seem to me that that might well be the end of it. If it is left as 1996, it can certainly be reviewed after the three years, and I am quite happy to promise that. If it is no longer required, the resources can be withdrawn and the committee become a paper committee for the remaining two years for which the sunset clause operates. If it is changed to 1994 and after a review it is found still to be necessary, it may be very difficult to crank it up again at that stage.

The Hon. I. GILFILLAN: How does the Minister envisage the review occurring and what would settle the Local Government Association's concerns about the matter?

The Hon. ANNE LEVY: As I understood it, I did suggest to the LGA that I would be happy to have the matter reviewed after three years. A review, I presume, would be an evaluation of how effective the committee had been, what changes had occurred in local government, whether draft plans were being achieved and what progress had been made, in the same way as, under Commonwealth legislation, the private sector has to produce affirmative action plans that are collected and evaluated, and there is no sanction other than publishing names in Parliament. There would not even be that sanction in this case, but a review after three years would be a way of evaluating how things are going against progress, and perhaps seeing whether the guidelines provided by the committee are not very satisfactory and should be altered for the remaining two years. It would be just a general review to see how things are going and what should be the progress from then on.

The Hon. I. GILFILLAN: I thank the Minister; I accept that what she has said goes a long way to putting in place assurances to the Local Government Association and to this Parliament that the matter will be reviewed, and I take her word for that. Will she also give an undertaking that she will present a report from the review to Parliament?

The Hon. ANNE LEVY: If I am still the Minister responsible at that time, I will be very happy to do so.

The Hon. J.C. IRWIN: The Local Government Association recognised the point that the Minister made about resources being provided by the Government. The association knew the possibility that that would run out if it were reviewed after 1994, and I still believe that that 1994 date should be supported.

The Hon. I. GILFILLAN: I think that the reason for the change of date to 1994 has really been emphasised by the Minister: indeed, she may give the best assurances in the world that this matter will be reviewed and reported to Parliament but she is not able to give an assurance for her successor, if she is not the Minister, for whatever reason, at that time. I believe it is reasonable, in the light of the concern of the Local Government Association, to change the date to 1994. It is a very simple process, if indeed there is no need for change, for a Bill to pass rapidly through this place. It is my intention to support the 1994 date.

The Committee divided on the amendment:

Ayes (11)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, M.J. Elliott, I. Gilfillan, J.C. Irwin (teller), Diana Laidlaw, R.I. Lucas, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

Noes (8)—The Hons T. Crothers, M.S. Feleppa, Anne Levy (teller), Carolyn Pickles, R.R. Roberts, T.G. Roberts, G. Weatherill and Barbara Wiese.

Pair—Aye—The Hon. K.T. Griffin, No—The Hon. C.J. Sumner.

Majority of 3 for the Ayes.

Amendment thus carried.

Progress reported; Committee to sit again.

NATIVE VEGETATION BILL

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

The Hon. ANNE LEVY (Minister for Local Government Relations): I move:

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The introduction of the Native Vegetation Retention scheme in 1983 and the subsequent Native Vegetation Management Program in 1985 heralded the introduction of conservation of wildlife habitat for its biological diversity on land outside the National Parks and Reserves system. While I acknowledge that the introduction of the program in 1983 caused a number of problems in the rural community, it brought community attention to focus on the extent of loss of biological diversity and wildlife habitat throughout the agricultural areas of our State.

The Bannon Labor Government was quick to recognise some of the difficulties created for the farming community when the program was beinq administered through the provisions of the Planninq Act and Regulations.

In a review of the program in conjunction with the United Farmers and Stockowners Incorporated, the Native Vegetation Management Act was enacted. This Act recognised the need for payment of a level of financial assistance to landholders for what in effect was a partial loss of property

rights and access to land which otherwise may have been available for development purposes.

During the debate on the Bill to enact the Native Vegetation Management Act, the responsible Minister and my colleague Don Hopgood said that the Act was unlike anything seen in this country before. It follows that what we do from here will be pioneering legislation involving a bold and innovative approach.

The program has now been in operation for seven years, with financial assistance being available to landholders for the last five years. For some time, consideration has been given to how the vegetation retained under the system would be managed in perpetuity and who should take responsibility for that management. Also, much thought has been given to the open ended nature of the program and how far broadscale clearance in South Australia should be allowed to proceed.

Since 1985 the rate of refusal of broadscale clearance applications by the Native Vegetation Authority formed under the provisions of the Act has been consistently high with around 95 per cent of the area applied to clear being refused consent.

Over the last twelve to eighteen months, negotiations have been ongoing with the United Farmers and Stockowners Incorporated and the Nature Conservation Society of South Australia Incorporated as to the way in which the next stage of the program should be developed.

I believe it is important that we make sure that the money invested by the people of this State is protected by having in place a system of management advice and assistance for landholders with native vegetation on their properties. I believe we also need to accept the fact that the limits of broadscale clearance for land development purposes have been reached.

During debate in Parliament on 20 October 1990 the Government indicated that action is being taken to draw the clearance phase of the scheme to an end thereby freeing up resources to move towards the next stage of the program which involves the management of the vegetation.

Officers of the department have been developing the discussions with the UFS and the NCS to the point where a discussion paper on future directions has been in circulation to interested groups for the last four months.

The paper forms the basis of this Bill before the House. Given the importance of this program for natural resources management in this State I am hopeful that at least bipartisan support will be received during the debate stage on this Bill.

I am delighted to advise the House that the UFS and the NCS produced a joint position paper for consideration by Government. This joint position paper is in effect making history—bringing together the farming organisation and the nature conservation organisation in this State has never happened before and indicates the extent of commitment of both these groups to move to the next phase in a positive and constructive manner.

I believe the Commonwealth has a greater role to play in assisting those States and Territories which have in place a legally supported means of protecting wildlife habitat additional to that in the parks and reserves system. The Commonwealth has been experiencing increasing interest in the conservation of Australia's biological diversity. In South Australia, we have received some assistance for native vegetation management through the Save the Bush program. I would like to see the amount of assistance increased to reflect the increased commitment at State level being provided in this Bill for the management phase of the program.

In the discussion and negotiation phase in developing the contents of this Bill, a number of questions have been raised as to why new legislation is needed at all. It has been suggested that the existing Native Vegetation Management Act should be amended to provide for the next phase.

I am of the view that the Native Vegetation Management Act is in effect a land development Act—arguably the last such Act that we will have in this State for the foreseeable future.

This Bill, which is before the House is about land management as distinct from land development. This being the case, it has a quite different intent from the existing Act and as such, should be formulated as a new Act and a logical follow on in the program.

In developing the contents of the Bill, great benefit has been derived from the constructive work undertaken by my colleague, the Minister of Agriculture in developing the Soil Conservation and Landcare Act 1989.

This Act, which concentrates on the use of land within its capability and establishing a planning framework to support such an approach has been a very important aspect of this Government's approach to land management. The Bannon Government has also enacted the Pastoral Land Management and Conservation Act 1989, after eleven years of debate and discussion as to what should replace the old Pastoral Act 1936. The provisions of this Bill recognise the contents of both those Acts and makes the necessary connection between them to give a well integrated approach to land resource and natural resource management throughout the whole State.

I believe as time goes on, there will be opportunities for greater involvement and integration between soil conservation boards, the Pastoral Board and the proposed Native Vegetation Council.

The Principles of Vegetation Clearance which were part of the State Development Plan under the old Act have been amended to recognise the differing basis for clearance of native vegetation provided in this Bill. Broadscale clearance for development purposes is not part of the Bill and therefore the clearance principles must recognise this change of emphasis. These revised principles are not to be part of the Development Plan and will be a schedule under the new Act. They recognise the small scale nature of any future clearance, including clearance of scattered trees and single trees and plants.

As with the Native Vegetation Management Act 1985, the new Act will have supporting regulations covering principally exemption provisions for certain types of clearance. These exemptions deal with clearance related to safety, fence building, fire prevention works, etc. The regulations have been subject to detailed discussions with various interested groups, including Local Government, over the last twelve months.

More recently, the Government has decided to include a provision in the Act which will have the effect of removing payment of financial assistance to landholders applying for clearance after 12 February 1991. All applications received up to and including this date will be dealt with on the same basis as previous applications. The Government has felt obliged to take this action following provocative publicity in the media urging landholders to lodge clearance applications before the existing legislation is repealed by this Act.

South Australia is leading the way in Australia with pioneering legislation on protection of biological diversity. This Bill represents the logical second stage of the Native Vegetation Management program.

It is very much an evolving area and it is likely that emerging issues of importance for protection of the State's biological diversity will require consideration at a later time.

I now wish to refer to the contents of the Bill in detail:

Clauses 1 and 2 are formal.

Clause 3 covers definitions under the Act.

Clause 4 provides that the Act applies to the whole State except for parts of Metropolitan Adelaide and any part of the State excluded by regulation.

Clause 5 provides for the Act to bind the Crown.

Clause 6 sets out objects of the Act.

Clause 7 establishes the Native Vegetation Council. The Council will replace the Native Vegetation Authority and will be viewed by the Government as having equal status to the Soil Conservation Council and the Water Resources Council.

Clause 8 covers membership of the Council, which has been expanded by two, to include a member nominated by the Commonwealth Minister for the Environment and a nominee of the Soil Conservation Council. A nominee of the Commonwealth Minister has been included, because of the increasing interest and activity by the Commonwealth in areas of land management and conservation of biological diversity.

Clause 9 is the formal clause covering conditions of Office.

Clause 10 provides for the payment of allowances and expenses.

Clause 11 sets out procedures for meetings of the Council.

Clause 12 covers the validity of acts of the Council and immunity of members in relation to any decision that they may make.

Clause 13 covers personal interest of members.

Clause 14 sets out functions for the Council. The functions includes keeping the condition of native vegetation of the State under review and providing advice to the Minister in relation to preservation, enhancement and management of vegetation and the revegetation of land which has been cleared.

Clause 15 provides a delegation power.

Clause 16 provides for a small number of staff to assist the Council.

Clause 17 provides that the Council must prepare an Annual Report for consideration by Parliament.

Clause 18 creates the Native Vegetation Fund. So far, the program has been partially funded through the State Heritage Fund and special Treasury allocation. Given the nature of this Bill and the likely continued involvement of Government in the management of native vegetation on private land, we believe it important that a special purpose fund be established.

Clause 19 provides for accounting and auditing of the Fund.

Clause 20 provides for the Minister to enter into a Heritage Agreement and having entered into such an Agreement, the Minister may pay to the owner of land an amount reflecting the decrease in the value of the land resulting from the execution of the Heritage Agreement.

The Bill also provides a financial incentive for land holders voluntarily to place biologically significant land under Heritage Agreement.

Clause 21 provides for assistance to be provided to landowners who have a Heritage Agreement on their property. This assistance can be in the form of advice, machinery on loan, research programs, or money, depending on the nature of the request from the landholder.

Clause 22 provides that the Council must prepare draft guidelines in relation to assistance and the management of native vegetation. Such guidelines will be subject to public comment and also involve input from Soil Conservation Boards where such boards exist in the area concerned, and the Pastoral Board in relation to pastoral lands, following consultation with the relevant Soil Conservation Board.

Clause 23 provides the conditions under which clearance of native vegetation can take place. Members will note that principles of vegetation clearance have been removed from the provisions of the State Development Plan and are set out in Schedule 1 to this Act. These principles will provide for small scale clearance for good management of the property or as part of management of native vegetation itself. They will cover those situations where requests for clearance of scattered trees and single trees and plants may be made. Broadscale clearance for land development purposes has been recognised as a thing of the past.

It is important that members understand the distinction between clearance for land development purposes and any small scale clearance that may be required on a property for farm management purposes, such as the straightening of fence lines, improving the shape of a paddock for cultivation purposes, or resolving a weed and vermin problem which cannot be resolved in any other way except by clearance.

Clause 24 provides for the clearance of native vegetation in certain circumstances.

Clause 25 provides the means whereby landowners can make application for consent for clearance. In relation to land held under miscellaneous lease, the clearance application can only be made by the Minister of Lands.

Clause 26 sets out provisions relating to consent and the decision making process that the Council must go through in considering applications for clearance. Members will note that provision has been included in the Act for consultation with Soil Conservation Boards and the Pastoral Board in pastoral areas.

Clause 27 covers the jurisdiction of the Court where a person contravenes or fails to comply with the provisions of the Act.

Clause 28 covers the appeals mechanism which is similar to that provided in the Native Vegetation Management Act. An appeal lies against a decision of a District Court.

Clause 29 covers the time in which proceedings can be commenced under the Act.

Clause 30 sets out the evidentiary provisions.

Clause 31 relates to proceedings for an offence against the Act, making such an offence a summary offence.

Clause 32 sets out the powers of entry by persons authorised by the Minister undertaking investigations of suspected breaches against the Act.

Clause 33 contains provisions relating to the hindering of Council members and officers of the Minister undertaking investigations of breaches against the Act.

Clause 34 makes an employer vicariously liable for the acts or omissions of his or her employee if they occur in the course of employment.

Clause 35 makes directors and managers liable for offences committed by their company.

Clause 36 is a general defence provision.

Clause 37 provides regulation making power for the Governor, with particular emphasis to prescribing principles and the payment of fees and charges.

Schedule 1 sets out the principles of clearance of native vegetation.

Schedule 2 provides for the repeal of the Native Vegetation Management Act 1985 and transitional provisions.

Schedule 3 contains consequential amendments to the South Australian Heritage Act.

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

(Midnight)

ROYAL COMMISSIONS (SUMMONSES AND PUBLICATION OF EVIDENCE) AMENDMENT BILL

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

ADJOURNMENT

At 12.2 a.m. the Council adjourned until Wednesday 13 March at 2.15 p.m.