LEGISLATIVE COUNCIL

Thursday 11 March 1993

The PRESIDENT (Hon. G.L. Bruce) took the Chair at 11 a.m. and read prayers.

CONSTRUCTION INDUSTRY TRAINING FUND BILL

Adjourned debate on second reading.
(Continued from 10 March. Page 1536.)

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): In closing the second reading debate I would like to thank all members for the attention they have given to this legislation. A few matters have been raised, particularly by the Hon. Mr Lucas, to which I would like to respond at this stage, although no doubt some of the points which he raised earlier and which I will be dealing with now are likely to come up again at the Committee stage, but I think it is well to set a number of matters on the record.

The Hon. Mr Lucas quoted considerably on the situation in Western Australia. However, I have been given to understand that the statistics which he quotes have not been able to be verified. I understand that the amount raised from the mining industry in Western Australia is not $4 million but $1.5 million—a considerable difference. This information comes from the Western Australian fund manager, who presumably knows where his money comes from.

Certainly, there was opposition from the mining and agricultural industries in Western Australia, but this was addressed by the Western Australian Government by appointing an independent arbiter, Mr John Carrig of the Western Australian Industrial Commission. As the Hon. Mr Lucas mentioned, the Carrig report—as it is now called—was presented to the Western Australian Government shortly before the election and the new Government has not released the full report. However, the industry in Western Australia, and consequently in South Australia—given that they talk to each other—understands very strongly that the report from Mr Carrig recommends no change at all to the Western Australian legislation. He recommends very strongly the continued involvement of the mining and agricultural industries.

The Hon. R.I. Lucas: Are you saying your information is that no change is recommended at all?

The Hon. ANNE LEVY: Certainly not in these important areas. I am not saying no change to any part of the legislation but, in the particular question of whether mining and agricultural industries should be covered, Carrig recommends no change and that they should continue being involved as they have been under the Western Australian legislation. I am given to understand that the Carrig report indicated that the mining and agricultural industries were not able to substantiate claims they were making about training expenditure on building and construction work in their industries. I should also point out to members, and I am sure the Hon. Mr Lucas is aware of this, that both the HIA and the MBA in Western Australia initially were opposed to the whole principle of the training levy but have now realised that there are considerable benefits to their sectors from it and they strongly support the levy.

The Housing Industry Association and the Master Builders Association are unlikely to support anything that they feel is not strongly in their interests. One of the matters that should perhaps be commented on is that when the mining industry quotes figures on training expenditure—and they certainly are impressive figures—one needs to look at how much of this training expenditure is going on training for the building and construction part of their industry. My understanding is that, while the total training figure is impressive, none of it is being spent on training in the building and construction area at this time.

The honourable member also referred to correspondence from the Chamber of Mines and Energy. There has been a response from Minister Lenehan to Noel Hiern and I am also given to understand that he has expressed satisfaction with the proposal that certain activities will be exempted by regulation and that he has stated his satisfaction with this proposal not only to the Government but to the industry as a whole. So, I understand that his initial concerns in this matter have been allayed.

I would now like to make some comments regarding the South Australian Farmers Federation, to which the Hon. Mr Lucas referred. It is interesting that the honourable member raises this point because, to this moment, the South Australian Farmers Federation has not approached the Government at any time to express any concern. It has not lacked opportunities to do so and I imagine that, like other industry bodies in South Australia, it has contacts with its counterparts in Western Australia, but it has certainly not expressed any concern to the Government.

I am given to understand that there is an intention by the industry to exempt from the training levy certain farm construction activities, and one can take fencing as an example. Such farming construction activities will be exempted by regulation.

The Hon. R.I. Lucas: Who told you that?

The Hon. ANNE LEVY: I am given to understand that the industry position is that certain farming construction activities such as fencing will be exempted by regulation, and I am sure the Hon. Mr Lucas can make further inquiries about this during the Committee stage.

The Hon. Mr Lucas also mentioned a concern about increased bureaucracy that could result, but this is strenuously denied both by the Government and the industry. Local government has agreed that approval procedures will be very straightforward and that there will be no additional burden on farmers resulting from the systems which will be set up. Local government is obviously happy to cooperate fully in this matter. There will, of course, be benefits to farmers from this training levy, and I will refer to examples from Western Australia and Tasmania where such a levy is in operation. Specific training opportunities have been created for farmers via multi-media computer based training and by full simulation facilities which have been made available for them free of any charge. The Rural

Industry Training Council has been trying for years to introduce such training for farmers, but it has taken the building and construction industry to provide and introduce these highly desirable training facilities for farmers.

I also wish to make a comment on the question by the Hon. Mr Lucas regarding SAGASCO, where there has been correspondence between Minister Lenehan and SAGASCO on this matter. SAGASCO is to be very much commended on the training effort which it is currently undertaking, and there is no denying that there is considerable training effort to which SAGASCO contributes, but (and it is a very important 'but') at the moment none of SAGASCO's training effort is in the building and construction skills area. It is all limited to other areas which are highly relevant to the work of SAGASCO, but there is no contribution to skills training in the building and construction area despite the fact that SAGASCO does use skilled labour for building and construction and benefits from the skills of that labour.

I must also point out that this legislation does not come from the Government. It comes from the industry itself. The Government through Minister Lenehan has consulted extensively with all sectors of the industry, but the initiative for the legislation comes from the industry itself.

Consultation has included all sectors of the industry, and Mr Such, the shadow Minister, has been involved also. There has been unanimous support, and I can provide a great long list of bodies from the industry which are in agreement with the legislation as it comes before us. I will not do so at the moment, but I am happy to raise the matter in Committee.

There is some difference between the South Australian legislation and the Western Australian legislation, not in basic principles but in details. This is not surprising in that one can learn from the experience of others. It would be a sad day if we did not learn from experience in that way.

The regulations which will flow from this legislation will be developed here in South Australia for South Australian conditions. They will be regulations which are appropriate for South Australians. Certainly, the situation of the Western Australian Farmers Federation or Woodside Petroleum is not necessarily relevant to the situation facing South Australians, and it will be South Australian conditions which will be considered when the regulations are being devised.

The Hon. Mr Lucas also raised the question of owner-builders. Certainly, attention has been paid to this aspect from a number of quarters. Perhaps we need to put this into perspective and note, first, that South Australia has the lowest proportion of owner-builders in the country, whereas Western Australia, with about 20 per cent of domestic construction coming from owner-builders, has the highest proportion in Australia.

I should perhaps point out that owner-builders in Western Australia have not complained about this legislation in their State, and do not feel that it is proving a detriment to them. When one talks about owner-builders, the real issue is not with owner-builders but with owner-builders who are subcontracting rather than undertaking building with their own labour. The subcontractors who are used by owner-builders have all been trained by the industry and consequently those benefiting from their labour should contribute to the cost of the skills training which is contributing to their building.

Related to this question is the matter of voluntary labour, and the Hon. Mr Lucas made mention of voluntary labour that builds the local church or community centre, for which, of course, they are much to be commended. However, we must realise that, even if volunteers are building the local church, by law they must be skilled. There are legal requirements that skilled people must be employed in certain activities. The electricians, plumbers, those who deal with air conditioning, mechanical contractors, bricklayers, stone

masons, stained glass manufacturers (if one is considering a church), and the carpenters are all licensed occupations or else they are declared trades. For all of them skill acquisition is governed by law. Whether they are contributing on a voluntary or paid basis is irrelevant to the skills which by law they must have and the training which has been required to develop those skills.

At a practical level we should not exaggerate the magnitude of the question. A church built by voluntary labour, which would cost, say, $100 000 (which I think is probably a fair estimate), would attract a levy of only about $250. I am sure that the people concerned would agree that is a very small price to pay to ensure that their building will be satisfactorily built, will not be condemned by the local council and will have a guarantee of being able to function as they wish. We are talking not about enormous sums of money but modest amounts, which I am sure would not be begrudged in view of the benefits which are gained from the use of highly skilled labour involved in whatever project it is. I will not say any more at this stage. I am sure that other matters will come up in Committee. I commend this Bill to the Council and, along with a very large number of people in the industry, look forward to its speedy passage and implementation.

Bill read a second time.

In Committee.

Clause 1—'Short title.'

The Hon. R.I. LUCAS: The Minister, in response to the second reading debate, has given the Government's position on a number of the concerns that I raised. I would indicate that, on a number of the matters raised by the Minister, the information provided to me is different. I will take up those matters in relation to each clause. I do not believe that some of the information provided to the Minister is correct, but I will take up that matter on the respective clauses.

At the outset I will make two general comments in relation to the Minister's indication in a number of areas that the industry intends to exempt this or exempt that. First, the industry or indeed any individual person at this stage is unable to give any guarantee of what might or might not be exempted by the industry. I will presume, given the construction of this Bill, that the decisions will be taken by the board in relation to many of these issues. That is certainly the way the Bill is drafted and the board, of course, as I have discussed, will comprise people from varying parts of industry, whether it be employers, employees or trainers and the presiding officer. Whilst the attitudes expressed by individuals

obviously reflect their views or concerns of a particular section of industry, nevertheless, in the end the decisions are going to be taken by governments, perhaps with their attitudes, but more particularly by the board as it is finally constructed. Nevertheless, I will take those matters up individually.

The other issue I want to raise on clause 1 is that I understand the Minister of Education, Employment and Training received a letter yesterday from the South Australian Employers' Federation and given the nature of that letter I would like to raise the matter with the Minister now to see what the Minister of Education's response has been. I am presuming, given that we are continuing, that she has indicated 'No' to the Employers' Federation. But the Employers' Federation has written a letter to the Minister indicating that in recent times it has had discussions with various major South Australian manufacturing and resource development companies. The letter states:

> These groups have some substantial concerns about the proposed industry training fund, given that they will be obligated to meet these funds as part of on-going construction activity. We can clearly identify the rationale and best intentions associated with the proposed Construction Industry Training Fund but believe that it is also important to take into account the views, and the implications of this proposal in terms of construction work in South Australia.

Clearly Matthew O'Callaghan is not trying to be too combative about this. He seeks to engage in constructive dialogue with the Government and with the Minister on this issue. The letter continues:

> To further explore this issue we write to ask whether we, together with some—

and I note 'with some'—

> of these major companies, which include Mobil Australia, General Motors-Holden Australia and Santos Limited—

so it is not just the mining industry that we are talking about, but major manufacturers and employers in South Australia as well—

> could meet with you in the near future so as to outline the concerns of this important sector of South Australian industry. We would hope that the legislation would not be proceeded with in the Legislative Council until such time as you have the opportunity to meet with these groups.
>
> I would stress that this does not presume that we will ask for the absolute cancellation of the planned Construction Industry Training Fund, but we do have some concern about the consistency of this scheme with the training guarantee legislation obligations.
>
> Yours faithfully (signed) Matthew O'Callaghan, Executive Director.

It is important to place on the record the fact that the Minister would have received that letter yesterday. The views of Matthew O'Callaghan and the Employers' Federation would not be new to the Minister, because the Employers' Federation has expressed concern since the end of last year in relation to the whole concept and philosophy of this particular fund but more particularly has raised some specific questions. What is new, from my viewpoint, anyway, as someone who has been trying to handle this Bill in the Council is the attitude of General Motors-Holden Australia. I am not aware of any formal correspondence that General-Motors may have had with the Minister and with the Government about its concerns and the legislation, but from my discussions with departmental advisers it is not a matter, I understand, that they were aware of.

As to Santos Limited, again I am not familiar with any particular concerns. I am only guessing; it may well be that its concerns are the same as those of SAGASCO, the Chamber of Mines and the Western Australian Chamber of Mines, but I am only assuming that. I think it is important at this stage for the Minister who has the responsibility for the Bill in this Chamber to indicate, as we are proceeding, that the Government, through the Minister of Education, has taken the decision not to take up the opportunity of discussing this matter with Matthew O'Callaghan from the Employers' Federation, Mobil Australia, General Motors-Holden Australia and Santos Limited.

The Hon. ANNE LEVY: The honourable member quotes from the letter from the Employers Federation (Matthew O'Callaghan). My information is that that letter has not been seen as yet by the Government. I think the honourable member quoted it as being dated yesterday. It certainly has not reached Government circles as yet. I could also perhaps mention that this Bill has been around since early November. Matthew O'Callaghan is really coming in on the death knock if at this stage—4 1/2 months after the Bill was first put before the Parliament—he starts writing letters. It is certainly interesting that the honourable member has a copy of the letter before any member of the Government.

The Hon. R.I. Lucas interjecting:

The Hon. ANNE LEVY: We do not usually interject in Committee. It is certainly true that Mobil did write to the Government and that its concerns have been discussed with it and responses provided. I understand that the verbal indication received was that Mobil was quite happy with the outcome of discussions which it had. As far as I am aware, Santos, as a company, has never raised any question relating to this matter with the Government. So, mention of its name is something which is quite new to my advisers on this topic.

I certainly referred to the Chamber of Mines and Energy in my second reading response. It did write to the Government. It has been responded to and my understanding is that with the correspondence and discussions it has had its concerns have been allayed and it no longer has the anxieties which it originally expressed in its correspondence.

The Hon. R.I. Lucas: What about General Motors?

The Hon. ANNE LEVY: To my knowledge there has been no correspondence at all from General Motors on this legislation.

The Hon. R.I. LUCAS: I take it from the what the Minister is saying, therefore, that the Government's judgment is that the legislation should be proceeded with even though it is not aware of the attitudes of Santos and General Motors Holden in relation to those two companies in particular.

The Hon. ANNE LEVY: Yes, Mr Chair. This legislation has been discussed for a very long period right throughout the industry. It has been a public document for 4 1/2 months. There has been every opportunity for anyone with concerns to approach the Government. Indeed, the Hon. Mr Lucas has indicated a number of bodies which have approached the

Government. In each case further consultation and discussion has occurred as a result of these approaches. However, there has not been any approach from the two companies which the honourable member mentions. After 4 1/2 months of public availability and knowledge of this legislation, to my knowledge they have not approached the Government to express any concerns.

Clause passed.

Clause 2—'Commencement.'

The Hon. R.I. LUCAS: Could the Minister indicate what is the Government's intention in relation to the date to be fixed by proclamation in the Act?

The Hon. ANNE LEVY: I understand that 1 July is the intention. However, this will, of course, be subject to negotiation with the industry.

Clause passed.

Clause 3—'Interpretation.'

The Hon. R.I. LUCAS: I move:

Page 1, after line 19—Insert new definition as follows:

'agricultural land' means land wholly or mainly used for primary production;.

This amendment relates to the exemption or the special provisions in relation to an exclusion for farmers and the farming community. As I indicated in the second reading debate, a number of my colleagues late last year expressed some concern about the effect of the training fund Bill on normal activity carried out by farmers in the normal course of events on their farming properties. Mr Dean Bolto has also expressed concerns on behalf of the South Australian Farmers Federation in the last month or so when, as I indicated by reading his correspondence to me, he expressed the concern of the South Australian Farmers Federation about the legislation.

It is fair to say that the South Australian Farmers Federation position is a view that, in effect, agriculture ought to be exempted completely from the legislation. That is not the intention of the package of amendments that I am moving during this Committee stage. We have sought through this package of amendments to try sensibly to make the levy apply to that part of farming activity that might be undertaken by the building and construction industry—by skilled tradespersons who might be employed by a farmer in relation to the normal activities that that farmer might engage in on his or her farm.

What we have sought to exclude is, in effect, the value of the voluntary or personal work that is done by the farmer and his or her family on their property. As any member of this Chamber who has had any experience or knowledge of farming communities would know, our farmers are Jacks and Jills of all trades. As a result of recession and difficult economic circumstances they have to be able to do a whole range of activities on their farms. In many cases it is very difficult to get trained or skilled tradespersons to come to their farming properties at the drop of a hat and, if they do, at a cost that the farmer is prepared to incur to undertake these sorts of construction or building activities on their properties.

Some members of the Labor Government might be surprised to know the sorts of things that farmers can do and do on their farming properties that would come within the building and construction definition of this legislation: as well as building their own houses and sheep sheds a whole range of other construction-type activities are undertaken by farmers, their sons and daughters on the properties. As I indicated, in the other place Bob Such has indicated on behalf of the Liberal Party the Party's position on the legislation, that the levy and the legislation ought to be supported and, if you take that position, we can sensibly look at where this levy applies and where it should not apply.

It is our view that it should not apply on, in effect, the value of that work done by the farmer and his or her family. If the farmer is employing skilled labour (carpenters, plumbers, electricians and a whole range of other people like that) and it is over the $5 000 limit, then if these amendments are passed it is intended that the levy will be paid on that section of the construction activity, if I can call it that, but if the farmers and their families are putting in their own work and effort, why should we be applying the levy to that activity?

To look at the relationship of this legislation, one must look at clause 22, which talks about the estimated value of building or construction work being the value of the building or construction work estimated as prescribed. We are talking therefore about the estimated value of the building and construction work, and when one looks at the legislation from interstate, discusses it with departmental advisers and industry people and also takes legal advice, the consistent theme through all that advice and interstate experience is that, if the Bill is not changed, the value of the voluntary effort is picked up as part of the levy cost.

That is the intention of this package of amendments. Given that these amendments have come towards the end of the discussion, I am not locked into the precise form of words that the Committee has before it. I am more interested in trying sensibly to resolve what we see as important issues of principle. So, if there are problems or concerns with drafting, that it is a little wider perhaps than we intended in the second reading, I am sure that with constructive discussion with members of the Committee and Parliamentary Counsel we ought to be able to tidy up the amendments at least to achieve the principle that the Liberal Party seeks to achieve by way of this amendment.

The Hon. ANNE LEVY: The Government opposes this amendment, which I acknowledge is only in terms of a definition but obviously relates to later amendments for which this altered definition is necessary, and we might look at this whole question at this stage. I could talk about the weakness of the definition, where 'agricultural land' means land wholly or mainly used for primary production. Primary production of course is not just growing crops. It can include mining, mineral extraction and gas producing; all manner of things are covered under the term 'primary', primary industries, primary production. But I leave aside the question of whether or not it could be better defined.

The honourable member is very largely missing the point. The intention of this legislation is to have the levy raised whenever there is the use of skilled labour in building and construction work. It does not apply to routine maintenance, which may be done by a farmer with or without assistance. The only occasion on which routine maintenance could be covered by the legislation is where the routine maintenance is being done by a firm whose business is doing maintenance, but that,

obviously, is not the situation which the honourable member is considering. When a farmer has friends and relatives come to help him or her with a particular building or construction activity, the law does not change.

To do the electrical work of that construction, a qualified electrician must be used. To do the plumbing work for that construction, a qualified plumber must be used. To do the carpentry for that construction, a qualified carpenter must be used. Whether or not these qualified individuals are friends and relatives who are prepared to work without salary, whether they are paid subcontractors or whoever they may be is irrelevant. What is important is that these are people with designated skills. They must have these skills properly to undertake the work and, in consequence, those skills need to be developed, and it is appropriate that the value of that work should be included for the purpose of the training levy that will be used to develop such skills.

It will be to the benefit of the farmers' relatives if their skills are enhanced. If they are already electricians, they receive skill enhancement of their electrical skills and this enhancement will come through the training levy. The honourable member also seems to be ignoring the fact that the rural industry in Western Australia and Tasmania is benefiting considerably from the legislation in those States, that the training fund has provided considerable benefits to farmers in those States by the provision of all sorts of training programs entirely free of charge, and that farmers in this State can likewise expect to have the same benefits that their counterparts in other States are already receiving.

While this is only a definition, it seems to me that the later amendments relating to agricultural inclusion in or exclusion from the provisions of the levy hinge on having such a definition, so I hope we can use this amendment as a test whether or not other amendments on this topic will be accepted by the Committee.

The Hon. J.F. STEFANI: The Minister has made a comment about excluding companies that are specifically engaged in maintenance work. I want to ask the Minister how that would apply to a company that conducts maintenance work in the building industry, that is, repair work of any kind, whether it be plumbing or electrical, and that work was valued at over $5 000, and quite often a major repair can in fact cost more than $5 000. If you have, for instance, the replacement of a water service within a building it could amount to many thousands of dollars, as we know in Parliament House.

How can the Minister say that companies which effect repair work are excluded from the provision? Will she please tell the Council how that can be defined when schedule 1 encompasses the construction, erection, alteration, repair, renovation, demolition and removal of a building or structure? We had the situation where some difficulty was experienced in confining 'construction work', when we were dealing with the electrical trades long service leave provision. We locked horns on that and went down a path that we could not resolve. We still have not solved that problem because the Minister was so obstinate that we had to come to a compromise so that the legislation could get through with a guarantee on the Minister's behalf that he would at a later stage address the problem. I must say that I am extremely nervous about the statement made by the Minister in terms of excluding companies that do repair work, and I would like an explanation.

The Hon. ANNE LEVY: I think we should address this query now, although I do not know that it is relevant to the definition of 'agricultural land'. However, I agree that it is an issue that comes under the Bill. I think the honourable member has misunderstood what I said. I did not say that maintenance work done by a company whose business is maintenance will be excluded.

The Hon. J.F. Stefani: That is what you said.

The Hon. ANNE LEVY: No, I said it will be included. If I did not, I certainly intended to say so, and I am sorry if I used the wrong word. However, *Hansard* will indicate whether that is the case. Certainly my understanding was that I said it would be included. The honourable member should look at schedule 1, under the heading 'Exclusion', which indicates:

> Work which is maintenance or repairs of a routine or minor nature carried out by an employee for an employer whose principal activity does not constitute work in the building and construction industry does not constitute building or construction work for the purposes of this Act.

So, if you have an employer whose business is not building or construction and one of his employees does some minor maintenance, that is not counted as building and construction, and consequently the levy is not applicable. However, if the employer is one whose business is building and construction, any building and construction work done by one of his employees does count as building and construction work for the purposes of the levy. This is perhaps wandering away from the amendment under consideration and is more appropriately dealt with when we get to this later clause of the Bill.

The Hon. I. GILFILLAN: I would like to state quite clearly in addressing this amendment that I support it. I have absolutely no hesitation in recognising that the farming community should not be embraced in this. As an industry it is striving to compete on a world export market.

However hard pressed the construction industry is it is basically sheltered by a cosy domestic market free from international competition. It is therefore, in my opinion, totally unacceptable that the South Australian farmer through the voluntary contributions that have been outlined here should be caught in the net of this legislation and have a construction industry training levy applied to that.

I know from first-hand experience that basic building skills are acquired through years of necessity. Those skills have been acquired without any subsidised or assisted training schemes of any sort. I believe it is morally wrong to intrude now in some retrospective acknowledgment that that skill applied to a project on a farm shall now be levied for the training of other people.

I have received a letter from the South Australian Farmers Federation dated 22 February which states:

> Dear Ian,
>
> Rob Lucas made us aware of the legislation presently before Parliament which proposes a levy on the construction industry for training. Copied is a letter to Rob which I believe outlines our views. As it says, farmers need additional red tape and charges now like they need a hole in the head. I trust that you

will support at the very least the introduction of an amendment to exempt our industry from legislation. I look forward to your support.

Kind regards,

Dean Bolto,

Director of Policy

I do not believe it is logical to exempt the agricultural industry *in toto* from the effects of this levy, and I think on reflection, and at times of less crisis in the industry, many of the farming community would assess this along the lines that I have outlined. However, with a minimum of $5 000 being the amount at which the levy clicks in, there are virtually no improvements in which the ordinary farm would be involved that would not be caught. It is very easy to build up a $5 000 value for a machinery shed. In a machinery shed there is most likely to be no professional or trained trades contribution at all. It is likely to be an after hours contribution by a farmer and family and maybe friends, if he or she is lucky enough to have some, to get the job done over a period of time.

I want to make it absolutely plain that the Democrats support this amendment entirely. It may seem odd that the statement has come so late in the day, but it is due partly to the fact that I was not made aware of it. In fact, I never dreamt that it would have an impact on the average family farm in South Australia and therefore did not address the matter. Having said that, it is appropriate for me to say that I fully endorse the setting up of the construction industry training scheme, and I believe that the sooner it is implemented the better. I am pleased to see that the Opposition, euphemistically speaking, pulled their finger out and gave an undertaking that the Bill would be dealt with this week. I think that sets to rest some fears that were expressed to me that there was some deliberate delaying campaign and obstruction scheme or device in place to hold up the passage of the Bill. I do not believe that is the case from the reaction of the Opposition in this place to date.

So, I do believe that we can expeditiously get a good, effective, adequately funded scheme operating in South Australia. I do not believe that we need to he locked into what have been patterns in other places where, to the best of my knowledge, they have not been in place for very long. We do not have any definitive reports of how it has been working in Western Australia, and it is only by rumour and innuendo that we have any idea of what is in the Carrig report. In private conversations, I have been given to understand that there are suggestions of some significant changes, but not changes that would have any serious effect on the basic intention and operation of the scheme. I indicate support for the amendment.

The Hon. R.I. LUCAS: Given that the amendment is likely to be passed in its current form, it is now perhaps appropriate to tackle the concern expressed by the Minister about the definition of 'agricultural land'. I am advised that this definition is used in a number of other pieces of Government legislation, and this concern from the Minister has not been raised with the drafting of previous Government Bills. If there is a concern, Parliamentary Counsel has drafted another form of words. I do not like doing things on the run, but, as the Minister has raised this concern about the drafting, the other option is as follows:

'Agricultural land' means land wholly or mainly used for agricultural or horticultural purposes, animal husbandry or other similar purposes.

By doing this on the run, I do not know whether we have excluded something by way of that definition or not. Given that this definition exists in other pieces of Government legislation, as I understand it, it would seem to me that perhaps the simplest course would be to stick with what is being used currently. If the Minister has had considered advice on this matter and it is the considered position of the Government that this clause will cause problems if it stays in the Bill, I would be interested in the Minister's response to the possible alternative drafting that Parliamentary Counsel have flagged with me.

The Hon. ANNE LEVY: My advice is that the more lengthy definition just read out by the honourable member would be preferred as it could cut out a whole lot of arguments at a later time. However, that advice has not been considered at length. I agree with the honourable member's comment about doing things on the run, but certainly my advice is that it would be less likely to lead to confusion at a later stage.

The Hon. R.I. LUCAS: Given that this issue has only just been raised, it might be wise if I seek leave to amend my amendment. Then, if the Committee passes it in the amended form, and between this place and another place there is a problem that the Government feels needs further tidying up, perhaps we can tackle it then. I seek leave to amend my amendment as follows:

'Agricultural land' means land wholly or mainly used for agricultural or horticultural purposes, animal husbandry or other similar purposes.

Leave granted.

The Hon. R.I. LUCAS: The Hon. Mr Gilfillan has asked me whether that definition would cover grazing or pastoral land. My guess is 'yes', according to Parliamentary Counsel's advice, but that is the only concern: in listing things specifically, what then do you exclude? The catch-all 'or other similar purposes' hopefully is intended to fix up all those things. I presume that the Committee will pass the amendment in its amended form. If the Government decides that we need to tidy it up further between this place and another place, I indicate that I am not locked in concrete in this matter and we would be happy to engage in constructive discussion.

Amendment as amended carried.

The Hon. R.I. LUCAS: I move:

Page 1, lines 23 to 25—Leave out the definition of 'building or construction work' and substitute new definition as follows:

'building or construction work'—see schedule 1;.

This amendment is partly consequential on some of the following amendments, and I will just explain that. One could support this amendment but not be therefore locked into all the following amendments, for example. There is a series of references to building and construction activity that I am seeking to have excluded later on; I refer, for example, to land care activities, fencing and the like. It may well be that the Government or the Democrats agree with the exclusion of land care but do not agree with the exclusion of fencing; in other words,

they may agree with some things and disagree with others. That is why I say that this amendment is partially consequential upon the following package.

My comments are mainly directed to the Hon. Mr Gilfillan. If he were intent on supporting an exemption for land care, for example, I am advised that this change for building and construction activity upfront in the definitional clause ought to be supported. In that respect, it is consequential but, as I said, members of the Committee could pick and choose from the following amendments as part of this package.

The Hon. ANNE LEVY: The Government opposes this amendment. In so doing, it indicates that it will not support any of the other amendments which require this. The reason is not that the Government feels that activities such as land care or a bit of fencing work necessarily should be included, but that there is provision for regulations to be made to exclude certain activities. Certainly the Government, and I understand the industry, much prefers the approach of having exclusions determined by regulation.

Regulations are much more flexible than actual legislation. They can be amended far more easily. They can be added to or subtracted from as conditions change and as the community and the industry request, according to varying circumstances at the time. Whilst the Government opposes this definitional change, it is not with the idea that all the activities later mentioned by the Hon. Mr Lucas should necessarily be swept up but merely that exclusions are better done by means of regulation. This is a preferable method of determining exclusions in that it is far more flexible and can be updated far more readily as conditions in the community require at the time.

The Hon. R.I. LUCAS: In responding briefly to one or two of those issues I should like to canvass the exclusion in relation to fencing. In considerable discussions that I have had with industry and departmental representatives in relation to fencing on agricultural property, I was not given the response that the industry intended to exempt fencing. The response from both was consistent, although I saw them separately. It was that we would require X kilometres of fencing—I cannot remember the figure, but I am sure the departmental adviser will remember—at X dollars per metre, or however it is worked out, to incur any sort of cost. As I indicated in the second reading debate, the explanation given was that, even if the legislation catches it, which they conceded it does, we are not going to be sending people around the farms of South Australia to pursue these smaller items. I expressed concern about

that in the second reading debate and I do not intend to repeat it. I am indicating that, as the Liberal Party's representative on the Bill in this Chamber, in my discussions with industry people and departmental advisers I was given no indication of the exemption provision. I accept that is now a different view from the industry and the department in relation to this issue. I think that it heads in the right direction, but I do not believe it goes far enough. If the intention is to exclude fencing, we ought to make that specific because we agree on that particular provision.

Another point, which I made earlier, is that industry and departmental people can give indications at the moment of what is intended. As the Act is constructed, there will be a board. As I read the legislation and as I have discussed it with industry and departmental people, the board, under clause 37, will be making recommendations in relation to regulations. In the main, that is the way that it is intended to operate. The board will say, This is what will occur,' and the Government will prescribe the regulations. There is a provision which allows the Minister, in effect, to override the board. The Minister has to consult the board, but if the Minister feels strongly about something, then he or she can do whatever they wish contrary to the wishes of the board in relation to regulations and exemptions. I am advised that that provision will be used sparingly and the Minister will be aware of those caveats.

I accept the view from some industry representatives and the department that it is intended to exclude certain items like fencing, land care or whatever. However, the Committee needs to note that the Minister, of whatever persuasion, has the power to override and nobody at this stage can indicate what the attitude of the 11 members of the board will be in relation to exemptions or exclusions. The Minister and her advisers cannot say at the moment that the board will, at its first or another meeting, do this or that. The Minister can indicate that, from the discussions that she has had with certain industry representatives, that is their view. However, we do not know the make-up of the board, we do not know how board members intend to vote on certain matters and we do not know how a particular Minister of the day, of whatever political persuasion, will act in relation to the board's recommendations.

If everyone is saying that the intention is to exempt fencing, and that is the view of the Parliament at the moment, why not exempt fencing? We still have flexibility in relation to all these other issues for construction-type activities that can be exempted by regulation. We do not take away any further flexibility for other issues which have not been raised at the moment, but a number have been raised, such as land care and fencing. I am suggesting that, for the reasons that I have outlined, we should make some decisions about those and leave that wide power that the Minister wants in the Bill and the flexibility in the other areas.

The Hon. ANNE LEVY: I most emphatically oppose some of the sentiments expressed by the Hon. Mr Lucas. If by some misfortune he were the Minister, I am sure he would want to be able to exercise ministerial responsibility. Of course, regulations are made by Government. While the Government expects to work most harmoniously with the board and to accept recommendations from the board, to suggest that the board can in some way insist that certain things must happen, whether acceptable or not to the Government, is not a proposition that I regard as acceptable, and nor should any member of this Parliament. A Minister cannot abrogate responsibility in that way. While there will be a great deal of consultation, and it is expected that anything recommended by the board will result in regulations, no Minister should be bound to bring in regulations which he or she felt were totally unreasonable.

I think that the fears expressed by the Hon. Mr Lucas in this regard are groundless. While one does not know

what the view of a board not yet established will be, certain views have been expressed throughout industry and, as far as I am aware, they have not been opposed by any section. While the composition of the board is not yet known, it is not wild speculation to suggest that the board will make certain recommendations. It is based on a fair degree of knowledge, consultation and discussion. To suggest that these are matters plucked out of the air at somebody's whim seems to me to be totally unfounded and unreasonable on the part of the honourable member.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 2, after line 18—Insert new definition as follows:

'residential land' means land owned and occupied by a person as his or her principal place of residence;

The argument for this amendment is similar to the argument in relation to agricultural land. It is the inclusion of a definition. The argument here, which I developed on second reading and do not intend to go over in detail again, put simply is the same as for farmers. Where someone like the Hon. Terry Roberts, who owns and lives on a property, is involved with his family in extending the home, I suggest that the voluntary effort put in by himself and his family ought not to be part of the estimated value of the extension or construction activity and he should not have to pay the levy on it.

However, as with the farmer example, if the Hon. Terry Roberts uses, as he must, qualified and skilled tradespersons in the building construction industry then he would have to pay the levy on that section of the estimated value of the work done by the skilled tradespersons. I do not intend to go over the detail again. I gave some examples, not just in relation to the personal circumstances of an individual person but in relation to community effort, say in respect of churches and in particular rural communities. It is quite common for members who live in rural communities to get together for voluntary effort to undertake some activity.

Some of my colleagues have put the view to me that they, for example, not only do work on their homes but on their shacks and that that ought to be excluded as well. I looked at that and to try to be sensible and constructive about this we have restricted this particular change to the principal place of residence, which is a common definition used in other pieces of Government legislation. So, it will mean—I must say sadly to some of my colleagues if this amendment is passed—that this partial exclusion or exemption will apply to work on their principal place of residence. It will also obviously apply to a farm, if one owns a farm, because that is agricultural land and that was the previous amendment. But if it is on a shack or a second house then you will be caught. As I said, there are problems as to where you draw the line. I concede that there are arguments on both sides. It is not black and white; it is grey. But we have drawn the line in this amendment at the principal place of residence. I would urge support for the amendment.

The Hon. ANNE LEVY: Could I check with the honourable member what his subsequent amendments, which flow from this, relate to? As I understand it, if an owner wishes to do building work on his principal place of residence, to the extent that he uses skilled work, the value of that work will be subject to the levy, and this would apply whether or not that skilled work was done in a voluntary capacity or was paid for. I am just checking that that is what the honourable member's amendment means, because I think this is a very crucial point in terms of tax evasion and all sorts of tax lurks.

The Hon. L.H. Davis: You are not still on that hang-up from yesterday, are you?

The Hon. ANNE LEVY: This is a very important point.

The Hon. J.F. Stefani: Don't worry about it.

The Hon. ANNE LEVY: If it is done on the value of work of a skilled person, whether or not that person is paid for that work, that is one matter which we can discuss or not, but it is a very different matter if there is so-called voluntary work. I would appreciate the Hon. Mr Lucas clearing up that point.

The Hon. R.I. LUCAS: In relation to tax evasion I am not an expert on that so I cannot provide advice. In relation to the construction industry I am not an expert, either, but I noted, from some interjections, that my colleague the Hon. Julian Stefani was talking about prescribed payment schemes and a number of other initiatives that I think the current Federal Government has undertaken in order to wipe out those sorts of concerns the Minister might have in relation to the building industry. I know, for example, as someone who has recently been involved not in voluntary efforts—I do not have to declare an interest in this—but in having an extension done on his principal place of residence that there are all sorts of forms and extraordinary sorts of things that you have to fill out these days in relation to who you have employed under this prescribed payment scheme: all your different contractors and subbies that you have had on your place, no matter how small the job was. That goes off to the tax office or somewhere like that. The banks have access to all this information. So the tax office and the banks are cross-checking with information and tax file numbers.

From what I understand from personal experience and from what experts like the Hon. Mr Stefani tell me, I think the Minister's concerns about tax rorts and tax evasion, which might be relevant elsewhere, are pretty well covered by current Federal legislation. I do not see that the answer that I am about to give the Minister in relation to this affects those sorts of concerns. Certainly my advice is that, on the package of amendments that I am moving (and if you look at page 3 of my amendments), if you are paying a skilled tradesperson, then you pay the levy on the estimated value of that work. That is something that at a later stage I intend to raise with the Government, because there are a number of questions with the Government legislation as with my amendments which will be a little bit grey, I suspect, but I will leave that to a later stage. The intention of my package is to, in effect, say if you are paying someone, a skilled tradesperson, then you pay the levy. If it is voluntary effort, no-one is being paid, then the levy should not be paid.

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: This amendment is exactly the same for residential land as it is for agricultural land. If a farmer or a home owner has a son who is a skilled carpenter or skilled electrician, for example, and he assists his father in building a home extension or in the

building of a shed on the farm property, he should pay the levy on that. What we are arguing is that the distinction is whether you are paid or you are not. I can accept that the Minister has a different viewpoint to that but I do not believe that the argument stands or falls on the question of tax evasion. I think that is a separate question. The Minister can rightly have a different view as she did in relation to the agricultural exemption, and I suspect that she will have the same view in relation to the residential exemption as well. I understand her position. I disagree with it but I understand the position that she adopts on it. I put to the Committee that in my view it is not something which need be tied up with the question of tax evasion and things like that. It is a question of whether or not you believe this issue ought to be exempted, as we have agreed in relation to farmers.

The Hon. J.F. STEFANI: I rise to make some comments about voluntary efforts. Over a period of time I have been involved in many community voluntary efforts, particularly in the Italian and Greek communities. Those communities have built quite large premises, clubs and association premises, all on voluntary labour. They are people that contribute as a group; they buy the material directly from the suppliers and often that material is donated. I do not see that it is fair that such a community effort be penalised. The community effort I am talking about applies to many other groups in the community, whether they be a tennis club or a social club; people are voluntarily offering their services. There are no payments; substantially it is a volunteer situation. Some premises built are worth many thousands of dollars, in fact millions, and I would suggest that to impose a levy on such community minded and spirited efforts would be an injustice. The fact that the tradespersons are working in the industry and are prepared to give of their labour at no charge on a weekend or after hours should not be a penalty for those people to offer that service. This leads into what my colleague the Hon. Rob Lucas was referring to in terms of efforts made in a residential situation, and I think we ought to in some way consider that position.

The Hon. ANNE LEVY: I think the honourable member is using a false logic. While no-one obviously wishes to prevent or in anyway discourage voluntary effort—and I acknowledge the enormous contribution which is made by voluntary effort—I think the honourable member is getting things out of proportion. First, at a practical level, the sum will be extremely small. I earlier gave the example of a church which was being constructed by voluntary effort, the value of the church being $100 000, and despite voluntary efforts, of course, materials have to be paid for. With such a structure the total training levy would be $250. When compared to the cost of materials required that is quite negligible. Let us not get carried away in terms of the sums we are talking about.

However, even at the theoretical level, quite apart from the practicality of the tiny sums involved, there is the question that volunteer labour, if it is to undertake adequate building and construction work, must be trained. To have any structure built by voluntary labour which is not skilled is, first, against the law and, secondly, unsafe. If we want to have safe structures certain skills must be used in the construction of those buildings.

Electrical work must be done by trained electricians. Whether they are volunteers or being paid is irrelevant. A great deal of skill is required and it is a recognition of the fact that they have these skills and that these skills are being applied to a particular construction that means the levy should be paid in terms of skills development. The same applies to other skilled labour. Where there is a skills component, the training levy should be paid, because skills are being used and those skills require training. So, it is not a question of whether or not the labour is volunteer; it is a question of whether or not the labour is skilled. If skills are being used the levy should be paid because that contributes to the training and development of skills.

That is the theoretical approach that has been accepted throughout the industry: that it is important that skills are developed and that there is further training. Everyone in the industry accepts this. The appropriate place to get the funds for training and development is where skills are being used. So, it is the skills component which gives rise to the levy. As I said, that has been accepted throughout the industry and in all quarters. However, at the practical level, it will be an insignificant amount compared with the cost of materials, even where all labour is voluntary.

The Hon. R.I. LUCAS: I just want to clarify a matter. It is my fault because I raised this issue in the second reading debate and also during the Committee stage. The amendment that I have had drafted specifically relates to this question in relation to residential land and primary place of residence. The examples that I have been giving obviously relate to that and are covered. I think I gave the instance last evening of the Brethren and other small fundamentalist Christian groups that might get together on a weekend to build a church or community hall and would not be covered by this particular amendment. If we want to extend this discussion in relation to community halls and churches we will have to look at another amendment. I am sure the Minister does not want to extend it any further. This particular amendment deals only with residential lands and the principal place of residence. I wanted that placed on the record because I did not want to mislead the Hon. Mr Gilfillan and other members.

The Hon. I. GILFILLAN: I appreciate the considerate and honest approach taken by the Leader of the Opposition in explaining the scope of his current amendment, which in my own hesitant way I had formulated as being somewhere near the mark. I oppose the amendment and I certainly oppose any further extension into other areas. I believe that basically the benefit of application of the training levy and the training of the work force of the construction industry will flow through to the vast majority of residential lands and to voluntary projects undertaken in metropolitan areas.

Amendment negatived; clause as amended passed.

Clauses 4 to 6 passed.

Clause 7—'Procedures of the board.'

The Hon. R.I. LUCAS: I move:

Page 4, lines 21 and 22—Leave out subclause (1) and substitute new subclause as follows:

(1) Six members of the board, of whom—

(a) at least one is a person appointed by the Governor under section 5(1) *(b)*;

(b) at least one is a person appointed by the Governor under section 5(1) *(c)*;

and

(c) at least one is a person appointed by the Governor under section 5(1) *(d)*,

constitute a quorum of the board and no business may be transacted at a meeting of the board unless a quorum is present.

I believe this is a technical amendment, which I think tightens up what might have been the intention of the industry and others in relation to this provision. The intention is to ensure that there is at least one of the employer representatives in the quorum of the meetings of the boards. Clause 7(3) *(b)* provides:

The majority of the persons appointed by the Governor under section 5(1) *(c)* who are present at the meeting who vote on the question arising for the decision;

It is possible that none of the employer representatives are at the meeting and—

The Hon. T.G. Roberts: They will all be there.

The Hon. R.I. LUCAS: You keep telling me about that, but I am not as familiar with the union—

Members interjecting:

The Hon. R.I. LUCAS: I am not aware of union tendencies in attending these meetings.

The Hon. Anne Levy: They always turn up, but always late.

The Hon. R.I. LUCAS: They had better be very careful, then. This is a minor amendment, in effect to tighten up the quorum provisions to ensure that an employer representative is part of the quorum.

The Hon. ANNE LEVY: I oppose this amendment. It seems to me a rather strange way of going about something. The effect of what the honourable member is saying is that if one section of the industry—be it employer or employee—opposes something they can agree amongst themselves all to stay away from the meeting so the meeting will fail due to a lack of a quorum.

That is what the honourable member is proposing, but it is quite unnecessary to do this. If there is some particular hot topic on which employer and employee organisations have a difference of opinion—although as I understand it there are no differences of opinion regarding the Training Guarantee Fund, which is not to say they will not have differences of opinion some time in the future on some detailed work of the board—the fact is that no decision is a binding decision unless a majority of employers and a majority of employees support it.

If a particular group (be it employer or employee) wishes something to fail, it does not need to destroy the entire meeting by staying away and preventing a quorum being formed so that no business can be conducted at the meeting; it can be sure that, provided that group attends, it can in effect apply a veto, because no decision by the board will be valid unless there is a majority of employer representatives and a majority of employee representatives who support the decision.

This voting procedure and quorum structure have been proposed and are supported by the entire industry, by the employers and the employee organisations concerned in the industry. It is a much more constructive approach, with due respect, than that proposed by the Hon. Mr Lucas in that it recognises that no one sector should be able to impose its will upon the other sector, by recognising that any decision made by the board must have majority support amongst both employers and employees, but to boycott a meeting—

The Hon. R.I. Lucas: If they are not there you cannot have a majority.

The Hon. ANNE LEVY: It does not have to be a majority of the meeting, only a majority of those who attend.

The Hon. R.I. Lucas: Exactly, but if employer representatives are not there—if you have an example like John Coulter holding his meeting in Sydney airport in relation to the parliamentary committee, when you just pull people together—there is nothing here that outlines a timetable for when you have to give notice for meetings or things like that. If the other six members pull together a meeting of the committee, as Coulter did—and I am not talking about hypothetical examples—and the employer representatives are not there, there is no majority of employer representatives.

The Hon. ANNE LEVY: The meeting procedures and calling of meetings, etc. are not matters for legislation but matters to be decided by the board. I fail to have the same apprehensions about the board's being responsible in determining meeting procedures and notification procedures, as do all other responsible boards. I have no apprehensions that this board will be any different from any of the other many responsible boards that are established by legislation. This seems to be the ultimate in paranoia, for some reason, and I fail to see that using a Federal parliamentary committee is a good analogy. Without wishing in any way to impute unflattering remarks to some of our Federal colleagues, I think that industry committees cannot have the same accusations of strange procedures levelled at them—

The Hon. R.I. Lucas interjecting:

The Hon. ANNE LEVY: That is not a statutory body. I am talking about statutory bodies. Just what is the honourable member trying to extend this to, Mr Chair? Next he will be talking about the group of kids meeting behind the toilets at school and what rules should apply to them. I think he is stretching it a bit far. Coming back to what I was trying to say, the industry has agreed that the voting procedure it has set up will ensure that it will never be possible for one section of the industry to impose a decision on another. There will have to be support across all sections of the industry before a valid decision can be made.

This is to be achieved by the voting structure of the board. The Hon. Mr Lucas seems to imply that, if one section of the industry fears that another section is about to try to impose its will on it, the way to prevent this is to prevent a quorum being formed and so not attend the meeting so that the entire meeting aborts. It seems to me that this is not a very responsible approach. It would mean that no decisions could be made, because the meeting aborts. If there is one issue about which people are concerned, surely it is preferable for the meeting to occur and all items of the agenda can then be dealt with. If one of these items happens to be this particular

controversial one, the voting structure set in place will ensure that all sections of the industry must—

The Hon. R.I. Lucas: But most employers are not there.

The Hon. ANNE LEVY: But if they are not there, according to the honourable member that means that the total meeting aborts, no decisions can be made—even the most routine non-controversial, non-contentious decisions cannot be made—and it is a most destructive way of trying to ensure that a balance occurs such that neither section of the industry can impose its view on another section. If meetings are to be held, if something is coming up about which people feel concerned, one item amongst many on the agenda, they will certainly be there.

I am sure the Hon. Mr Lucas, with his no doubt long experience of contentious meetings (as, indeed, I have long experience of contentious meetings on a whole range of issues), and I know from our own experience that if there is something contentious coming up you can be sure that people will be there. One does not need to worry about that.

The Hon. I. GILFILLAN: I am not persuaded that there is any justification for this amendment. There is a substantial representation of employers nominated on this board and if those people, whatever groups, are not prepared to make the effort to have one of them at a meeting, too bad. What I am slightly more concerned about and ask for explanation of is that clause 7(5) provides:

> The member presiding at a meeting of the board does not have a deliberative or a casting vote.

That seems a pretty savage exclusion of involvement, first. Secondly, what effect does that have on the six members constituting a quorum? Is a member who is at the meeting but is unable to vote either deliberatively or casting still counted in the six for the quorum?

The Hon. R.I. LUCAS: I bow to the majority of you as the Council, not that I withdraw from my position. Let me state that I am suggesting not a radical model but one that is based on the Government's own model for the Joint Parliamentary Service Committee.

The Hon. Anne Levy: Have you ever been on that committee?

The Hon. R.I. LUCAS: No. It is a model that the Government nominated to ensure that both Houses of Parliament and all sides can be assured of being there when these decisions are being taken. It can create some problems, but the Government, not the Liberal Party, introduced the legislation, because you do have these differing views and perspectives.

It is important to ensure that you have at a meeting a quorum which represents all the varying interests. I understand the Government is saying that the industry representatives support it. If that is the case that is fine. I happen to take a different viewpoint, but it is on the record that the industry representatives support it. All I am flagging is that under the current construction a quorum can be formed without an industry representative being present. No meeting procedures are laid down in the Act. I accept that that is the case, but that is not the normal course. A meeting can take place and, under clause 7(3), you can have a validly constituted majority decision without an employer representative having been at the meeting or voting for it.

If the employer representatives want that, that is fine. I acknowledge the majority view in the Council that the Government and the Democrats do not agree with my amendment. I do not see the legislation standing or falling on that amendment. It is a view I still have but, if the industry are happy with it and the Government and Democrats vote against it, so be it.

The Hon. ANNE LEVY: I do not wish to take up too much time, but the Hon. Mr Gilfillan raised another question regarding the procedures of the board. It is perhaps unusual to specify that the Chair of a board will have neither a deliberative nor a casting vote. That has been done by agreement throughout all sections of the industry to ensure that there is a proper balance, seeing that whoever is picked as Chair might be presumed to have a leaning towards either employer or employee interests. To prevent such a perceived or suspected leaning in one direction from giving undue control to one side or the other in proceedings of a meeting, it has been decided that the Chair will have neither a deliberative nor a casting vote.

However, I presume that that person would count as part of the quorum for a meeting. This is analogous to the situation of mayors in councils about which we have had discussion in this Chamber previously, where a mayor has no deliberative vote but should or should not be counted as part of the majority of members present. If we say 'a majority of those present', the mayor, who has no deliberative vote, is still part of determining the majority. I do not wish to go into all the details of that argument again, but I am sure the honourable member will recall the discussions which have occurred on this, and this is analogous to it.

Amendment negatived; clause passed.

Clauses 8 to 20 passed.

Clause 21—'Rate of levy.'

The Hon. R.I. LUCAS: I have considered trying to amend this clause. I want to know why the clause makes allowance for this percentage to increase to .5 per cent. We have a levy of .25 per cent for the Construction Industry Training Fund. I think in Western Australia, from recollection, it is in the order of .2 per cent. We have here obviously a contemplation that perhaps at some stage in the future the levy might have to be doubled to .5 per cent. One of the concerns that one has with these sorts of levies is that they continue to rise. It is the continuing theme of the current Prime Minister at the moment that the GST will come in at one level and the Government will increase it.

What we have here is the Government introducing the levy at .25 per cent but making allowance for it to be doubled to .5 per cent. So, I seek some indication from the Minister as to what the Government's intention is in relation to this, and why it believes that this matter ought to be catered for in this way. I concede that the regulations could be disallowed by one House of Parliament, but why does the Government believe that we should be at least contemplating doubling the levy when we are only just about to introduce it at .25 per cent?

The Hon. ANNE LEVY: As I understand it, it is phrased in this way to keep everyone happy. Everyone is

agreed that .25per cent is the appropriate levy to start off with, but flexibility is desired. If the whole of the industry feels that the levy should change due to particular circumstances at some time, it should be possible for such change to occur. The fact that any change will be done by regulation means that the Parliament does have an opportunity to express its opinion, so that it will not just be determined by industry agreement. There will have to be the agreement of Parliament. However, the cap is being put there to obviate any concerns that the levy could, by agreement of the industry, rise to inordinate heights.

The Hon. R.I. Lucas: It is a 100 per cent increase.

The Hon. ANNE LEVY: It is still only .5 per cent of the total. While it may be double, double of a small number is still a small number. It is to reassure people that, without further legislative process, which as we all know is not easy to organise and can take months, that cap cannot be changed. So, the wording is by agreement to indicate where we start from and to permit flexibility, which will need to be overseen by Parliament. The cap has been provided to reassure people that the levy cannot be changed without an extensive legislative procedure.

The Hon. I. GILFILLAN: I indicate to the Hon. Mr Lucas that the only form of amendment which I would consider worthwhile considering would be subclause (2), where the recommendation of the board should only be on a numerical majority. That would allay fears that the honourable member might have that one section or the other was controlling a movement in the actual levy rate. I am not unduly concerned about it, but any motion of the board which is to consider a change in the levy rate would need to be considered for more than one meeting. It is quite likely that it would have been a generally agreed rise. In that respect, any fear of an impetuous and unwarranted rise would be put to rest, but I invite the Hon. Mr Lucas to consider that as something that I would be prepared to look at.

The Hon. R.I. LUCAS: I thank the Hon. Mr Gilfillan for that invitation. Given that we have arrived at the luncheon break, I suggest that we could report progress and I will have discussions with Parliamentary Counsel to that end. In the earlier discussion that we had about numbers, this was one of the matters that I had in mind. I accepted the majority wish of the Parliament in relation to that matter, but if the Hon. Mr Gilfillan is prepared to look at something here to ensure that employers and employees must be agreed in relation to this recommendation from the board I think we can at least explore that. I will have some discussions and, when next we visit this Bill this afternoon, I might have an amendment to offer the Committee.

Progress reported; Committee to sit again.

[Sitting suspended from 1.2 to 2.15 p.m.]

CITIZEN-INITIATED REFERENDA

A petition signed by 205 residents of South Australia concerning citizen-initiated referenda, and praying that this Council will call upon the Government to hold a referendum in conjunction with the next South Australian State election of members of the Legislative Council, if the legislation is not earlier enacted by the Parliament, to enable the electors of South Australia to approve or disapprove the proposed CIR legislation at referendum was presented by the Hon. J.C. Irwin.

GENDER DISCRIMINATION

A petition signed by 114 residents of South Australia concerning Justice Bollen's summing up to the jury in a recent rape in marriage trial, and praying that this Council will call upon the Government to:

1. look into ways and means of officially condemning the statement and officially warning the justice of his unacceptable attitude of gender discrimination;
2. request the Government to encourage and promote education for the judiciary into attitudes which discourage any forms of domestic violence; and
3. request the Government to take a lead in gender sensitivity training for law enforcement personnel and judges;

was presented by the Hon. Bernice Pfitzner.

QUESTION TIME

PUBLIC SECTOR STANDARDS

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General, as the Minister responsible for public sector reform, a question on the subject of departmental standards.

Leave granted.

The Hon. K.T. GRIFFIN: I have a report of a review of the Office of Fair Trading, in the Department of Public and Consumer Affairs, undertaken by Mr Bill Tilstone and Ms Rosemary Ince dated December 1992. The review is highly critical of the Department of Public and Consumer Affairs. In relation to management-staff relationships, the report following the review concludes:

> These are among the worst we have ever seen anywhere. We could fill the report with examples, but prefer to list the main elements. We believe these to be:
>
> an emphasis on centralised control;
>
> the persistence of autocratic styles; and
>
> poor people practices.

The report says that staff do not have performance agreements and that staff are cynical about the Office of Fair Trading training programs. The report notes:

> ...the image in the Office of Fair Trading is quite clearly one of first and second class citizens, with managers treated to luxurious venues such as Whalers Inn and the Ramada Grand, while front-line staff have to make do with seminars in departmental accommodation.

The report further states:

> The training program is seen as not meeting the needs of the front-line operators. It is also seen as resource-biased to managers.

The report concludes that the 'system has too many layers and too many managers. It is top heavy.' There are a number of other observations in the report which I will quote as follows:

The values of society have changed more in the last 15 years than those of the Office of Fair Trading. People coming into the Office of Fair Trading find it a strange and frustrating place. Old fashioned practices abound. Simple reports require up to three levels of checking. Financial control lies in central administration.

Again:

The strategic plan has 'fair trading in the marketplace' as its mission.

This mission is not generally accepted by the Office of Fair Trading workforce. Again:

The culture in the Office of Fair Trading is a 'cure' culture. Performance indicators measure number of TINS, or warnings or prosecutions. They count the mistakes. There are no measures of how well things are going.

And again:

The Government has set a mission for the State's public sector. It is to help revitalise the economy by creating an environment which helps business and industry growth. This is a direct challenge to the prevailing culture in the Office of Fair Trading. It shouldn't be.

Again, the report, in relation to autocratic styles, makes the following observations:

The concern about autocratic styles is that, although autocratic management can work, we are approaching a stage where it will not work because of the change of values in society. In other words, autocratic styles tend to be old-fashioned and directive, whereas nowadays people wish to be heard and be allowed to participate. We are not sure whether the persistence of autocratic styles reflects the nature of the Office of Fair Trading. It seeks to regulate, to detect infringements and to punish these, but, if it does, we must be pessimistic for the future.

My questions are as follows:

1. Does the Attorney-General and Minister of Public Sector Reform agree that this litany of criticism of the Office of Fair Trading and the Department of Public and Consumer Affairs is a damning indictment of 10 years of Labor Government responsibility for what is meant to be an area providing a public service?

2. Does he agree that urgent action needs to be taken to remedy the problems identified and, if he does, what action will the Government take to deal with these problems?

3. Does the Attorney-General also agree that the reflections in the report on the department are contrary to good public sector management attitudes?

The Hon. C.J. SUMNER: I have not seen the report. No doubt the honourable member has quoted selectively from it.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: You can if you like, if you want to take up Question Time, which probably would not make you very popular with your colleagues; but that may not worry you very much. There is no doubt that the honourable member has selectively quoted from the report. The impression I gained certainly, when I was the Minister for this department some few years ago, is that the department had a very good reputation generally, but, like any Government department, there is always room for improvement. Obviously in this case there are some criticisms, as the honourable member has read out—

The Hon. Anne Levy: They are being attended to.

The Hon. C.J. SUMNER: —which, as the Minister interjects, are being attended to, as one would expect. In order to assess the report I would need to examine it in full, although it is not my direct ministerial responsibility. Perhaps the Minister might care to comment on the report in more detail.

The Hon. Anne Levy interjecting:

The Hon. C.J. SUMNER: She would be delighted to do so, she says. The honourable member can get a full answer from the Minister.

Members interjecting:

The PRESIDENT: Order! The honourable Attorney.

The Hon. C.J. SUMNER: That is all right. I do not mind commenting, in so far as I can, but I have not read the report. I suspect that the honourable member has selectively quoted from it. Generally, it is true that modern administrative practice tends to look for a flattening out of administrative structures and removing levels. No doubt that criticism is directed towards getting that changed structure—removing those levels. I think it is also true and recognised that styles of management have changed and there are more participatory styles of management in today's Public Service than in the past. It is probably worth mentioning that when a participatory style of management was being suggested in the 1960s in the form of participatory democracy, industrial democracy—

The Hon. K.T. Griffin: The 1970s.

The Hon. C.J. SUMNER: In the 1970s. Honourable members opposite—

The Hon. L.H. Davis: He has been a decade out for some time.

The Hon. Barbara Wiese interjecting:

The Hon. C.J. SUMNER: That is true. I am sure the ideas were around. Honourable members opposite criticised that approach to management. However, it has now become the norm. What was being suggested in the 1970s, and being condemned by the Liberal Party at that time, about the involvement of employees in the management of Government departments is now accepted as appropriate. Although in the 1970s it was not accepted by honourable members opposite, it is now accepted management style and there is an approach which is less autocratic in management today than existed in the past. With those general comments, as I said not having read the report, I do not agree with the first proposition put forward by the honourable member in his questions. I understand that the Minister is taking action on the matter, and, if she wishes, no doubt she could expand further on this.

PUBLIC SECTOR FRAUD

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister of Consumer Affairs a question about residential tenancies.

Leave granted.

The Hon. R.I. LUCAS: The report of the review into the Office of Fair Trading makes some remarks about the Residential Tenancies section which cause concern. It refers to a misappropriation of funds which has been the subject of an investigation by the Anti-corruption Branch. It refers to the pressure everywhere in the section and

says there is one clerical officer who has to deal with switchboard duties, general public queues for tribunal hearings or general information, cause lists and receipting of bond deposits made at the ground floor Information Centre.

The report says that the demands at peak times are excessive and phone calls drop out at a rate that sometimes approaches 20 per cent. The report states:

Public have to queue and watch the officer's attention being devoted entirely elsewhere, and the officer has to receive the expressions of frustration of those awaiting tribunal hearings.

The general support is overloaded and performance of clerical tasks is adversely affected.

The pressure in the bond section meant financial safeguards were at one stage adversely lowered. Checks were dropped to save time. Unfortunately, the opportunity for fraud that resulted was accepted. Systems are generally outdated and cumbersome.

It also says that the misappropriation of funds in Residential Tenancies was able to develop undetected. The report has a lot more to say about a section where the procedures are manual and are relatively unchanged from when the Act was enacted in 1978. It also raises ethical questions about the use of the Residential Tenancies Fund to cross-subsidise other activities in the department. My questions to the Minister are:

1. What steps will the Government be taking to remedy these major problems?

2. What was the result of the Anti-corruption Branch investigation and what procedures are now in place to ensure fraud will not occur again?

The Hon. ANNE LEVY: It is nice that at least one shadow Minister knows who the Ministers are. As Minister of Consumer Affairs I would have expected both of those questions to be directed to me.

The Hon. Peter Dunn interjecting:

The Hon. ANNE LEVY: No, it is the Hon. Mr Griffin who does not know one Minister from another. He does not know what portfolios are held by members in this Chamber.

Members interjecting:

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

The Hon. ANNE LEVY: The report by Dr Tilstone was commissioned by the previous Director of the department and, when completed, was presented to the new Director of the department and Commissioner for Consumer Affairs. The report was commissioned because there was an awareness that change was necessary. The review was undertaken so that the best possible advice could be obtained from someone outside the department as to how change could be effected and what changes were necessary. It had been realised prior to this that change was necessary, but it was felt that the best advice should be obtained on this matter.

The new Commissioner for Consumer Affairs has been vigorously pursuing the matter. The previous Director of the Office of Fair Trading no longer holds that position. An implementation committee has been established within the department involving people at all levels so that the full participation of all sections of the department will be involved in implementing the necessary and desirable changes. This work is proceeding as a matter of urgency and the reforms recommended in Dr Tilstone's report are in the process of being implemented. I gather that, with regard to the possibilities of fraud, immediate steps were taken to ensure that procedures were tightened and to eliminate the possibility of any fraud occurring—

The Hon. C.J. Sumner: Was there any fraud?

The Hon. ANNE LEVY: There is an investigation—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: As mentioned by the Hon. Mr Lucas, an investigation is occurring. As far as I am aware the results of that investigation are not yet to hand—I stress, as far as I am aware. Dr Tilstone's concern as I understand it was not that fraud was occurring but that the procedures were such that fraud could occur and immediate steps have been taken to ensure that measures are instituted such that fraud is quite unlikely to occur. In fact, as recently as last week there were discussions between the department and the Auditor-General's staff, and the Auditor-General's staff agreed that the measures which have been put in place and which are now operating are completely satisfactory and that any possibility of fraud occurring no longer exists.

The other reforms recommended in Dr Tilstone's report are in the process of being implemented, with the complete cooperation and participation of staff at all levels within the division. I think it is highly desirable, and the department is to be commended for having undertaken the review, for immediately seizing upon the results of the review and for implementing the reforms recommended in it at the earliest possible opportunity. I for one would certainly commend the new Commissioner for Public and Consumer Affairs for the speedy efforts she has made to see that this report is put into effect as quickly as possible.

GULF LINK

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister of Transport Development a question about the construction of a ferry in China.

Leave granted.

The Hon. DIANA LAIDLAW: A proposal by Gulf Link Pty Ltd to provide a ferry service between Wallaroo and Franklin Harbor on Eyre Peninsula has the potential to generate 500 construction jobs, 74 permanent jobs and an estimated $600 000 per annum in State revenue. However, I have been advised that South Australia is to miss out on one very important element of this project and that is the construction of the ferry. Apparently the ferry, which is estimated to cost $20 million is to be built in China. In South Australia we have considerable shipbuilding expertise but it is under-utilised at present. Of course it is critical that every effort be made in this State to maximise development and job opportunities. In fact, earlier today, following a few inquiries I made, I learnt that Eglo Engineering is so short of work that rumours amongst the work force suggest that it may close down by the end of this month. So this issue of where this ferry is to be built, whether it is to be South Australia or China, becomes a quite critical issue in terms of the potential future for Eglo Engineering.

Therefore I ask the Minister: has she been advised of the proposal by Gulf Link to build its ferry in China? If so, what influence has she attempted to exert on the company to have the ferry built in South Australia? If not, will she investigate this matter and bring to the attention of Gulf Link Pty Ltd the expertise that is available in South Australia to construct the vessel in this State?

The Hon. BARBARA WIESE: I have not been advised by Gulf Link of any plans it has to build a ferry, anywhere. It is a matter of business judgment for Gulf Link Pty Ltd as to the most appropriate place to commission such a ferry, should it be in a position to go ahead with its proposed project for the Wallaroo to Cowell link. The most recent information that I have received on this matter is that the relevant Government departments that have had some role to play in providing approvals and other things have fulfilled their responsibilities and that now it is a matter of Gulf Link raising the finance for its project. On the most recent information I have received, it has not yet raised the finance for the project. That may well have changed but I have certainly not been informed about it.

Of course it is of concern to the Government if this company or any company is seeking to have services delivered by organisations outside the State, if there are companies within the State that are able to provide those services. But I am quite certain that, although Gulf Link and other South Australian companies would prefer to have ferries, ships and other things built within South Australia, the bottom line will always be the cost of such things and they ultimately must make the business judgment as to where they can get the best price.

It is not really a matter for the Government to intervene on and I would be very surprised if Gulf Link Pty Ltd was not aware of the services of companies like Eglo Engineering and other South Australian shipbuilding companies. In fact, I am quite sure that it is aware of them and would have approached those companies in the course of its inquiries with respect to this project. So, I do not believe that it will be necessary for me to contact Gulf Link and draw to its attention the number of companies that exist, within this State. As I say, this is a business decision to be taken by the company itself and I would certainly hope that in its deliberations it will give proper consideration to seeking tenders from South Australian companies.

BENEFICIAL FINANCE

The Hon. J.F. STEFANI: I seek leave to make an explanation before asking the Attorney-General, representing the Treasurer, a question about Beneficial Finance, which is now part of the State Bank.

Leave granted.

The Hon. J.F. STEFANI: In 1984, Beneficial Finance Corporation became a wholly owned subsidiary of the State Bank of South Australia. In its 1988-89 annual report Beneficial Finance stated that the company was 'a diverse financial services group and consistently one of the best performing companies in financial services in Australia'. The report forecast that Beneficial Finance Corporation Limited would be a highly profitable major financial institution with a solid foundation in the Australian financial services market, complemented by strategic investments in equities and real estate projects and in selected offshore operations.

It asserted that Beneficial Finance's performance would be distinguished by its commitment to profitability and efficiency through the development of a team of skilled, dedicated performers as well as its devotion to the provision of superior customer service. Unlike these superlative and glowing forecasts, Commissioner Jacobs' second report into the State Bank found that the ill-fated course taken by Beneficial Finance Corporation for the most part of the preceding few years prior to 1989-90 had a very significant impact on the declining fortunes of the State Bank group.

It is important to mention that Beneficial Finance and the State Bank had a number of directors who were common to their respective boards and so it would be reasonable to assume that they would have had a good knowledge of the two organisations. The Royal Commissioner found that, prior to and during the 1989-90 financial year, the bank had been party to some bandaid measures to assist Beneficial Finance Corporation by the creation of a new corporate entity as a subsidiary of the bank to which most of the ill-performing assets of Beneficial Finance Corporation were to be transferred, and by providing Beneficial Finance Corporation with further capital, including capital to set up the Singapore-based company, Southstate Insurance Pty Ltd.

Commissioner Jacobs also found that at this time almost all of the relevant matters which came to the board of the State Bank—which as I previously mentioned had a common directorate with the Beneficial Finance Board—included: the downgrading of Beneficial Finance by the Australian ratings; the planned corporate restructure and its modification designed to bring some off-balance sheet entities into the finance statement of the group; the concerns of the Reserve Bank; the departure of Mr Baker and the specious reasons given in the public announcements; the dismal profit projections; the escalating non-accrual loans; and the urgent review by Beneficial's external auditors and the bank's own internal auditing staff. The uncontrolled growth of Beneficial Finance saw assets grow from $747 million to $1 043 million during July 1985 to June 1986. This growth was matched only by the dozens of on-balance sheet and off-balance sheet companies incorporated by the Beneficial Finance Corporation.

A submission made by the State Bank to the royal commission asserts that neither the Beneficial board nor senior management of Beneficial placed prudent portfolio exposure limits on the following: large real estate projects and loans; joint ventures; New Zealand operations; tax position and tax restructuring deals; luxury vehicle leasing arrangements; equity investments; and off-balance sheet entities. Beneficial Finance engaged in the promotion of a tax evasion scheme through a vehicle known as 'Benpac'. In this regard I refer to the questions I raised in this Chamber on 12 February 1991, which still remain unanswered.

I have received further information identifying improper and corrupt practices which were adopted by some senior executives of this wholly owned State Bank

subsidiary. I have been informed that a number of executives—

The Hon. C.J. SUMNER: On a point of order, Mr President, a royal commission has been established which deals with these matters and I understood that you had ruled previously that allegations of this kind of corruption and the like are firmly within the inquiry being conducted by the Royal Commissioner, that therefore they are *sub judice* and the honourable member should refer them to the royal commission.

The PRESIDENT: I would take the point that the question is arising from the Commissioner's report that has been tabled in this Parliament?

The Hon. J.F. STEFANI: They are not, Mr President.

The Hon. C.J. SUMNER: That is the point I am making. A royal commission has been established and these questions relate to Beneficial Finance.

Members interjecting:

The PRESIDENT: It is a bit hard to judge.

Members interjecting:

The PRESIDENT: I am prepared to let the honourable member continue.

The Hon. J.F. STEFANI: I have been informed that a number of executives received cash payments using a system known as 'shadow' payments. This illegal practice was described to me as a system whereby cheques would be drawn in favour of non-existent individuals or under various headings such as 'cash expenses', 'travelling expenses' and 'entertainment expenses' and various other items of expenditure which were brought to account in bulk under various headings in the profit and loss statements of Beneficial Finance.

I have been advised that the external auditors of Beneficial Finance identified this illegal and improper practice and submitted a report to management. I understand that substantial amounts of money were involved over a period of time when thousands of dollars were paid to a number of executives through this system. I am also informed that the Australian Federal Police, who have seized numerous documents in connection with tax evasion charges, are aware of these allegations. Beneficial Finance, which is now part of State Bank, has strenuously impeded the investigations of the Federal authorities, hiring legal counsel at the cost of thousand dollars to taxpayers. My questions are:

1. Will the Treasurer confirm or deny that such payments have occurred and have been received by a selected number of executives within the Beneficial/State Bank group?

2. Will the Treasurer confirm or deny that the Australian Federal Police are involved in an investigation into this wholly owned subsidiary of the State Bank?

3. Will the Treasurer give an undertaking to Parliament to have such practices investigated immediately and identify the number of companies which were involved in the illegal shadow payment practices and advise the amounts of such payments?

4. Will the Treasurer advise what State and Federal authorities are currently investigating the affairs of Beneficial Finance and ensure that such authorities have full and appropriate access to documents which they require to complete their investigations?

The Hon. C.J. SUMNER: I hope that the honourable member's information on this topic is better than it has been on the other questions he has raised in relation to these matters in recent times. The furphy that he raised relating to the State Bank employee who was supposed to have taken petrol illegally has been determined to be just that: a complete furphy. The questions the honourable member asked, which seem to be asked by him and him alone, because I suspect a lot of the other members will not touch them, because they generally come from journalists who seem to be preparing the questions—

Members interjecting:

The Hon. C.J. SUMNER: I know that one of questions you asked was prepared by Mr Hellaby of the *Advertiser*.

An honourable member: You are wrong!

The Hon. C.J. SUMNER: I am not wrong and I know I am not wrong.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I know that one of questions was dictated to you by Mr Hellaby of the *Advertiser*. So what! I am just making a point. You are acting as a spokesperson for the media to raise these matters. You are entitled to. I just hope your information is correct, because I do know that in relation to the question you asked about the so-called State Bank employee—and I have an answer for you today, if you want it, about the car—was just a furphy.

The Hon. J.F. Stefani: The car was owned by the State Bank.

The Hon. C.J. SUMNER: It was not owned by the State Bank. You were sold a pup.

The Hon. J.F. Stefani: Is that wrong?

The Hon. C.J. SUMNER: Yes, you were sold a pup on that particular matter. I just hope your information is a little bit better on this topic than it was on that.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The answer is here; you can ask me for it and I will give it to you. On the information I have, the assertions and allegations you made in the Council were wrong.

The Hon. J.F. Stefani: We will have a look at it.

The Hon. C.J. SUMNER: Good. I hope your information on this topic is better than it was on that one. The thing that astonishes me about this particular question is this: the honourable member has come into the Council and made allegations about corruption and illegal activity within Beneficial Finance. He seems to have forgotten that over two years ago an inquiry was established by this Government in two forms: first, a royal commission and, secondly, an Auditor-General's inquiry into issues dealing with the State Bank and Beneficial Finance, specific terms of reference of which were to cover the issues of illegal activities, corruption and conflict of interest. They are specifically stated in the terms of reference. So, what should have happened is that the honourable member should have made his information available to the royal commission or to the Auditor-General—or his informant should have made it available to the inquiries. The very things that the Hon. Mr Stefani has raised in this Chamber this afternoon are

covered by the terms of reference of the inquiries established by the Government.

The Hon. J.F. Stefani: They are not.

The Hon. C.J. SUMNER: They clearly are. You had better reread them. They clearly cover illegal, corrupt activity, conflicts of interest and the like. Just read the terms of reference and you will see that activity of that kind is covered by them. In fact, the fourth term of reference of the royal commission, which has to await the Auditor-General's inquiry, specifically says that the Royal Commissioner has to determine whether there is a case for further investigation of criminal activity or whether action should be taken in the civil courts against people involved in these activities. It is specifically referred to: whether matters relating to criminal activity should be referred to appropriate investigative authorities.

You have made these allegations. You have alleged corruption, illegal activity, etc. Two years ago inquiries were established to look at these things. It is not good enough for the honourable member to go to the inquiries: he wants to come in here and grandstand and make the allegations in the Parliament.

The Hon. J.F. Stefani: It is not grandstanding at all.

The Hon. C.J. SUMNER: You are, obviously. Why did you not go to the Auditor-General?

The Hon. J.F. Stefani: I have already gone to the Auditor-General.

The Hon. C.J. SUMNER: That is all right: you have gone to the Auditor-General and brought it in here just for good measure. The fact is that the inquiries were set up to enable these things to be investigated. The honourable member is obviously not satisfied with that—or, presumably, his informants are not satisfied, the journalists who are providing the information are not satisfied—so he comes in here and makes a fuss about it when he could easily have gone and had the matters properly inquired into by the royal commission or the Auditor-General.

FESTIVAL BOARD

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 the Adelaide Festival board.

Leave granted.

The Hon. L.H. DAVIS: On 11 February 1993 my colleague the Hon. Diana Laidlaw asked the Minister about her nomination of Mr Stephen Spence to the Board of Governors of the Adelaide Festival, without any consultation with the board. In 1994 the number of governors is to be reduced from 15 to eight, but the board has resolved that the Government could increase the number of its representatives from two to three. The board, which of course is an independent organisation and not a Government body, had written to the Minister about this matter. In her answer to the Hon. Ms Laidlaw the Minister said:

> The Chair of the Festival board wrote to me indicating that as from now until the new rules become operational the board would be happy to co-opt another Government nominee and I provided the name of another Government nominee.

The Minister also said:

> I consulted with officers, with Cabinet and with appropriate individuals before putting forward my nomination.

But at no stage did the Minister say that she had consulted with the Festival Board of Governors. Mr Stephen Spence, the Secretary of Actors Equity of South Australia and a well known Labor sympathiser, was the Minister's nomination. However, on Saturday 6 March the Basil Arty column in the *Advertiser* reported:

> The Adelaide Festival Board of Governors has been abuzz with excitement of a constitutional nature over the Government's sponsored move to have Equity supremo Stephen Spence included within its ranks. This caused deep murmurings among the real veterans of Festival Board combat. A close reading of the rules revealed that the Festival was in essence an independent organisation and did not necessarily have to do what Arts Ministers and bureaucrats told it to do. It took a former Chairman, the lovable Graham Prior, to point this out. Exit poor Steve without having entered.

Could I suggest that 'poor Steve' would have exited far left. Quite clearly with a smaller board the qualifications and qualities of individual board members became much more important, and the board, if the Basil Arty report is accurate, has taken strong exception to the Minister's jack booted approach. My questions to the Minister are as follows:

1. Will the Minister confirm the accuracy of the Basil Arty article which claims that the board has turned down the Minister's recommendation of Mr Stephen Spence?

2. Will the Minister explain why the Board of Governors has apparently rejected Mr Stephen Spence's nomination unanimously?

3. Will the Minister explain to the Council why there is apparent conflict between what she told the Council on 11 February and what was subsequently reported in the *Advertiser?*

4. Does the Minister now admit that she was in error in recommending Mr Stephen Spence as a governor on the Festival board without any consultation whatsoever?

5. Finally, will the Minister provide the Council with a copy of all correspondence on this important matter, recognising that if she is not prepared to disclose this correspondence the Opposition may choose to seek it through freedom of information?

The Hon. ANNE LEVY: Really, Mr President, this is recycling. The honourable shadow Minister asked me a question on this matter several weeks ago, to which I gave a response. I see no conflict whatsoever between what I said then and what has subsequently occurred. Most of the matters that the honourable member has just raised I have already replied to once. I am perfectly happy to do so again but obviously the Hon. Mr Davis read only that part of *Hansard* from the last time which was the question and did not read the answer. I wonder whether he, too, has consulted with the Chair of the Festival board before asking this question and whether he, too, has been asked not to ask the question. That request from the Chair of the Festival Board to the shadow Minister was clearly ignored. I wonder whether he is following the same procedure, or perhaps he has not even bothered to check with the Chair of the Festival Board before asking his question this time, in case the Chair of the Festival board would request him again not to ask a question in Parliament on the matter, so he

would not be able to be embarrassed by ignoring a request from the Chair of the Festival board as the shadow Minister did, and he could save himself that embarrassment by not even discussing the matter with the Chair of the Festival board beforehand. Perhaps he could enlighten us on this matter.

As I indicated last time I was asked this question, I received a letter from the Chair of the Festival Board saying that the board would be happy to co-opt another Government nominee. The letter said nothing at all about consultation. I then offered to show the letter to anyone who would care to see it. No-one has asked me for it but, if the honourable member wishes to request it, he need not go through FOI procedures. I have already clearly indicated in this Chamber that I am happy to provide copies of the correspondence. All they have to do is ask. What ridiculous nonsense they carry on with. As I indicated previously, I received this correspondence from the Chair of the Festival board asking me whether I would nominate another Government representative. I proceeded to do so following the request that was made, and sent off a nomination to the board. Since that time I have had a meeting with the Chair of the Festival board, who was quite adamant that he had requested the shadow Minister not to raise this question in Parliament. The honourable member chose to take no notice of his request.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order! Everyone has the opportunity to question the Minister.

The Hon. Diana Laidlaw: You're outrageous.

The Hon. ANNE LEVY: It is amazing. I am accused of being outrageous because I point out that the honourable shadow Minister went contrary to the express wishes of the Chair of the Festival board. I see nothing outrageous whatsoever in pointing out this fact to the Council.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: She may not like it, but it is not outrageous on my part to do so.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: I have since then met with the Chair of the Festival Board. I have received a letter from the Chair of the Festival board and I am currently drafting a response to that letter.

The Hon. L.H. Davis: What did the letter say? Tell us.

The Hon. ANNE LEVY: I am not able to make it available because it is not yet written.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: It is hard to provide copies of letters which are not yet written, but when it is written I am quite happy to make it available, as with all other correspondence. It is ridiculous for honourable members to threaten that they will have to seek remedy through the FOI when I have offered in the Council to make documents available. I repeat my offer to make them available should they care to request them. The attitude that members opposite are taking is utterly ridiculous.

The Hon. Diana Laidlaw: That is what the Board of Governors thinks of you.

The Hon. ANNE LEVY: I am so glad the honourable member knows what the Board of Governors thinks. I have not met with the Board of Governors. I have met with the Chair of the Festival board, and I am sure I will have further meetings with the Chair of the Festival board on this and many other matters. I will be very happy to meet with the entire board of the Festival should they request it.

The Hon. L.H. Davis: You haven't answered any of my questions yet.

The PRESIDENT: Order!

The Hon. ANNE LEVY: Until now, I have been content, as is usual in these matters, to deal with the Chair of the board. That is the normal procedure. However, if the Festival board would wish it differently I am quite happy to adopt different procedures, but I will wait for request from them for different procedures and not—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —follow procedures suggested by interjections across the Chamber.

Members interjecting:

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

The Hon. L.H. DAVIS: I have a supplementary question. As the Minister has spluttered on for seven minutes without providing any answers to any of my questions, I again ask her whether she will explain why the Board of Governors has rejected Mr Stephen Spence's nomination to the board.

The Hon. ANNE LEVY: As I have said, I have not met with the board. I have received a letter from the Chair of the board following which I will be having discussions with the Chair of the board.

The Hon. L.H. Davis: So they have rejected him, haven't they?

The PRESIDENT: Order!

The Hon. ANNE LEVY: The letter from the Chair of the board does not go into great detail as to what the board thinks or why it thinks or does not think in a certain way.

Members interjecting:

The PRESIDENT: Order! The Council will come to order. The Hon. Mr Davis will come to order.

The Hon. L.H. Davis: Well, make her answer the question.

The PRESIDENT: The Minister has the right to answer the question in any way she sees fit. The honourable Minister.

The Hon. ANNE LEVY: I would merely suggest that the honourable member in this matter, as in many, many other matters, should not believe everything that Basil Arty says.

STATE BANK

The Hon. C.J. SUMNER: I seek leave to give an answer to the question asked by the Hon. Mr Stefani relating to the State Bank on 10 February.

Leave granted.

The Hon. C.J. SUMNER: As requested, this matter was referred to both the Treasurer and the Minister of Emergency Services.

The following report regarding this matter was received by the Minister of Emergency Services from the Acting Commissioner of Police:

On Saturday 6 April 1991 at about 8.35pm the attendant at the BP service station, Goodwood Road, Westbourne Park, allegedly saw a dark blue Falcon sedan enter the driveway. There were two persons in the vehicle. The passenger put $31.05 worth of unleaded petrol in the tank, re-entered the vehicle and was then driven away without having paid for the fuel.

The incident was reported to an Unley police patrol shortly thereafter. However, as only the first three letters 'UZW' were noted from the number plate of the vehicle, police were unable to conduct immediate follow-up inquiries.

The report was routinely passed on to the Norwood CIB where a Crime Enquiry Unit member conducted further inquiries. A computer print-out was obtained of blue Ford Falcon sedans with the registration number beginning with UZW. Among the vehicles recorded was a vehicle UZW 185 owned by State Bank.

Inquiries were made through State Bank and subsequently the person responsible for the vehicle at the time. The vehicle was satisfactorily accounted for as being at another location at that time under the control of the person responsible who was with several persons able to verify his account.

As there was insufficient information available to justify further investigation, the officer recontacted the service station and advised what action had been taken and that the report would be filed pending further information.

The following report was provided to the Treasurer by the Under Treasurer:

On 6 April 1991 it is alleged that the driver of a blue Ford sedan registration number UZW 185 drove into the BP service station at Westbourne Park, filled the car with petrol to the value of approximately $50 and then drove off without paying.

It has been alleged that the vehicle involved was owned by the State Bank.

For the following reasons, it is considered highly unlikely that the vehicle used in the theft is the same vehicle as that allocated to a State Bank officer:

- The State Bank officer to whom the car was allocated says he was at a restaurant with three other people when the alleged incident took place. I understand that the officer's presence at the restaurant has been confirmed by police.
- The officer to whom the vehicle was allocated walked to the restaurant with his partner leaving the vehicle securely garaged at his residence. To the officer's knowledge the vehicle was not used that evening.
- The police have advised that the offending vehicle was accident damaged near the petrol inlet. The vehicle of the officer concerned was not damaged in any way.
- The police say that the service station witness had only the first three letters of the car's number plate [I stress 'the first three letters'] therefore making it impossible to confirm conclusively that the vehicle in question was owned by the State Bank.
- The State Bank vehicle in question had been filled with petrol two days prior to the alleged incident and had had minimal usage since. The car would therefore have been unable to hold a further $50 worth of petrol.
- The officer involved used a privately owned vehicle on the day of the alleged incident which can be confirmed by another State Bank officer.
- As part of his salary package the officer to whom the vehicle is allocated also possesses a card to credit petrol at any Mobil service station and would therefore have no need to use a BP service station, or to avoid payment.
- Police are reported to have said that the description of the offender given to them by eyewitnesses does not match that of the officer in question.

This is an absolute condemnation of the question asked by the Hon. Mr Stefani on this topic. He has traduced the reputation of an officer of the State Bank and has traduced the reputation of the State Bank, and has done it on the basis that the report that was given on this topic only had the first three letters of the number plate—UZW.

The Hon. J.F. Stefani interjecting:

The Hon. C.J. SUMNER: It is all very well for you to come in and say that that is not what the owner said. That is the report from the police. The police had contacted the owner.

An honourable member interjecting:

The Hon. C.J. SUMNER: Okay. Had the owner given the correct number then no doubt the matter would have been further investigated, but what the Hon. Mr Stefani has done in this case—and he has now become an expert at it—is come into the Council and smeared the State Bank and the officer concerned on the basis of that information: the first three letters of a number plate, and that was enough, apparently, to identify in the Hon. Mr Stefani's eyes that that was a State Bank vehicle. Had he known that, and I suspect he did when he came into this Council, he could not have made the sorts of statements he did in this Council.

Let us face it: it was not just a question whether the matter would be investigated. Honourable members in this Council recall the question: it was an allegation that a State Bank officer had been responsible for the theft of petrol from a petrol station. That allegation was made by the Hon. Mr Stefani in his usual way, on the basis of three letters.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Three letters of the numberplate—the preface to the number plate. How many other UZW numbers are there in Adelaide? I would suggest hundreds of them, but the Hon. Mr Stefani had to pick out—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: —the fact that there was a UZW number registered in the name of the State Bank, and from then he drew the conclusion that it was a State Bank officer who was responsible for the theft of this petrol. The answer to this question, which is provided by no less than the Acting Commissioner of Police, apparently after a thorough police investigation, gives the complete lie to the Hon. Mr Stefani's allegations made in this Chamber, and obviously he came into this Chamber knowing that what he was going to say was untrue. It could not have been any other way on the basis of this information.

The PRESIDENT: Order!

The Hon. J.F. STEFANI: Mr President, I wish to seek leave to make a personal explanation.

The PRESIDENT: That is not a point of order. You can seek leave to make a personal explanation.

The Hon. J.F. STEFANI: The honourable the Attorney has insinuated—

The PRESIDENT: Are you seeking leave to make a personal explanation?

The Hon. J.F. STEFANI: Yes, Sir, if I can have your indulgence.

Leave granted.

The Hon. J.F. STEFANI: Mr President, I wish to put a few things on the record as the Attorney-General has insinuated that I have come into this place lying about the matter. The first thing that the Attorney ought to know is that I rang the proprietor of the service station concerned and he gave me the information with which I came into this place.

The Hon. C.J. Sumner: The first three letters.

The Hon. J.F. STEFANI: The whole lot, not the first three.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.F. STEFANI: Ask him if I didn't ring. Furthermore, I did not insinuate any allegations. I sought the reply which I am entitled to receive and refer to the proprietor of the service station. That is all I am interested in. As far as I am concerned, the whole lot of the other insinuations made by the Attorney, including my coming into this place and lying, are incorrect.

SOUTH-EAST GROUND WATER

The Hon. M.J. ELLIOTT: I seek leave to make an explanation before asking the Minister for the Arts and Cultural Heritage, representing the Minister of Public Infrastructure, a question—

Members interjecting:

The Hon. M.J. ELLIOTT: Oh, shut up!

The PRESIDENT: Order! The Hon. Mr Elliott.

The Hon. M.J. ELLIOTT: —about ground water contamination in the South-East.

Leave granted.

The Hon. M.J. ELLIOTT: The headline in the *Border Watch* of 25 February entitled 'Water Threat' begins with the quote:

> Groundwater reservoirs around Mt Gambier are under threat from potential deadly nitrate contamination which could seriously affect future water supplies in the South-East.

I am reminded that on 4 April 1989, almost four years ago, I raised in this place the question of nitrate contamination of groundwaters in the South-East. I am also mindful that when I raised that issue the response by the media was that I was scaremongering, and that this was all extremely out of order. At the time of asking that question, I made the point that there were in existence some maps which showed distribution of nitrate concentrations but that those maps were not highly accurate at that time. I also noted that the water supplies in some areas exceeded World Health Organisation standards. Amongst other things, I asked the Government to release reports, and I asked other questions. I received no response in this Chamber to those questions.

Now, four years later, we find this report coming out in the *Border Watch,* and it is backed up with quotes from the E&WS Department and consultants PPK. Again they note that water near Mil Lel has recorded nitrate levels higher than World Health Organisation standards. It also notes that prolonged exposure to drinking water contaminated with nitrate is known to cause one potentially fatal condition and also notes that it is linked with a number of other conditions. Realising that prolonged exposure is a problem, I ask the Minister three questions:

1. Why, when you have something where prolonged exposure is a problem, has it taken four years—

The PRESIDENT: Order! Time having expired for questions, I call on Business of the Day.

FESTIVAL BOARD

The Hon. DIANA LAIDLAW: I seek leave to make a personal explanation.

Leave granted.

The Hon. R.R. Roberts: Are you going to apologise, too?

The Hon. DIANA LAIDLAW: No, I have no reason to apologise for any matter. The Minister for the Arts and Cultural Heritage, in response to a question from the Hon. Legh Davis, made a statement suggesting that, notwithstanding a request from the Chairman of the Board of Governors of the Festival, I had abused an undertaking that I had given to him.

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

The Hon. DIANA LAIDLAW: That is what you insinuated, and you did so a number of times.

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Laidlaw will come to order. A personal explanation relates to something pertaining to you; it is not a general debate about the subject that has been raised.

The Hon. DIANA LAIDLAW: It did pertain to me because she was reflecting that I had not honoured a request from the Chairman, and that is not so. I had received advice from a source which indicated that the Chairman and others on the board were particularly upset after a Saturday morning board meeting because they had learnt that the Minister was insisting on Mr Stephen Spence being appointed to the board as her representative. I rang the Chairman, whom I have known for many years, and raised this matter with him. He was surprised that I was aware of it and he was upset by the actions of the Minister, and I understand why he was upset.

The PRESIDENT: Order! That is not a personal explanation.

The Hon. DIANA LAIDLAW: This is, because I said in the circumstances that—

The PRESIDENT: Order! The Hon. Ms Laidlaw must confine her remarks to her own explanation.

The Hon. DIANA LAIDLAW: —as he was upset and still negotiating the matter with the Minister, I would not raise the question in Parliament, and that is true. I volunteered that information that I would not ask the question, and he was pleased that I would not do so. The next day I rang back to say that I had heard the same

story from two other people, and it was so important in my view that the Minister should not get away with the way that she was trying to run roughshod over the board that I would raise it in this place, and I raised it with the Chairman—

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Laidlaw will sit down.

The Hon. DIANA LAIDLAW: —and he did not like it when I said I had to go—

The PRESIDENT: Order! The Hon. Ms Laidlaw will come to order. That is not a personal explanation. You are detailing the question and you are entering into debate with the Minister.

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I seek leave to make a personal explanation.

Leave granted.

Members interjecting:

The Hon. ANNE LEVY: This will be a personal explanation. The Hon. Ms Laidlaw has stated that I implied she had broken an agreement with the Chair of the Festival board. I am sure that a perusal of *Hansard* will show that I said no such thing. I stated—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: I stated a fact that the Chair of the Board of Governors of the Festival had asked her not to raise the matter in Parliament, and that she had ignored that request—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —and had done so. I did not imply—

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —that she had broken a promise to him. I merely stated the fact that she was asked not to raise it and yet she did raise it.

The Hon. Diana Laidlaw: I did because—

The PRESIDENT: Order!

The Hon. ANNE LEVY: *Hansard* will show that I said nothing else and implied nothing else, Mr President.

The PRESIDENT: Call on Business of the Day.

CONSTRUCTION INDUSTRY TRAINING FUND BILL

Adjourned debate in Committee (resumed on motion).

(Continued from Page 1557.)

Clause 21—'Rate of levy.'

The Hon. R.I. LUCAS: I move:

Page 10, lines 15 and 16—Leave out 'the recommendation of the Board' and substitute 'a recommendation of the Board approved at a meeting of the Board at which at least one person appointed by the Governor under section 5(l)(c), and at least one person appointed by the Governor under section 5(1)(d), are present'.

This Liberal/Democrat amendment is the result of a very constructive suggestion by the Hon. Mr Gilfillan. The amendment takes up the thinking of an earlier amendment, which would have been more widespread and my preferred position, in relation to clause 7. This amendment takes up the thinking in relation to what can be some important decisions taken by the board. In this case it is the important decision in relation to a possible 100 per cent increase in the levy to be imposed on industry, and we feel that there ought to be protection through the presence of an employee and an employer representative for such an important decision. The alternative that I considered was a tougher restriction, which would have been that a majority of the employers and of the employees be present. That would have meant having three employers and two employees present and making the decision.

The Hon. I. Gilfillan interjecting:

The Hon. G. Weatherill interjecting:

The Hon. R.I. LUCAS: No; it is a constructive one. If there are any constructive suggestions, I am always prepared to consider them. I did not take up that option because I thought it might have been a bit too tough for the Hon. Mr Gilfillan and the Committee to consider. Parliamentary Counsel has suggested the form of words before the Committee and I should be interested in the responses of both the Hon. Mr Gilfillan and the Minister.

The Hon. I. GILFILLAN: I will comment and then look forward to the Minister's response. I think this goes half way. It is not a bad try by the Leader of the Opposition, but he has not quite got there. If the aim is to ensure that any recommendation for an increase in the levy must reflect that the main bodies involved are supportive, then it is not just their presence at the meeting but their voting in favour that is important.

The Hon. Anne Levy: That is implicit from other clauses.

The Hon. I. GILFILLAN: The Minister interjects that that is implicit from other clauses. In that case, I shall look forward to her explanation. I think it is not unreasonable, with the peculiar nature of the clause, that subclause (2) provides:

> A regulation must not be made for the purposes of subsection (1)—

that is the raising of the levy—

> except on the recommendation of the Board.

Having recognised that the recommendation of the board is important, I believe it is also important that the principal bodies represented should be in favour. If there is wording in the Bill which emphasises that, I rest easy with the words as drafted.

The Hon. ANNE LEVY: First, to allay the fears of the Hon. Mr Gilfillan, clause 7 makes it quite clear that there could not be a recommendation of the board unless it was agreed to by a majority of employers and employees. No decision of the board is possible unless that occurs. There can be disagreement within employers and employees, but for a board decision to be a decision it must be supported by a majority of employers and employees. The amendment moved by the Hon. Mr Lucas would ensure that before the levy can be changed

there must be representatives of both employers and employees at the meeting.

The Hon. I. Gilfillan: Is that not required for a decision?

The Hon. ANNE LEVY: Yes.

The Hon. I. Gilfillan: If you are correct, the board cannot make any decision unless there are representatives of section 5(1)(c) and section 5(1)(d) present at the meeting.

The Hon. ANNE LEVY: No. If one group did not turn up to the meeting a decision of the board is possible, but if they are present a majority of them must be in favour before any decision of the board can be taken.

The Hon. I. Gilfillan: Your interpretation is that if a majority of a group is not there it is zero.

The Hon. ANNE LEVY: I suppose a majority of zero is zero. The Hon. Mr Lucas is saying that at least one of them must be present. Obviously, if one of them is present there has to be a majority, which means that that person must be in favour. The amendment is non-controversial to the extent that it is neither adding to nor subtracting from the legislation. While it says that the board cannot make such a decision without members being present, I cannot for a moment imagine that, if any item on the agenda was to change the amount of the levy, both employers and employees would ensure that they were represented at that meeting to the fullest extent possible. Anything else is quite inconceivable. While I think the amendment is totally unnecessary in practice, I have no objection to it in terms of making the working of the board more difficult. I think it is superfluous.

Amendment carried.

The Hon. R.I. LUCAS: What departmental estimates are available as to the amount of levy at 0.25 per cent that would be collected in a full financial year?

The Hon. ANNE LEVY: The answer obviously depends on the economic health of the building industry. The amount of the levy is related to the value of building work which is proceeding. In terms of broad limits, if the building industry has a really bumper year it might raise as much as $6 million. If the building industry has a very slack year it may only be a few hundred thousands dollars. The actual figure will lie somewhere in between those extremes depending on the amount of building activity which occurs. It is very difficult to answer such a question. There have been estimates that it may raise something like $1.5 million but I would not like to be held to that figure, to be accused of overestimating or underestimating the figure, because it will depend entirely on the degree of activity in the building industry.

The Hon. R.I. LUCAS: Is that estimate of $1.5 million sufficient for those who want the fund to do all they wish to do in a full financial year? Those members of the industry groups who want this fund obviously have a range of programs that they wish to undertake during a normal financial year, so is the figure of $1.5 million sufficient or is it likely that it will not be sufficient and that we will see an early application for a doubling of the levy rate?

The Hon. ANNE LEVY: I understand that the board, when constituted, will be drawing up a training plan and prioritising the parts of that plan, so there will be agreement of the order of priority. If the plan requires $3 million and there is not $3 million at least they will know where to start and they will stop halfway down. I should add, of course, that the fact that this fund will exist does not mean that an employer cannot provide more training should he or she feel that this is necessary or desirable. It is not an upper limit; it is a lower limit and if a particular section of the industry feels that greater expenditure on training is necessary there is nothing to stop them providing such resources. But I think the general expectation is that, at least until things have settled down and experience has been gained by the board and by the industry generally of the operations of such a fund, it is unlikely that there will be any suggestions for change of the percentage, until the legislated condition has been tried.

Clause as amended passed.

Clause 22—'Estimated value of building or construction work.'

The Hon. R.I. LUCAS: In the circumstances where a project owner or somebody employs a company or an individual to undertake building or construction work and it might be, say, $100 000 worth of work, but for whatever reason the company does the work at, in effect, a discount rate for a friend or for an acquaintance, for whatever reason—

The Hon. I. Gilfillan: May be to get the business.

The Hon. R.I. LUCAS: May be to get the business but nevertheless takes a hefty chop off the margin. The estimated value of the building work to an objective person would be $100 000 worth of work. By 'objective person' I mean someone outside of that relationship or arrangement. However, the person is paid only $60 000 for that work. What does the Minister intend the estimated value of that arrangement to be? Should the levy be paid on the $100 000 or on the $60 000?

The Hon. ANNE LEVY: I think this matter is covered in section 26 of the Bill, which we have not yet come to, which indicates that if the difference between actual and projected value is as great as $25 000 adjustments can be applied for, either to pay more or to receive refunds. But if the variation is less than that particular sum nobody is going to bother because the amounts involved would be pretty small.

The Hon. R.I. LUCAS: I shall pursue that a bit further because my understanding of clause 26 was that it did not apply to these circumstances. The Minister may well be correct; I am not saying that she is not. However, in the example that I am talking about, the estimated value is $100 000 but on completion of the project or within three months after completion it becomes apparent that its value is not $100 000, to the objective observer of the extension or the building, but, say, $150 000, and then clause 26 comes into play. That is not the question that I was specifically asking. What I am asking is: we have this project worth $100 000 to the objective person outside, if you had a judge or whoever it is that makes these decisions, but because of the arrangements that were entered into by myself the work is done at a rate less than $100 000. For example, perhaps I have been a friend of the construction company for a long time or a good customer, and may have slipped them some business in relation to other jobs, or whatever.

The Hon. Anne Levy: Corruption.

The Hon. R.I. LUCAS: Well, not if you are not a public official. Say this is an ordinary Joe Blow out in the community having a construction built. So for whatever reason the job is not done for the objective sum of $100 000 but is done for $60 000. In the building industry, and I am sure I do not have to tell the Minister this, a good number of these sorts of bartering arrangements or whatever go on. What I want to know is, in that circumstance is the levy to be on the $100 000 or on the $60 000?

The Hon. ANNE LEVY: I could perhaps ask the honourable member to look at proposed clause 27 where it provides that if the board is satisfied that the actual value of a building on completion varies by an amount of $25 000 then there can be an adjustment of the amount paid, either up or down. The honourable member seemed to imply that there could be a situation of bartering, that $100 000 worth of work was done for $60 000 and that there was a *quid pro quo,* be it deliberate tax evasion, be it three drinks at the pub, or be it a new Jaguar car that ends up on somebody's front doorstep—

The Hon. R.I. Lucas: Or a favour for a mate.

The Hon. ANNE LEVY: Be it however achieved, and he said he did not want to go into questions of tax evasion and how that could be dealt with. That is obviously a question that the Federal Government has been wrestling with as it fears that there could be quite a bit of tax evasion going on in those circumstances.

The question here is the actual value of the building. If necessary, I presume it could involve the Valuer-General, who is qualified to give values. However, clause 27 clearly talks about the actual value of the building or construction work. If the actual value differs from the projected value by more than $25 000 then appropriate financial adjustments can be made, either to increase the amount of the levy or to pay a refund of the levy. I stress that the amount of $25 000 has been chosen because that corresponds on the levy rate—which is suggested in clause 21—to $62.50.

Presumably the figure has been picked with the notion that to go through the administration of refunds or claiming more is not worth it for sums which are of that order of magnitude or less. Consequently, the $25 000 is specified as the variation projected at which adjustments of the amount paid will be made.

The Hon. R.I. LUCAS: I will not prolong this for much longer because I do not have a specific amendment. I am really flagging questions that were raised with me. Frankly, I did not know the precise answers and I still do not. It is presumably working to some degree in the other States and maybe the concerns that have been expressed to me have not eventuated.

In relation to the small figures we are talking about I can understand it. However, if we look at something like the Remm site, where many hundreds of millions was spent, we would see that the Valuer-General—to whom the Minister has referred—would now value it at $290 million. There is a substantial difference between—

The Hon. Anne Levy: That is not the construction work.

The Hon. R.I. LUCAS: No. When you go back to that stage originally there may well be—and I am not an expert in this industry—a distinction between the actual amount of money a person spends, whether it be on a big or small building, and the estimated value. The concern that has been raised with me relates to how that would be defined. As I read this the estimated value is put on it by the person who is having to pay the bill; it is not the board that puts the estimate—

The Hon. Anne Levy: It puts the proposition to the council for approval in the first place.

The Hon. R.I. LUCAS: Exactly. So, that person or body puts the estimated value on it and the concern that has been expressed to me is that in a number of circumstances in the building industry, in the normal course of events, so I am told, the distinction between the estimated value and what might have actually been paid in dollars can be quite substantial. How is that to be rationalised and resolved? I do not have a solution. I just flag it as a question or as a concern.

As I said, I am assuming, and I am told, that this is modelled on what occurs in Western Australia and Tasmania and perhaps there has not been the concern or the problem in those States at this stage although, until we see the Carrig report in relation to the West, I do not know. I flag it as an issue; I do not intend to pursue it at this stage. However, I think it is something that we as a Parliament ought to keep an eye on.

The Hon. ANNE LEVY: In response to the honourable member I should point out that clause 27 talks about actual value of the building or construction work on completion. So, whether property values go up or down as time goes on is not a factor that comes into this: it is value at completion, clearly stated.

Clause passed.

Clause 23—'Exemptions.'

The Hon. R.I. LUCAS: I move:

Page 10, line 22—Leave out 'other' and substitute 'greater'.

This is a relatively small amendment which seeks to ensure that the level at which the levy applies or does not apply of $5 000 will move only upwards rather than downwards. Rather than saying, '$5 000 or such other amount as may be prescribed,' technically it would be possible, if the Government, the board or both wanted to collect more money, to prescribe a lower sum than $5 000. This simple amendment seeks to ensure that any change in that level of $5 000 would only be an increase in that level rather than a decrease.

The Hon. I. GILFILLAN: I support the amendment; it seems sensible. However, while I am indicating that support I ask the Minister how she envisages the amount of $5 000 would apply if there were some activity which was in incremental amounts of $4 000, three months apart over a 12 month period?

The Hon. ANNE LEVY: The answer is that the levy is calculated on the complete value of a project. Now it may be possible, of course, that someone makes three separate applications to their council for three quite distinct stages of work, each of which was valued at $4 000. In those circumstances the levy would not be payable if each bit were regarded as a whole project for which council approval was sought. This is paid at the time that people make application to councils for their building approvals. One cannot apply to a council for approval to put up one wall of a four-wall structure. Obviously, one has to apply to a council for building permission or development permission for a complete

project. It would be the value of that which determines whether or not the levy is payable.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 10, after line 32—Insert new subclauses as follows:

(4) Where—

(a) building or construction work is to be carried out on agricultural land;

(b) some or all of the work is to be carried out by the owner of the land, or by a person who will not be employed or engaged for remuneration to perform any part of the work; and

(c) the owner of the land applies for the benefit of this provision in accordance with the regulations,

the estimated value of the building or construction work will, for the purposes of the calculation and imposition of the levy, be taken to be as follows:

EV = V(1-A)

Where

EV is the estimated value.

V is the value that would apply for the purposes of the calculation and imposition of the levy except for this subsection

A is a reasonable estimation of that proportion of the building or construction work that is attributable to the work carried out by the owner of the land, or by a person who will not be employed or engaged for remuneration to perform any part of the work, expressed as a percentage of the total amount of building or construction work to be carried out.

(5) For the purposes of subsection (4)—

'owner' of land includes a person who holds land from the Crown by lease or licence.

That is consequential on earlier decisions of this Parliament to provide some exemptions for agricultural land but not to agree with my proposition in relation to residential land or home owners.

The Hon. ANNE LEVY: I reiterate that the Government opposes this amendment. As I indicated previously, the Government feels that exemptions, which will certainly be granted, should be determined by regulation rather than by writing a specific exemption into the legislation in this manner. But we did debate this previously and I see no reason to go through all the reasons again.

The Hon. I. GILFILLAN: I support the amendment in its currently worded form. It reflects the fact that the Democrats opposed the extension of exemption or consideration to residential land as compared with agricultural land, and I take this opportunity only to re-emphasise our support for this amendment because of what we see as the inappropriateness of the scheme applied in the farming-rural-agricultural areas of South Australia. This amendment provides the formula that should relieve the rural community of any levy fraction being paid on the contribution of the work by the farmer or rural property owner, friend and/or family on a voluntary basis.

Amendment carried; clause as amended passed.

Clauses 24 to 28 passed.

Clause 29—'Recovery of levy, etc.'

The Hon. R.I. LUCAS: The amendments to clause 29 and new clause 30a I suggest ought to be discussed together as they are part of the one package. I move:

Page 12, line 31—Leave out 'The' and substitute 'Subject to this Part, the'.

The new clause 30a I propose provides:

30a. (1) A person who is dissatisfied with a decision made by the board for the purposes of this Part in relation to the calculation or imposition of any levy (or related penalty fine) may appeal to the Administrative Appeals Court against the decision.

(2) An appeal under this section must be commenced within 21 days of notification of the decision to the person unless the Court, in its absolute discretion, allows an extension of time.

(3) The Court will, in exercising its jurisdiction under this section, be constituted by a magistrate.

(4) The Court may, on hearing an appeal—

(a) confirm or vary the decision;

(b) quash the decision and substitute its own decision;

(c) remit the subject matter of the appeal to the Board for further consideration;

(d) make or give any incidental or ancillary order or direction.

(5) The Board or the Court may suspend the operation of the relevant decision until the determination of an appeal.

I feel very strongly about this package of amendments in relation to appeal provisions, because what we see before us today is new legislation. Irrespective of what side of the debate you come from, everyone would agree that it is not black and white and questions will have to be winkled out as the legislation transpires. As I said, it is sad that we are not able to have the benefit of the Carrig review in Western Australia before we consider the legislation here this afternoon.

The Hon. I. Gilfillan: You may in time bless the wise decisions made here this afternoon. You just cannot tell.

The Hon. R.I. LUCAS: Who knows? We just do not know. Nevertheless, as I said, we would all agree that it is not black and white. There are some important questions and we flagged some of them, such as the questions about estimated value. When we come into the area of the mining industry, in particular, irrespective of what decisions the Parliament takes, if the Parliament agrees with my amendments or if it does not, there will be a large number of questions that mining and resource based companies will have as to whether or not aspects of their operations attract or do not attract the levy. We have only to consider the Roxby Downs mine, for example, where you have this great big hole in the ground but, nevertheless, have roads running around inside that hole down to the bottom, as to which aspects of the construction activity of that mine might be deemed to be operational and which would be deemed to be construction-type activity capable of being levied.

We have spent most of the day discussing questions at the bottom end of the scale, where the levy might be worth only a few hundred dollars, but if we are talking about a major resource based development in South Australia of some $100 million, we are talking about levies at the rate of a quarter of a million dollars or, if the levy is doubled, half a million dollars. We are talking about substantial sums of money, therefore the decisions taken by the board and its staff can have a major impact on the profitability and operation of a particular company. At that level but also, as a principle, at the bottom level where it might be only some hundreds or some thousands of dollars for smaller types of

construction activity, I believe there ought to be some opportunity for these grey areas to be resolved by someone other than the board.

My legal advice is that we recently have made available a new court, the Administrative Appeals Court, and that Parliamentary Counsel has drafted an amendment that is before the Committee at this stage; that, if there is to be an appeal mechanism, I am advised that this is an appropriate appeal mechanism for this legislation. As I said, I feel strongly about this and hope that the Committee will allow some form of appeal to be made available against decisions that might be taken in the future by the board or by officers of the board, which might be disadvantageous to particular individuals or to particular companies.

The Hon. ANNE LEVY: The honourable member may feel very strongly about this but I can assure him that the entire industry is united in vehemently opposing this amendment. It is felt that training dollars from the levy will need to be spent in defending legal actions that will be brought against the board and that this is merely a means of transferring precious training dollars into the pockets of lawyers. I thought a minute ago the honourable member agreed with me that lawyers should be kept out of this.

The Hon. R.I. Lucas: I did not agree with you at all.

The Hon. ANNE LEVY: I thought we were united that time. But it would lead to a great deal of money being wasted in legal actions. We need to think what could be one of the effects of such an amendment which permits appeals. It would obviously make very little difference to small contractors on building projects of small sums, but, where there was a very large construction involved so that the training levy was a considerable sum, this system as proposed by the honourable member would be strong encouragement to all such large contractors immediately to lodge an appeal so that in the short to medium term they would not have to pay the money and would have the use of the money and the interest on it for their own purposes for whatever time it took for an appeal to be dealt with.

It would cause a huge backlog in the Administrative Appeals Court so that all large contractors would be virtually encouraged to lodge appeals to deny the board the money until the appeal had been heard. Because there would be this encouragement for everyone to do that there would be a lengthy time involved until the appeal could be heard. Defending the action of the board would be costly, and the end result would be the transfer of precious training dollars into the pockets of lawyers.

The Hon. I. GILFILLAN: I oppose the amendment. I do not believe that the likely event of gross injustice emerging from this measure justifies the complication and cost that would be involved in having a readily available appeal structure as outlined in the amendment. If indeed there were serious grounds of discrimination and blatant misuse of powers of determination by the board, civil action could be taken in any event, and it does not necessarily need to have an administrative appeals court in place to allow that.

The Hon. R.I. LUCAS: I acknowledge that the numbers are not with us and I am disappointed. The only point I make in relation to the Minister's response is that it is quite possible, as we have seen in a number of other pieces of legislation this session, to put in a provision which works against frivolous or vexatious appeals by companies or individuals. So I do not accept that part of her argument. The Attorney-General has been liberal in his use of such provisions to stop frivolous and vexatious appeals in other pieces of legislation and, if that was the only reason for objecting to the appeal provisions, it could be easily catered for. I nevertheless understand that that is not the only reason, even though that is the reason the Minister has highlighted.

If the Government and the Democrats believe that the decision ought to remain with the board, so be it, but I do not support that. I think we will see some problems and, whilst the Hon. Mr Gilfillan indicates that individuals or companies can take civil action, it again means that perhaps if a company or individual has been wronged that company or individual must incur the expense to try to correct the situation, and no ready appeal mechanism can be used by an individual or company. However, because I accept that I do not have the numbers, I do not intend to pursue the matter.

Amendment negatived; clause passed.

Clauses 30 to 34 passed.

Clause 35—'Contracts to evade levy void.'

The Hon. R.I. LUCAS: This clause provides:

> A contract, agreement or arrangement made or entered into, orally or in writing and whether before or after the commencement of this Act, so far as it has or purports to have the purpose or effect of in any way, directly or indirectly—
>
> (a) relieving any person from liability to pay any levy;
>
> or
>
> (b) defeating, evading or avoiding any levy,
>
> is void, as against the board, or in regard to any proceeding under this Act, but without affecting any validity that it may have in any other respect or for any other purpose.

Although I am not a lawyer, I can understand this clause in relation to contracts after the commencement of the Act. However, how does this clause operate and what situation is it meant to cover in relation to contracts, agreements or arrangements undertaken before the commencement of this Act, in effect, voiding those contracts? I do not know what sort of contracts the Government has in mind? Is it dependent on whether people directly know or do not know that their arrangements will cause a problem under this Act?

The Hon. ANNE LEVY: I understand that this clause is taken directly from the Western Australian legislation, and it is to ensure that any arrangement which might be entered into between the time that this legislation was proposed and the time that it becomes operative and which is designed specifically to avoid the levy will be held to be null and void.

The Hon. R.I. LUCAS: It is 'directly' or 'indirectly'. It is not designed specifically for it. It might have an indirect effect of doing this.

The Hon. ANNE LEVY: It states 'has or purports to have the purpose or effect of in any way, directly or indirectly'.

The Hon. R.I. LUCAS: What circumstances are you trying to cater for there?

The Hon. ANNE LEVY: I understand that it is to avoid the situation where somebody enters into an agreement which will have the effect of lowering the levy, and whether one says 'directly' or 'indirectly' is a

legal-type argument. People may make an arrangement and then say, 'We did not come to that arrangement in order to lower the levy,' even though the effect of the arrangement is to lower the levy. It is to ensure that, with regard to determining the amount of the levy, that arrangement will be null and void.

However, it does not prevent the particular arrangement having validity for another purpose. It is not cancelling, saying that that complete arrangement is null and void; it is just saying that for the purposes of determining the levy it will be null and void, although it may still have validity for another purpose.

The Hon. R.I. LUCAS: Currently if major construction is going on in a city building somewhere without attracting the levy, can this provision be used by the board and the Government to force payment of the levy?

The Hon. ANNE LEVY: No, this does not refer to construction which is occurring before the Bill becomes operative; it refers only to an arrangement which somebody might make now so that, come July when the levy applies, they cannot say that they have this arrangement which will prevent them having to pay the levy. Certainly, no levy will be imposed on any construction work which actually takes place before the date on which the legislation becomes operative. This is not referring to construction; it is referring to arrangements.

The Hon. K. T. Griffin interjecting:

The Hon. ANNE LEVY: Under the legislation the levy is payable at the time of approval by local government of the development. So, if approval is obtained prior to 1 July no levy will be payable regardless of when actual construction starts.

The Hon. R.I. Lucas interjecting:

The Hon. ANNE LEVY: No, as I understand it, it is payable at the time of gaining council approval. Prior to 1 July (or whatever the proclamation date is), as that approval is obtained, there will be no levy payable. It will apply only to approvals that are granted after the commencement date, because it is payable on approval.

The Hon. R.I. LUCAS: If construction activity is next year some time but approval is given before 1 July, there will be no levy payable.

The Hon. ANNE LEVY: I presume so.

Clause passed.

Schedule 1—'Building or construction work under the Act.

The Hon. R.I. LUCAS: I move:

Page 18, line 4—Leave out 'The' and substitute 'Subject to clause 2, the'.

This amendment is consequential on the amendment to the first page which was the change to the definition of 'building or construction work'. That amendment has been passed, although I know that it was against the Minister's wishes. The matters where we may well have differences of opinion come further on in the series of amendments I have (on pages 5 and 6 of my amendments).

The Hon. ANNE LEVY: I agree that it is a consequential amendment.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 19, lines I and 2—Leave out paragraph (p).

I think this is where we can have our debate on the concerns that I expressed about the mining, petroleum and resource industries. I will not go over all the companies and bodies again, but there was a view from the mining industry, the Chamber of Mines, and so on, that it would like, as an industry, to be exempt from the legislation. The amendments I am seeking to move to the Bill do not go down that particular path. Rather, they try to ensure that the levy does not apply to the operational side of the mining industry but that it applies to that section of its expenditure in relation to building and construction.

There are two extremes, and I acknowledge there will be grey areas in between. At one extreme is the mining operation of a mining company. The proposition that I put to the Committee is that that particular mining activity ought not be subject to the building and construction levy. At the other extreme, Santos, SAGASCO and Western Mining would spend money in relation to the construction of buildings, accommodation, canteens and roads that lead into and out of the mining site. In other words, there would be building and construction activity that clearly still would be covered, and they would have to pay the levy on that aspect of their operations. They are the two extremes. One is that the mining activity should not be covered. The other is the construction industry side, where they use skilled tradespersons consistent with the argument in this legislation, and they should pay the levy on that side of the equation. In the middle there are some grey areas, and that is one of the reasons I argued for the appeal court.

Under the Government's legislation, as it exists now, there is a definition of building or construction work, and it includes:

(p) building or construction work associated with any operation under the Petroleum Act...

So, there will be grey areas under the legislation as it exists or if it is amended. I understood the Minister to say earlier that the industry had given an indication to the Chamber of Mines that it would exempt by way of regulation some of the areas with which they were concerned. Again, I have a similar response to that which I had with respect to the farmers. No-one at this stage can give those undertakings to anyone because it is the board that makes the decision in one circumstance, or the Minister can override the board in relation to regulations in another circumstance. As the Hon. Mr Gilfillan would know, the mining industry can be a little ideological in relation to the attitude of the Government of the day. It is fair to say that the attitude of the current Government—

The Hon. I. Gilfillan interjecting:

The Hon. R.I. LUCAS: Thankfully the Hon. Mr Gilfillan will not have to worry about that prospect this century. I would hate to destroy our coalition. The attitudes of the present Labor Government and the alternative Government in relation to uranium mining, for example, are poles apart. I am sure the Minister would agree that there are some within this Government who would seek to do anything or use any provision of any Act to prevent uranium mining or to cause as much difficulty as possible for uranium miners. Equally, as I said, on the other side there would be a different attitude

in relation to that. So, the attitude of the Government of the day in relation to mining can be important, particularly as we talked about earlier where the Minister of the day can override the wishes of the board in relation to the regulation-making provisions.

As I said, no-one at the moment can say to the mining industry that the board will or will not make this decision. It will only be the board, when it is constituted, that can give that indication. I would ask the Minister whether she can indicate what these undertakings are that have been given to the Chamber of Mines and the mining industry about which they are evidently relaxed at the moment. What activities have they been told will no longer be covered? If they are the sorts of things I am seeking to undertake through this amendment—and that is my understanding, because the mining industry would be very relaxed with my amendment—my argument remains as it was with respect to the farmers. If we have a view, that should be established in the legislation. We still have the regulation making powers later on to be flexible if we need to be.

The Hon. ANNE LEVY: The Government opposes this amendment very strongly. If passed, it would have the effect of completely exempting the mining and petroleum industry from any obligations under the levy at all, even though they are sometimes engaged in building and construction work that uses skilled, trained labour.

The Hon. R.I. Lucas: How's that?

The Hon. ANNE LEVY: Building and construction work occurs in the mining industry which is at a very skilled level and, certainly, highly skilled labour is required for certain parts of the work of the mining industry. The effect of the proposed amendment would be to remove the mining industry from the provisions of the levy. I can point out that, under the Mining Act, the definition of 'mining' or 'mining operations' means all operations carried on in the course of prospecting, exploring or mining for minerals or quarrying, and includes operations by which minerals are recovered from the sea or a natural water supply, but does not include fossicking. 'To mine' has a corresponding meaning. That is in the definition of 'mining' under the Mining Act.

However, of more importance I think is the question of exemptions, which has been raised by the Chamber of Mines and Energy in correspondence between Mr Hiern and the Minister. Specifically, the Minister has suggested to Mr Hiern that exemptions will be dealt with by means of regulations and that the matters which will be dealt with include haul roads and temporary access tracks, construction and maintenance of tailing dams, silt retention ponds and earthen water storage, pipe work, dust suppression activities and temporary water supplies, extraction of minerals, rehabilitation of land and new resource development. That is the list of all matters that were raised by the Chamber of Mines and Energy with the Minister.

In response, the Minister has indicated that she expects that all these will be exempted under the regulations. I understand that discussions in the industry have indicated that all sections of the industry expect such exemptions to be granted under regulations. While I appreciate that the honourable member will immediately say that we do not know what the board will do, we do know that the board will reflect all sections of the industry, and it appears that all sections of the industry have indicated support for such exemptions to be put under regulations. My further understanding is that, although it has not been put in writing, the Chamber of Mines and Energy has indicated verbally that this satisfies its concerns.

The Hon. R.I. LUCAS: The Minister, in her response, indicated that the effect of the amendment would be to exempt the mining industry completely from the operation of the levy. I seek clarification of that.

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: The Minister concedes that, even if my amendment were successful, the mining and resource industries would have to pay the levy on building and construction activities as outlined in schedule 1 from 1 (a) down to (o) and then from (q) to (r) as well. So if they are constructing buildings or accommodation or anything else that comes within the building and construction definition, which goes for a page and a bit, they would be required to pay the levy in relation to that. The amendment seeks to exclude the operational or mining side.

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: It is part of a package. I am just wondering whether the Minister understands. It comes out of the definition of building or construction work. Then we see in the exclusions, under (2), another reference. Advice from Parliamentary Counsel and others is that all the activities of mining companies, other than the operational side, the digging of the mine, and so on, will be covered by these other definitions, whether it be a mining company, a construction company or anybody else. The 'construction, erection, alteration, repair, renovation, demolition or removal of a building or structure' applies to a mining company like Santos up north as much as to my company, if I had one, down here.

I understood the Minister to say that the effect of the amendment would be to take the mining industry out of the levy completely. That is what they wanted, but we have not agreed to that. In effect, the amendment says that some specific mining arrangements of mining companies, which we have drafted as the operational side of the mining industry, should not have the levy applied. The mining industry is seeking to translate what the Minister is saying to the industry to the operational side of the mining industry, anyway. I must confess that the Minister has gone a bit further than my own definition in one or two of those areas. I do not know. It depends how one defines 'operational' and things like that.

The Hon. Anne Levy: I read out only the headings from the letter, not the detailed discussion.

The Hon. R.I. LUCAS: Perhaps the Minister will be prepared to table the letter so that honourable members may see it. Is the Minister prepared to table that letter so that we are all in a position to see the undertaking that has been given to the Chamber of Mines in relation to what is and what is not covered? I thought that the Minister had read the whole of the provisions.

The Hon. ANNE LEVY: No. I was reading the headings. I wonder whether that request could be left on the table for the moment. After all, it is not my letter; it is a letter from Minister Lenehan.

The Hon. R.I. Lucas: It relates to what we are talking about.

The Hon. ANNE LEVY: I agree that it relates to what we are talking about. My guess is that she would not mind your seeing it. However, before formally tabling it, I should like to get her approval first as a courtesy to her.

The Hon. R.I. Lucas: We have to debate this now. I do not know whether you can do that through an officer.

The Hon. ANNE LEVY: Perhaps I may show it to you without tabling it.

The Hon. R.I. Lucas: I would like a copy and I think the Hon. Mr Gilfillan would like one, too.

The Hon. ANNE LEVY: Tabling it means that it will be available for everyone in South Australia to read.

The Hon. R.I. Lucas: If the Hon. Mr Gilfillan and I can have copies, you can undertake to get an answer from the Minister and, if she is prepared to table it, you can then table it.

The Hon. ANNE LEVY: That is what I am suggesting.

The Hon. I. GILFILLAN: While the photocopying is being done and to save time in Committee, I should like to mention that in the last hour and a half I have received facsimiles of correspondence between the South Australian Employers' Federation and Mr Patrick Bayly, Senior Policy Officer, Department of Employment and Technical and Further Education, dated 18 February, and a copy of a letter from the South Australian Employers' Federation to the Minister, the Hon. Susan Lenehan, dated 10 March 1993. My recollection is that the Hon Rob Lucas referred to both those letters.

The Hon. R.I. Lucas: Only the second one.

The Hon. I. GILFILLAN: The second letter mentions Mobil Australia, General Motors-Holden's Australia and Santos Limited, and I think that in Committee we had discussions about that letter. I do not intend to dwell on it at length, but I would like to bring to the Committee's attention, and I ask the Minister to consider, the first letter of 18 February. That letter from the Executive Director of the South Australian Employers' Federation, Matthew O'Callaghan, outlines four major reservations, as follows:

We have consistently expressed four major reservations in relation to the proposed fund. These can be summarised and updated as follows:

(a) The extent to which the levy concept seriously demonstrates any significant change of attitude on the part of the building and construction industry toward training initiatives, could be disputed by those groups financing the fund. Indeed, notwithstanding provisions in the Bill for the potential exclusion of major engineering construction projects, the owners of such projects have some concerns that the training guarantee costs have already been absorbed since the introduction of that Federal legislation and there should not be a 'double' dip.

These concerns may make it appropriate to ensure that sectors of South Australian industry, and in particular our engineering construction, mining and agricultural industries should be considered for exemption. This has some implications in terms of the proposed training guarantee exemption.

(b) The uses to which these moneys could be put have been a matter of some concern to us in the past. There is no doubt that substantial thought has been given to this issue and appropriate safeguards have been built into the legislation.

However, the same safeguards may also act to make it more difficult for those individual employers in the building and construction industry who are, or are seeking to implement enterprise specific training, to gain funding recognition of these initiatives.

I would obviously be interested in your advice on this issue.

(c) The definition of construction contractors is such that there is likely to be some confusion relating to the operation of this fund and hence the continued operation of the Training Guarantee Act.

This is particularly relevant to the maintenance/construction contractor and is likely to result in ongoing inequities.

We do not have a clear solution to resolve this problem and would appreciate your comments on it.

(d) It appears to us that the construction training levy concept is closely linked to the establishment of expenditure obligations under the Training Guarantee Act.

As this Federal legislation is subject to conjecture depending on the outcome of the coming Federal election, it appears to us to be appropriate to either delay the present proposals or alternatively to make the continued operation of any such legislation dependent on the continuation of the training guarantee legislation.

I will not read further from the letter, which was signed by Matthew O'Callaghan, Executive Director. I cite that letter not in any way to hold up the Committee but to point out what appears to me to be a discourtesy at least "by Mr Bayly, if he is the one responsible, or the Department of Employment and Technical and Further Education because, handwritten on that letter addressed to me, Matthew O'Callaghan says, 'Despite my phone calls following up this letter—no response.'

I would like the Minister who has the carriage of this Bill in this place to give an undertaking that she will bring to the notice of her colleague these four points and seek an undertaking to have communication with the Employers' Federation so that what appears to be a reasonable request to discuss these matters can take place. I do not hold the view that the Bill should be held up. I have no problem with it, but I do think that the federation deserves better attention to the matters it raised on 18 February and, I have been led to believe, as late as today.

The Hon. ANNE LEVY: I am informed that, while a written response to this letter has not yet been sent, the person to whom it was addressed has contacted Mr O'Callaghan and spoken to him on one occasion, has made other attempts to speak to him but has not been able to make contact, and Mr O'Callaghan has not returned his phone calls as yet. There is no question of discourtesy. A written response will certainly be provided but, as often happens in these matters, phone conversations and face to face discussions often take place before a formal written response is provided. Certainly, no discourtesy is intended, and attempts have been made. Some discussion has occurred and attempts have been made to have further discussions which, unfortunately, have not yet occurred, due to no fault on the part of the addressee of the letter. I can perhaps also add that this letter of 18 February was the first time that the Employers' Federation had raised these matters. It is not as if this was part of a long saga.

The Hon. I. Gilfillan: A written response is in preparation? Is that the Minister's understanding?

The Hon. ANNE LEVY: Certainly, a written response will be provided. It has not yet been prepared because, as is often the case in these situations, face to face discussions or telephone discussions occur prior to a formal response being sent. I also understand that the South Australian Employers' Federation has discussed these matters with the industry and industry bodies on up to six different occasions. It is not as if the industry has not been informed of the concerns that the Employers' Federation has in this area; the industry has certainly been having discussions on these matters.

The letter of 18 February was the first time that the Employers' Federation had raised these matters with Government, but certainly it had had numerous discussions with the industry people prior to 18 February. The industry people feel that they have adequately addressed all the concerns of the Employers' Federation. The Employers' Federation may not feel they have been adequately addressed, but certainly the industry view is that they have been adequately addressed. I can assure the honourable member there will be a courteous response from the Minister when discussions have proceeded a bit further.

The Hon. R.I. LUCAS: I thank the Minister for a copy of this letter to the Chamber of Mines and Energy. I note that it is a draft and unsigned and undated. Has the letter been sent to the Chamber of Mines, or is this something that is in preparation?

The Hon. ANNE LEVY: As I understand it, the officers expect that the letter has gone It went several days ago from officers to the Minister wan a request that it be dealt with urgently. So it is the expectation that the letter has been sent, but I cannot verify that without checking specifically with the Minister's office. But certainly its contents have been discussed on numerous occasions with Mr Hiern. It is the putting into a formal letter of the discussions which have taken place with Mr Hiern, face to face and over the phone, for some period of time.

The Hon. R.I. LUCAS: Was the Minister involved in those discussions? This letter is a draft for the Minister submitted by the officers. Is this the officers' recommendation as to what the response ought to be, or is this the result of the Minister's discussions with the chamber?

The Hon. ANNE LEVY: I understand it is the result of officers' discussions with Mr Hiern, but the officers had frequent briefings and discussions with the Minister. Their discussions with Mr Hiern were done in the full knowledge of the Minister and in accord with ministerial understandings. There is no question of something being done of which the Minister is unaware.

The Hon. R.I. LUCAS: When the Minister referred to the list of items that were to be exempted, she referred to construction and maintenance of tailing dams, silt retention ponds and earthen water storage. The Minister nods in agreement. But I note from the letter that it says:

> It is therefore appropriate, in my assessment, that such construction activity should attract the proposed levy as funds from the levy will be used in part for the training of these plant operators.

That would seem to be directly opposite to the undertaking the Minister read to the Chamber by way of headings some few minutes ago and then by way of nodding across the Chamber, indicating that, yes, that is what she had said.

The Hon. Anne Levy: That is not what I am saying. If the member will let me speak—

The Hon. R.I. LUCAS: The Minister has spoken on this. The letter clearly indicates that the levy will apply. I ask the Minister whether the levy will apply to the construction and maintenance of tailing dams, silt retention ponds and earthen water storage?

The Hon. ANNE LEVY: Certainly that is what the letter indicates. I am sorry if there was a misunderstanding when I spoke earlier. I was reading out the headings of the topics which were dealt with in discussions about exemptions, and these were the headings of the matters which had been considered. I regret if I gave the impression that all had been accepted. What I hoped to say was that these were the matters which had been raised by industry and which were being considered in the Minister's response. I certainly agree that item 1.2 is not considered for exemption, though item 1.3 is considered for exemption. These were the headings of the matters which were raised by the industry with the Minister and to which she was giving a response.

The Hon. R.I. LUCAS: I thank the Minister for that explanation. I will just return and perhaps summarise the position and we can conclude the debate on the clause subject to the views of other members. Having read that letter, it is still my firm view that the simplest option is the one that I have before the Parliament, that is, that the operational activities of a mine ought to be excluded from the levy. Some of the parts of the letter from the Minister to the South Australian Chamber of Mines and Energy head down that particular direction. Clearly, if the mining companies—like Santos, Sagasco and Western Mining, whoever it is—are building buildings and constructions, accommodation, canteens, tennis courts, gyms and all those sorts of things, then the Bill catches that sort of expenditure and the levy ought to apply. But it ought not apply to the operational aspects of the mining operation.

Without actually saying so, the Minister appears to be heading part way down that particular direction by way of saying, from her agreement, that these things ought to be exempt. As I said, I think the simplest operation—as it was with the farmers—is to make our judgement and then there still remains the option or the flexibility for the Minister or the board further to exempt other items in relation to the mining and resource industry if the board or the Minister so chooses.

The Hon. ANNE LEVY: In summary, there is no argument that certain activity in the mining industry should be exempt. The Government proposition is that they be exempted by regulation. It seems to me that, in contrast, what the honourable member is proposing is to exempt the mining industry but then to put back in just the building and construction aspects of the mining industry. I am not quite sure—if the honourable member's amendments were passed—how this would relate to work which the mining industry subcontracts out to contractors.

The Hon. R.I. Lucas: If they were building a house, a building or a canteen they would have pay the levy.

The Hon. ANNE LEVY: Yes, but if they are building a tailing dam—built not by the mining company itself but subcontracted out to a subcontractor—where does this fit in with the levy? Certainly, the approach favoured by the Government, and that favoured by all sections of the industry, is to have the mining industry in the legislation and then, by regulation, exempt a whole number of activities as not being applicable to the levy.

The Hon. I. GILFILLAN: I do not support leaving out paragraph (p). I am not sure that it has dramatic consequences on the rest of the text of the amendment. Maybe the Hon. Rob Lucas might like to analyse it for me. However, as far as this specific amendment is concerned I do not support it.

Amendment negatived.

The Hon. R.I. LUCAS: I move:

Page 19, line 5—Leave out 'schedule' and substitute 'provision'.

This is consequential on those earlier amendments, which are still alive in relation to changing the building and construction definitions, and so on.

The Hon. ANNE LEVY: I am given to understand that this is consequential on the next amendment, but whether the next one is defeated or carried will not make much difference. It can be viewed quite separately. To keep alive the issue, I certainly will not oppose it.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 19, lines 6 to 10—leave out clause 2 and substitute new clause as follows:

Exclusions

2. The following do not constitute building or construction work for the purposes of this Act:

(a) maintenance or repair work carried out—

(i) by a self-employed person for his or her own benefits;

or

(ii) by an employee for the benefit of his or her employer,

where the principal business activity of the self-employed person, or the employer (as the case may be) does not consist of building or construction work;

(b) the construction, alteration, repair, demolition or removal of a fence on (or on the boundary of) agricultural land;

(c) work directly associated with the care, conservation or rehabilitation of agricultural land, or of land that has been agricultural land;

(d) any other kind of work excluded from the operation of this Act by regulations prescribed for the purposes of this provision.

This amendment canvasses a number of questions, and I am not sure how we will vote on them in the end; I guess it depends on the attitude of the majority of members in this Chamber. Now that the majority of members have deleted the mining exclusion from the amendment, it seeks to exclude from the purposes of the levy, for example, things such as land care operations, and I have covered that matter under paragraph (c). I can appreciate that the Minister will indicate that she is not supporting many of these exclusions, but very early on, when the majority of members in this Chamber supported the change to the building or construction work definition, that was the first part of a package of amendments which resulted in what we see before us at the moment. As I said to the Hon. Mr Gilfillan at that stage, if he wanted to support any aspect of this section of exclusions—and he might support some and not others—we needed him to support that early bit. He has made clear by other votes that he did not support the mining exclusion.

I am asking the Hon. Mr Gilfillan and other members to consider exclusions for, in effect, land care operations, as I have indicated, and specifically fencing of agricultural land exemptions for farmers. The first measure contains a redrafting of an exclusion which exists under the Government Bill, but it is different, and that involves maintenance or repairs. We have included there maintenance or repairs carried out by a self-employed person. So, if someone is doing their own maintenance or repairs, or if an employee is doing maintenance or repair work—but that is covered by the Bill anyway, so that is nothing new—those practices are not covered by the legislation.

As I understand it, regarding one of the concerns of Mobil Australia, the Hon. Mr Gilfillan referred to a letter from the Employers Federation, and one of its concerns was in relation to people whom it employs to do ongoing maintenance for it. It might not be minor or routine maintenance, but it employs people in its company, trains them and it maintains its plant and equipment.

However, it might not be routine or minor maintenance. That is one of the concerns that Mobil Australia and, I guess, others have also expressed. At the lower level, if you have a self-employed person or smaller company, where you have someone doing your maintenance work but you are not in the building or construction industry—and that is the important point; that picks up the exclusion that the Government has under schedule 1 anyway—then that ought to be covered as well. So, we are now left with this exclusion clause 2 covering land care and fencing. It now no longer has mining in it and it has a slight redraft of maintenance and repair work to try to pick up some of the concerns that have been expressed by others.

If the Hon. Mr Gilfillan is disposed to support it now that mining is gone, we are in a comfortable position. If the Hon. Mr Gilfillan wanted to take bits and pieces we would need to sort out how we are going to handle that, through a discussion with Parliamentary Counsel.

The Hon. ANNE LEVY: I hope that we will be able to consider this matter in bits. The Government opposes the amendment on the basis that we feel the exemption clause that we have is perfectly adequate and that nothing further is required in the legislation. If we look at the pieces of the amendment as put up by the Hon. Mr Lucas, paragraph (a) refers to maintenance or repair work carried out by an employee for an employer who is not primarily engaged in business construction work. While I prefer our wording to that which the honourable member proposes, I do not think there is much difference.

Paragraph (b), I understand, obviously appeals to the concerns that the Hon. Mr Gilfillan was expressing earlier. The Government's view would be that such things are better dealt with by regulation rather than

being incorporated into the Bill. However, I appreciate that paragraph (b) as indicated certainly deals with the matters that the Hon. Mr Gilfillan raised and, while I feel they are better dealt with by regulation, there is really no argument on the principle but on how to achieve it. I do have problems with paragraph (c), and the basis of this is that, first, land care-type activity would not be caught by the Bill anyway without any amendment whatsoever to it.

Land care-type activity is not building and construction work, so there is no way that land care programs would be paying the levy. The problem with the clause as proposed by the Hon. Mr Lucas is a concern by industry that this section of the amendment could encourage dishonest practices in the farming sector, where a farmer might well say that in order to care for, conserve or rehabilitate a piece of land he has to build a dam, construct a levy, make a road and put up a shed, all of which are necessary for his conserving of the land. It would seem to me that as worded here—

The Hon. R.I. Lucas: Farmers are an honourable lot, though.

The Hon. ANNE LEVY: In every barrel there are one or two rotten apples. I am sure even the Hon. Mr Gilfillan would agree that that is possible. We do not want a situation where there is an encouragement for subterfuge pretending that building and construction activities are, in fact, part of conservation measures when, in fact, they are no such thing, merely to get around the payment of the levy.

The Government would maintain that paragraph (c) is unnecessary, that true conservation work and rehabilitation work would in no way be covered for the levy, anyway, and that, as worded here, it could be an encouragement to rorts. While the Government opposes the whole amendment on the basis that it is better achieved by regulation, if that is not acceptable we feel that there are different arguments for different parts of this clause.

The Hon. I. GILFILLAN: The Democrats support the amendment in its slightly amended form from the original printing, with Petroleum (Submerged Lands) Act and Mining Act operations excluded from this list of exclusions, and we quite strongly support the identification of paragraphs (b) and (c), which relate directly to agricultural lands. However, I do not have quite the same confidence that the Minister has that the care, conservation or rehabilitation would not be caught by the Bill.

In any case, whether she is correct or not, I am much happier not taking the risk, because with adequate repair of what can, at times, be substantially damaged land there may well be quite a considerable amount of expenditure on substantial water conservation and hard surface areas and I feel that it is most appropriate to spell it out specifically in the Bill.

The Minister referred to the possible rotten apple in the barrel of the farming community. It is extraordinarily unlikely, but I accept that one cannot be absolutely certain. However, it would have to be a pretty astute rotten apple to really rip off this system for a large amount of money by presenting what were projects that should properly attract the levy on the basis that it is land care. I indicate support for the amendment.

Amendment carried; schedule as amended passed.

Remaining schedules (2, 3 and 4) and title passed.

Bill read a third time and passed.

MEMBERS OF PARLIAMENT (REGISTER OF INTERESTS) (RETURNS) AMENDMENT BILL

In Committee.

Clause 1—'Short title.'

The Hon. J.C. IRWIN: I wish to ask several questions about conflict of interest. I think this is the first time this legislation has been before us since I entered Parliament. Since my second reading contribution, when I raised a question about voting on a Bill, my attention has been drawn to the Standing Orders. What I said during the second reading debate was incorrect. Standing Order 225 provides:

> No member shall be entitled to vote upon any question in which he has a direct pecuniary interest not held in common with the rest of the subjects of the Crown, and the vote of any member so interested may, on motion, be disallowed by the Council; but this order shall not apply to motions or public Bills which involve questions of State policy.

I relate that to some recent experiences that emanate from the Worthington inquiry and use them as an example for some questions. I raise the Worthington inquiry not for reasons of mischief but to learn from that experience. Was the Gaming Machines Bill a public Bill that involved questions of State policy?

The Hon. C.J. SUMNER: Yes.

The Hon. J.C. IRWIN: I understand that this matter was put to Cabinet as a conscience issue, and the explanation by Minister Barbara Wiese in the debate on the gaming machine legislation made it clear that it was not public policy.

The Hon. C.J. SUMNER: The fact that this Bill was introduced by the Government or by a private member does not mean that it is not a matter of public policy. I am surprised that the honourable member has decided to embark on this line of questioning at this stage without giving any notice, because the points he raises may require research, particularly into the origin of the Standing Order, its interpretation and any rulings that might have been given on it in the past.

Despite the fact that I am somewhat familiar with these matters, I am not sure whether I can answer all the questions asked by the honourable member. We are talking about a distinction between public and private Bills. Standing Order 267 states:

> Every Bill not initiated under the private Bill orders or ruled to be a private Bill shall be deemed to be a public Bill.

I do not think that helps very much. A private Bill is one which deals with a private matter. So, there is a distinction between a private member's Bill and a private Bill. A private member's Bill deals with public policy. That is referred to in the conflict of interest Standing Order.

To my way of thinking, Standing Order 225 is ambiguous and needs clarification, and I said that in my second reading reply. If the honourable member wants to know the origin of it, obviously we will have to do a bit more research. I am advised that that Standing Order comes from the British Parliament. The Clerk has kindly

given me a copy of *Blackmore: The Practice of the Legislative Council,* which was prepared by a former Clerk of this Council in 1889, a second edition being published in 1915, but it has not been updated since. It gives the House of Commons practice relating to this pecuniary interest provision (Standing Order 225) as follows:

> There is no instance in the journals of the House of Commons of a vote having been disallowed on a public Bill, though votes have been challenged. By 'a public Bill' must be understood a Bill which involves public policy, not merely a public Bill as opposed to a private Bill.

It is worth noting that further on in Blackmore it states:

> In the case of a private Bill in the Council the rule is strictly enforced. If a member is interested in its passage he cannot vote. On 19 August 1863 the name of a member was struck out of the division list of the Noes in Committee on the National Bank Act Amendment private Bill, he being a shareholder on motion made in the Council the same day and after the Bill had been reported as amended.

So, a private Bill is specifically directed to a particular institution in the community and is not a Bill of general application. In fact, different Standing Orders apply for private Bills and they are not included; a private Bill is so rare that they are not even included in our general Legislative Council Standing Orders.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: I do not have the Standing Orders in front of me. If I had been given notice of these questions, no doubt we could have researched them and provided the honourable member with answers. I refer him to Erskine May, Parliamentary Practice, in which I suspect a good number of these questions would be answered. There are also things called hybrid Bills which are dealt with in Standing Order 268, as follows:

> Hybrid Bills promote the interests of one or more municipal corporations, district councils or public local bodies rather than those of municipal corporations, district councils or public local bodies generally. A hybrid Bill may authorise the granting of Crown or waste lands to an individual person, a company, a corporation or a local body.

It says that they shall be proceeded with as public Bills but shall each be referred to a select committee after the second reading. The relevance of that is that in the past those sorts of Bills—those that directly affect municipal corporations, district councils or public local bodies or which authorise the granting of land to individual persons, an individual company, a corporation or a local body—would have been dealt with by what are called private Bills.

However, because the private Bill procedure is so cumbersome the Standing Orders (under Standing Order 268) refer to them as hybrid Bills and, as hybrid Bills, they can be treated as public Bills. In other words, they are dealt with in the same way as Bills under the normal Standing Orders, but the protection is that before a Bill of that kind can pass it has to be referred to a select committee for consideration. We have had a number of examples of hybrid Bills over the years which have specifically related to private organisations in the community. If they are not Bills of a general nature, they are Bills that relate to a particular organisation. The Hon. Mr Griffin may have a better memory, and he may be able to recall a hybrid Bill—

The Hon. K.T. Griffin: St Jude's Cemetery Trust.

The Hon. C.J. SUMNER: Yes, and I think there was another in relation to the ANZ bank when it took over the Bank of Adelaide.

The Hon. Peter Dunn: Didn't we have one for the amalgamation of district councils?

The Hon. C.J. SUMNER: I do not think that that was under this Standing Order. In any event, hybrid Bills deal with private interest principally or with the interests of a particular group or organisation in the community, whether it be a local council, an individual company, a corporation or a local body.

Although they are Bills that in their nature deal with private bodies specifically, Standing Order 268 has been included I believe to provide that they can be dealt with as public Bills, and you do not have to go through the elaborate, antiquated procedure which is established for private Bills. If, for example, the Hon. Mr Irwin was an interested person under a hybrid or private Bill, and if a Bill was introduced authorising the granting of Crown land to him (say there was some Crown land next to his farm and for some reason it involved legislation, although I do not think it does these days, but in order to get ownership of that piece of land, a Bill had to be introduced), it would be a public Bill, treated as a hybrid Bill, and have to be referred to a select committee. It would be a Bill in terms of the Standing Order referred to by the honourable member in which he had a direct pecuniary interest and that was not held in common with the rest of the subjects of the Crown.

So, it would have been a Bill in which he would have had to declare an interest were he getting a direct pecuniary benefit from it. He would not have been entitled to vote on it. So, in the case of a hybrid Bill where he had a direct pecuniary interest, he would not be entitled to vote and, if he did, the vote would be disallowed under Standing Order 225. It would be a private Bill, and I can recall only one such Bill in the past 18 years, but I do not recollect the details of it. It is a procedure that is not used very often. In fact, it is used so rarely that the provisions relating to private Bills are not contained in the usual Standing Orders. There are different Standing Orders, called the Joint Standing Rules and Orders on Private Bills.

However, to explain the point, in the Joint Standing Rules and Orders, private Bills are defined as follows:

> Bills not introduced by the Government, whose primary and chief object is to promote the interests of an individual person, a company, a corporation or a local body, and not those of the community at large; Bills authorising individuals or a company to compulsorily take or prejudicially affect lands not being Crown or wastelands; Bills not introduced by the Government authorising the granting to an individual person, a company, a corporation or a local body of any particular specified Crown or wastelands, whether such person, company, corporation or local body shall or shall not be named in the Bill.

Then it goes on to say:

> The following shall not be private Bills:

It then lists the definition of hybrid Bills. However, it is obvious that, with hybrid Bills, there is this common theme running through between hybrid Bills and private Bills, and that is the concept of a Bill that specifically deals with the interests of a particular person,

organisation, local government area or body corporate, and is not a Bill dealing with public policy at large.

So, in the case of private Bills, to which I referred, if the Bill was introduced to promote the interests of an individual person and that individual person happened to be the honourable member, then Standing Order 225 would definitely be activated and he would have to declare the interest and could not vote. There may be other circumstances; if he was a director of a company and a Bill was introduced that directly promoted the interests of that company, he would have to declare an interest and could not participate in the vote.

The Hon. K.T. Griffin: Railway companies, across private lands.

The Hon. C.J. SUMNER: Yes, the Hon. Mr Griffin refers to private railway companies that used to cross lands. There were a lot of Bills that dealt with those private interests, and they would have been characterised as private Bills because they did not deal with a general issue of public policy. The Standing Order does provide that no member shall be entitled to vote, so I guess on that basis one could participate in the debate but could not vote. So, that Standing Order is directed at circumstances where a member is getting a direct personal benefit out of something, and not' a situation where the member is affected in the same way as the rest of the general public. For instance, Bills can be introduced by the Government to increase or decrease water rates or change the water rating system. That might affect some members adversely while it might be favourable to others, but if we all had to declare an interest and not vote in that circumstance, there would be no Parliament; we could not vote on the issue and obviously we would have reached an absurd situation.

That is why we have the qualification in Standing Order 225, which provides that it shall not apply to motions or public Bills. Public Bills can be either Bills introduced by the Government or private members' Bills, which are to be distinguished from private Bills, which I have just defined. So, the declaration of interest provision under Standing Order '225 shall not apply to motions or public Bills which involve questions of State policy. I think that virtually all the public Bills that we deal with, whether they are introduced by private members or by the Government, deal with questions of State policy generally. So, to get back to the answer to the question (which has taken some time; it would not have taken so long if the honourable member had given us notice of it so we could have researched it properly and the honourable member may have got a better answer), clearly, the Bill dealing with gaming machines was a public Bill, even though it was what we deem a conscience Bill within the Parliament. As far as the parliamentary procedure is concerned, it was a public Bill and it certainly involved questions of broad State policy, I believe.

I have just been advised that a private Bill cannot be introduced by a backbencher without a petition. One has to petition to introduce a private Bill and under the Standing Order to which I have just referred there have to be examiners but, if the Government introduces it, it is dealt with as a hybrid Bill and avoids the problems. Hybrid Bills and private Bills are similar. A hybrid Bill can be dealt with as a public Bill under the regular Standing Orders, but if it is specifically a private Bill it has to be dealt with according to the Joint Standing Orders and as such a more complicated procedure is involved. If the honourable member is caught up in a private Bill or a hybrid Bill where his interests are directly and specifically affected, Standing Order 225 is activated.

It may be activated in relation to some public Bills, but generally it would not be, in circumstances where the honourable member had an interest in common with the rest of Australia. We are legislating not particularly for the Hon. Mr Irwin's farm but for farmers in general. Even though the vote would not be declared void, out of an excess of caution or prudence, it may be wise in some circumstances, if there is a Bill before the Parliament in which the honourable member may have an interest or from which he or a relative may get some benefit, to declare it in the debate. That is a matter of judgment in each circumstance. In any event, under this pecuniary interest legislation, an honourable member's interests are declared on the register for all members of Parliament and the public to see. It does not prohibit the honourable member from voting, but it at least enables people to see where he is coming from.

The CHAIRMAN: I must say that I have a job seeing the relevance of this questioning in line with this Bill. Can the honourable member tie it in somehow?

The Hon. J.C. IRWIN: Yes, Mr Chairman. I would have thought that, in terms of any legislation relating to the interests of members, the question is relevant when, from the floor of the Parliament rather than from legal opinion, I am trying to ascertain where I stand in having to declare an interest if it arises. My declaration of interests is an extensive document. As I said in my second reading contribution, I am somewhat terrified to be the first to be caught out by not declaring an interest. Quite often I declare a blanket interest at the beginning of legislation to cover myself.

The CHAIRMAN: The honourable member has so many interests, he would be lucky if he got a vote.

The Hon. J.C. IRWIN: I do not want to take up time. I apologise to the Attorney-General for my thinking that what to me seemed to be a simple question would have a simple answer. I realise that it does not and that many other things come into play. I do not wish to regurgitate things which happened previously. However, the Attorney-General, in his ministerial statement on 25 August, relating to the Worthington inquiry, said:

> Based on the above, Cabinet has determined that there was an indirect pecuniary interest and a personal interest which has given rise to a minor conflict of interest.

That related to the Hon. Ms. Wiese and her partner. I take it from the explanation that the Attorney-General has given that there is no need for the Minister in this case to have declared an interest and certainly not to have lost a vote on the Gaming Machines Bill, even though this was not established until some months afterwards.

The Hon. C.J. SUMNER: We have to draw a distinction between a vote in Parliament and a Cabinet Minister who is involved in the administration of a department and in making decisions in Cabinet. That is what was determined in any event following the Worthington inquiry. In this case the Minister was not

precluded from voting on the Bill when it came into Parliament. Indeed, she would not have been precluded from participating in the Cabinet discussion on the various matters that were raised by that inquiry. Because Ministers are involved in administering departments and making Cabinet decisions, they have a duty to declare interests in more circumstances than apply to an ordinary back-bench member of Parliament. The only requirements that the honourable member has about voting are covered in Standing Order 225, to which he has referred. However, a Minister, in administering a department, may not be making decisions that affect a whole range of people.

The Hon. R.J. Ritson: They might be letting contracts.

The Hon. C.J. SUMNER: Exactly. As the Hon. Dr Ritson says, one of the things that might be happening in the administration of that department is that contracts might be let. There might be decisions made to invite a particular developer to submit plans for approval of a development. In fact, a development might be approved, and the decision that the Minister or Cabinet is making could affect an individual directly. It would not be a matter of general public policy but a decision of the Minister or Cabinet that affects an individual directly and out of which that person might benefit.

Obviously, if the Minister is in a company, for instance, that was getting a direct pecuniary benefit, the Minister would have to declare that and could not even participate in the decision. It would be quite wrong. On the other hand, if it were a situation involving a relative, one might declare that interest, but Cabinet might say, 'Sure, that interest is there; there is a conflict of interest, but it is not such as to preclude from participating in the decision making.'

When one is talking about Ministers, we have to make that distinction. There is a higher obligation on Ministers both at law and in practice than on ordinary members of Parliament. Ministers and Cabinets are actually dealing with specific projects and specific individuals in the community, and in the administration of their portfolios they have to make sure that the public cannot say, 'You did that because X was a friend or because you got a quid out of it.'

That is why we have strict provisions dealing with conflict of interest for Ministers. The point that the honourable member makes relates to the duties of a Minister in administering a portfolio or participating in Cabinet and not to what the Minister does in Parliament.

Clause passed.

Clause 2—'Commencement.'

The Hon. K.T. GRIFFIN: I ask the Attorney what is now becoming a usual question from me: when might the Bill come into operation after it is passed? Is there any intention to proclaim some parts independently of others, or is it intended to proclaim it as a whole?

The Hon. C.J. SUMNER: There is no intention to proclaim parts. I would be aiming to have it come into effect in time for the next financial year's declarations.

The Hon. K.T. GRIFFIN: Does that relate to the return that has to be completed within 60 days of 30 June 1993, which would therefore relate to 30 June 1993?

The Hon. C.J. SUMNER: It is the 1992-93 year.

Clause passed.

Clause 3-'Interpretation.'

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

Page 1, after line 19—Insert paragraphs as follows:

(ab) by striking out from the definition of 'financial benefit' 'five hundred dollars', wherever occurring, and substituting, in each case, '$1 000';

(ac) by inserting after the definition of 'family' the following definitions:

'family company' of a member means a proprietary company—

(a) in which the member or a member of the member's family is a shareholder

and

(b) in respect of which the member or a member of the member's family, or any such persons together, are in a position to cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of the company:

'family trust' of a member means a trust (other than a testamentary trust)—

(a) of which the member or a member of the member's family is a beneficiary;

and

(b) which is established or administered wholly or substantially in the interests of the member or a member of the member's family, or any such persons together:;

I have a variety of amendments; some are reasonably straightforward, others more complicated and I would hope none of them would be controversial but some maybe.

When I spoke at the second reading I did say that the figure of $500 in the 1983 Act should be considered for updating in line with inflation. The Attorney-General said in his reply that he would give some consideration to that. In order for that to occur I have proposed an amendment that the $500 figure, which is a threshold for disclosure of certain benefits, should be increased to $1 000. The $1 000 is in excess of the CPI increase. The CIP All Groups Indices for Adelaide from the Australian Bureau of Statistics show that the June quarter 1983 index was 63.9. In the index for the December quarter 1992 it is 110.7. It seemed to me that the increase of the December quarter 1992 over the June quarter 1983, when the amount was first fixed by statute, would have brought the amount on a strict calculation up to $860 in comparable value. I rounded it up to $1 000 as a basis for consideration. It seems to me that if we are to keep the legislation up to date in terms of values that some increase in that threshold is appropriate. If one accepts the Bureau of Statistics indices, provided they are not revised as I understand the unemployment figures for last month were revised today, then we are up to a figure which is close to $1 000. It is on that basis that I now move that amendment for consideration.

The Hon. C.J. SUMNER: I do not think that we should get involved in creeping this figure up. I think that $500 was a fairly generous exemption in 1983. I certainly think the $1 000 is pretty generous today, if that is what the honourable member wants to go to. It is quite a lot of money and a gift or a financial benefit, whatever, of that amount is not inconsequential. I understand the honourable member wants to put all the

figures up to $1 000, gifts and otherwise. I would be a bit more inclined—but obviously the Hon. Mr Elliott will determine the matter—to attune it more closely to the CPI and would be happier with $800 rather than the $1 000 suggested by the honourable member. It depends on what the Democrats want to do about it.

The Hon. M.J. ELLIOTT: I stop short of saying that I do not really give a damn. There have been no overpowering arguments put at this stage as to what a reasonable figure is. The argument is more along the lines that it was $500 10 years ago and perhaps it could go up a bit. I suppose it is true to say if you do nothing now this legislation may not open for another five or six years and it might be, even in today's terms, a value of a few hundred dollars. I was not involved in the original arguments as to why it was $500 so I cannot think what size amount is going to become important. I do not care a whole lot, but I thought perhaps the Attorney-General might flag an alternative amendment—a nice compromise of $800 sounds reasonable to me. If the Attorney wants to move it, I would support it. It sounds all right to me.

The Hon. C.J. Sumner interjecting:

The CHAIRMAN: The Attorney-General has moved an amendment to the amendment—

The Hon. K.T. GRIFFIN: I suppose it is an option. What the Hon. Mr Elliott says is correct. It may not be opened up for another 10 years. What we are really trying to do is identify interests that are going to have some bearing on a member's decision. When the $500 was fixed, as I recollect it, it was felt that $500 might have some influence. Personally, a member would be a fool to accept anything that sacrifices or is likely to put his or her position in the Parliament at risk. My experience is that members do not generally do that. Ministers in Queensland did, when we look at some of the expense allowances that they took for use of motor vehicles and other things. That was plain stupid. I think the same applies here.

In the context of this legislation, I am trying to make it reasonable from the point of view of members who have to keep track of benefits and expenses and a whole range of other things during the year, not just for this purpose but for other purposes, and to say, 'Well, in the circumstances of the legislation, what is a reasonable amount which ought to be disclosed and for which a member is likely to be influenced in making his or her decision on legislation or in some other context?' It seemed to me that if the CPI has gone up to the extent that the $500 in 1983 is now worth $860, a round figure is $1 000 and on the basis—

The Hon. C.J. SUMNER: If you draw the distinction between the amount that you get from your business vocation or private company which triggers the disclosure and actually receiving a gift, you might be able to argue that can have a higher figure in this clause dealing with financial benefit than you might have in the other clause dealing with gifts.

What the honourable member was trying to do with his series of amendments was put the same figure all the way through. It is true that in the current Act that is the case and it is $500. If you receive income of more than $500 from a particular source, then you have to declare it, but normally that would be income earned from investments or possibly even work.

I think there is a distinction, although it is not recognised in the current Act—that is, the figure which is set that requires disclosure and the figure that is set when a gift is received from someone. The Parliament might well decide that there could be a higher figure as the threshold for disclosure than there would be for the disclosure of a gift.

Maybe we can think about that. I do not know about the rest of the members, Mr Chairman, but that answer to the Hon. Mr Irwin exhausted me. If we are not sitting tonight, and with the last two late nights, I think we might as well pack up and go home.

Progress reported; Committee to sit again.

LAND AGENTS, BROKERS AND VALUERS (MORTGAGE FINANCIERS) AMENDMENT BILL

Returned from the House of Assembly without amendment.

INDUSTRIAL RELATIONS ADVISORY COUNCIL (REMOVAL OF SUNSET CLAUSE) AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The aim of this Bill is to remove the sunset clause from the *Industrial Relations Advisory Council Act* 1983. When the Industrial Relations Advisory Council was established the parties agreed that a 'sunset' clause should be included so that the effectiveness of the Council could be reviewed on a three yearly basis.

All parties involved in the industrial relations arena now agree that the Council is a useful forum and that there is no need to continue with the 'sunset' clause.

The Government believes that the Advisory Council has had a positive influence on our industrial relations system and has contributed to the State's excellent record of industrial harmony as evidenced by the fact that this State has recently recorded the lowest number of days ever lost through industrial disputes.

The removal of the 'sunset' clause will make the Advisory Council a permanent part of this State's consultative process in industrial matters, and reflect this Government's commitment to industrial partnership.

Clause 1: Short Title. This clause is formal.

Clause 2: Repeal of s. 13. This clause repeals the sunset clause of the Act.

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

ABORIGINAL LANDS TRUST (MISCELLANEOUS) AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The Aboriginal Lands Trust was established in 1966 following the passing of the Aboriginal Lands Trust Act. The Intent of the Act is principally to acquire and hold land on behalf of the Aboriginal communities of South Australia and three nominated by the Minister of Aboriginal Affairs, including the Chairperson. The Minister is also represented on the Trust.

In holding land on behalf of the Aboriginal community, the Trust and the Government are keen to ensure that the benefit to the Aboriginal Community Derived from these land holdings is maximised. The establishment of the Parliamentary Committee on Aboriginal Lands and the Business Advisory Panel in 1992, following amendment of the Act in 1991, are part of the Government's program in this area.

The purpose of this Bill is to assist the Aboriginal Lands Trust to carry out its program of working with Aboriginal communities to increase the return from the lands which it holds. The Trust has sought the amendment of the Act in four areas, firstly to allow for the appointment of deputies to members, secondly, to remove the requirement that no meeting of the Trust shall be held without the Minister's representative, thirdly, to make provision for the operation of an Executive Committee, and fourthly, to provide for the appointment of a manager or management committee in respect of the land.

The Trust currently meets on a quarterly basis, and it is not always possible for each member to attend all meetings. This means that the Community which that member represents is not able to fully participate in the affairs of the Trust. The Trust has therefore sought the establishment of a system of deputies to members, to assist in providing continuity in the representation from Communities on the Trust.

In passing the Aboriginal Lands Trust Act in 1966, the Parliament took the view that the Minister should be represented at all meetings of the Trust, and Section 10(3) required that no meeting of the Trust should be held without the Minister's representative. A number of reviews of the Act since that time have recommended that this provision be removed. The Government is therefore moving to delete this requirement and provide that the Minister's representative is entitled to attend meetings of the Trust.

Between meetings of the Trust there are on occasions matters which arise which require more urgent attention than a quarterly meeting will allow. the Trust has therefore sought provision to allow for the establishment of an Executive Committee to operate between meetings of the full Trust. The full Trust would be required to meet in relation to major matters such as the leasing of land, to approve major expenditures, the appointment of staff and making recommendations in relation to legislation. However, these amendments would allow the Trust to delegate other powers and functions to a member, or a committee of members.

The Trust and the Parliamentary Committee on Aboriginal Lands have sought the amendment of the Act to allow the Trust to appoint a manager or management committee to manage land which has been previously leased by the Trust. This provision will allow the Trust, with the consent of the Minister, to appoint a person or committee to manage land, where the Trust is of the view that the land is not being managed by the lessee for the benefit of the Aboriginal Community for whose benefit the lease was granted.

Clause 1. Short title. This clause is formal.

Clause 2. Commencement. This clause provides for the measure to be brought into operation by proclamation.

Clause 3. Amendment of s. 6—Membership of Trust. This clause amends section 6 of the principal Act to make provision for the appointment of a standing deputy for any member of the Aboriginal Lands Trust. Where a member of the Trust has been appointed on the recommendation of an Aboriginal community, a deputy of the member must also, under the clause, be appointed on the recommendation of that community.

Clause 4. Amendment of s. 10—Meetings and quorum. Section 9a of the principal Act requires that the Minister appoint a Minister's Representative for the purposes of the Act. Section 10(3) currently provides that no meeting of the Aboriginal Lands Trust may be held in the absence of the Minister's Representative. Under this clause, subsection (3) is replaced with a provision providing instead that the Minister's Representative is entitled (but not required) to be present at a meeting of the Trust.

Clause 5. Insertion of news. 11a—Delegation by *Trust.* Proposed new section 1 la is designed to allow the Aboriginal Lands Trust to delegate powers and functions to a member of the Trust or a committee of members. Under the proposed new section, certain functions or powers would not be capable of delegation, namely—

(a) the granting of a lease in respect of any land vested in the Trust pursuant to the Act;

(b) the appointment under proposed new section l6aa of a manager or management committee in respect of land the subject of a lease granted by the Trust;

(c) the approval of expenditure in an amount exceeding $5 000;

(d) the appointment of an officer or employee of the Trust or the determination of any matter relating to the terms and conditions or termination of the appointment or employment of an officer or employee of the Trust;

(e) the making of any recommendation to the Minister as to legislative amendment;

(f) this power of delegation.

Any such delegation—

(a) must be by instrument in writing;

(b) may be conditional or unconditional;

(c) does not prevent the Trust from acting itself in any matter;

and

(d) may be revoked at any time by the Trust.

Clause 6. Insertion of new s. 16aa—Appointment of manager or management committee in respect of land leased by Trust. Proposed new section l6aa provides for the appointment of a manager or a management committee in respect of land that has been vested in the Trust and is the subject of a lease granted by the Trust under the principal Act. Under the section, such an appointment may not be made except at the request of the lessee or with the consent of the Minister where the Trust is satisfied that the land is not being properly managed by the lessee for the benefit of the Aboriginal community for whose benefit the lease was granted.

Where the Trust appoints a manager or management committee in respect of land the subject of a lease, the manager or management committee will have all the powers, functions and

duties of the lessee in respect of the land and must report regularly to the Trust on the management of the land.

The remuneration of the manager or a member of the management committee and all other costs and expenses arising out of the management of the land are to be payable by the Trust but recoverable by the Trust as a debt from the lessee.

The section empowers the manager or management committee to require the lessee or any person who has been involved in the management of the land to report (orally or in writing) on matters relating to the management of the land and non-compliance with any such requirement is to constitute an offence punishable by a maximum fine of $4 000 (Division 6 fine).

A manager or management committee appointed by the Trust must, on the termination of the appointment, fully account to the Trust for the management of the land.

The section allows regulations to be made in relation to the management of land by a manager or management committee appointed under the section.

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

EDUCATION (NON-GOVERNMENT SCHOOLS) AMENDMENT BILL

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

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

That this Bill be now read a second time.

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

Leave granted.

Explanation of Bill

The Government proposes to amend the *Education Act* 1972 by this Bill in relation to the registration of non-Government schools.

The amendments arise from the experience of the Non-Government Schools Registration Board. Since the Bill was introduced last session, further consultation has taken place and, as a result of that consultation, all amendments to the principal Act are confined to Part V.

Several of the amendments will provide new powers to the Board and have been found necessary in the light of recent legal experience. All amendments are intended to assist the Board in better discharging its statutory responsibilities.

The Bill is the result of lengthy preparation and wide consultation with groups likely to be affected by it. Prominent among these are the South Australian Commission for Catholic Schools, the Independent Schools Board of South Australia, the Children's Services Office, the Association of Non-Government Education Employees and the South Australian Institute of Teachers.

More realistic penalties will now be prescribed for both first and subsequent offences for operating an unregistered non-Government school. These penalties were last revised in 1986. The amendments are realistic in contemporary financial terms and complement penalties prescribed elsewhere in Part V of the principal Act.

Increased penalties will also be prescribed for failure to keep adequate records of student attendance or failure to furnish attendance returns as required and for hindering or preventing authorised Board panel members from carrying out an inspection on a non-Government school. These penalties have not been revised since 1980 and 1983 respectively.

From the date of operation of this Act, schools will be issued with a new certificate of registration by the Board. Schools will "be required to display a copy of this certificate on every campus. There is a penalty for failing to comply with this provision. The certificate will carry a description of the school which will include all locations at which it is registered to operate, the name of its governing authority and any conditions applying to its registration. The information (which must be correct) is thus publicly accessible which will be of benefit to both the school community and the public.

The heading of Part V Division III of the principal Act is to be altered to describe more appropriately the purpose of the Division and will become, simply, 'Review of Registration'. This Division will also be amended so that, in future, there can be no difficulty over the service of notices in relation to a review of registration by the Board and no likelihood of this provision not being fully and accurately complied with.

The amendments I have outlined above will not result in any cost increases save those associated with the printing and issuing of new certificates of registration. This small cost will be absorbed in the current budget.

There is likewise no requirement for additional staffing.

I commend the Bill to the House.

The provisions of the Bill are as follows:

Clauses 1 and 2 are formal.

Clause 3 amends section 72 of the principal Act by striking out from subsection (2)(b) 'one of whom shall be an officer of the Department' and substituting 'of whom one must be an officer of the Department or an officer of the teaching service'.

Clause 4 amends section 72f of the principal Act by striking out and substituting higher penalties. The proposed penalty for a first offence of operating an unregistered non-Government school is $10 000 (instead of $1 000) and for a subsequent offence, $10 000 (instead of $1 000), or $500 per day (up from $100 per day).

Clause 5 amends section 72g of the principal Act by striking out subsections (3) and (4) and substituting new subsections.

Proposed subsection (3) provides that where the Board is satisfied on an application under section 72g that—

(a) the nature and content of the instruction offered, or to be offered, at the school is satisfactory;

(b) the school provides adequate protection for the safety, health and welfare of its students; and

(c) the school has sufficient financial resources to enable it to comply with paragraphs (a) and (b) in the future,

the Board must register that non-Government school for such period as it thinks fit.

Proposed subsection (4) provides that the Board may impose such conditions on the registration of a non-Government school as it thinks necessary—

(a) with respect to the safety, health and welfare of students at the school; and

(b) to ensure that those students receive a suitable education.

Clause 6 inserts a new section 72ga after section 72g of the principal Act that provides that where the Board registers a non-Government school, the Registrar must issue to the school a certificate of registration in a form approved by the Minister that includes the following information:

(a) the name of the school;

(b) the address of each of the school's campuses;

(c) the identity of the governing authority of the school; and

(d) the conditions (if any) that apply to the registration of the school.

Proposed subsection (2) provides that where a registered non-Government school has more than one campus, the Registrar must issue a sufficient number of duplicate certificates of registration to enable the school to comply with subsection (3).

Proposed subsection (3) provides that a registered non-Government school must at all times display its certificate of registration, or a duplicate certificate of registration, in a conspicuous place at each of the school's campuses. There is a penalty of $100 for a breach of this subsection.

Proposed subsection (4) provides that the governing authority of a non-Government school must, within 14 days after—

(a) a condition of the school's registration has been varied or revoked;

(b) any other change in the information recorded in the certificate of registration has occurred; or

(c) the registration has been cancelled,

return the certificate of registration and the duplicate certificates (if any) to the Registrar. There is a penalty of $100 for a breach of this subsection.

Proposed subsection (5) provides that on receipt of a certificate of registration, or duplicate certificate of registration, pursuant to subsection (4), the Registrar—

(a) must, if the school's registration has been cancelled, destroy the certificate or duplicate certificate;

(b) may, in any other case, alter the certificate or duplicate certificate or issue a new certificate or duplicate certificate in respect of that school.

Clause 7 strikes out the heading of Division III of Part V of the principal Act and the heading 'DIVISION III—REVIEW OF REGISTRATION' is substituted.

Clause 8 amends section 72j of the principal Act by inserting a proposed subsection (2b) after subsection (2a) that provides that notice in writing addressed to the governing authority identified in the certificate of registration of a non-Government school and—

(a) left at the school with someone apparently over the age of 18 years; or

(b) sent by post to the school in a pre-paid envelope addressed to the governing authority identified in the certificate of registration,

will be taken to be service of the notice on the governing authority of the school for the purposes of subsection (2).

Clause 9 amends section 72n of the principal Act by striking out subsection (3) and substituting a new subsection (3) which provides that the head teacher of a registered non-Government school who fails to comply with the provisions of this section is guilty of an offence and liable to a penalty of $500. (The previous penalty for this offence was $200.)

Clause 10 amends section 72p of the principal Act by striking out subsection (2) and substituting a new subsection (2) which provides that a person who prevents the members of a panel from carrying out an inspection under subsection (1), or hinders such an inspection, is guilty of an offence and liable to a penalty of $500. (The previous penalty for this offence was $200.)

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

FIREARMS (MISCELLANEOUS) AMENDMENT BILL

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

ADJOURNMENT

At 5.54 p.m. the Council adjourned until Tuesday 23 March at 2.15 p.m.