LEGISLATIVE COUNCIL

Tuesday 23 March 1993

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

ASSENTS

Her Excellency the Governor, by message, intimated her assent to the following Bills:

Dog Control (Dangerous Breeds) Amendment,

Public Finance and Audit (Miscellaneous) Amendment.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions, as detailed in the schedule that I now table, be distributed and printed in *Hansard:* Nos. 29 and 42.

HOSPITAL SERVICES

29. **The Hon. BERNICE PFITZNER:**

In relation to the recently announced cuts to services provided by Visiting Medical Staff at the Adelaide Children's Hospital -

1. Will the Minister provide the House with details of the total number of paid hours cut, by specialty in the Department of Surgery?

2. In view of the extent of the proposed cuts, how does the Hospital expect to maintain the level of service previously provided?

3.

(a) Is the Minister aware that the Visiting Medical Staff in the Department have provided an average of at least 3.5 hours of service per week without charge?

(b) If this is withdrawn as a result of the cuts, how are services to be continued at the present level?

4. Is the Minister aware of the resultant imbalance in surgical services, if the cuts proceed, between the Cranio-facial Unit and other surgical units?

5. Will the Minister provide data on the number of patients from overseas receiving services in the Cranio-facial Unit in the last 12 months in comparison with the number of South Australian patients?

6. How are the services in the Cranio-facial Unit provided for overseas patients paid for?

7. How much has been paid in the last 12 months?

8. How are these funds dispersed?

9. How will the cuts proposed in the Division of Surgery impact on the waiting lists in the areas targeted for cuts?

10. Is the Minister aware that despite the cuts in the Division, Management has told staff that it expects the previous level of services to be maintained?

11. How can this be achieved?

The Hon. BARBARA WIESE: The reply to your question is as follows:

1. The total number of paid hours reduced, by speciality, in the Department of Surgery are:

Dental	3.5 hours per week
ENT	3.5 hours per week
Neurosurgery	7 hours per week
Paediatric Surgery	7 hours per week
Plastic Surgery (inc. cranio-facial)	7 hours per week
Orthopaedic	10.5 hours per week

2. The hospital will maintain the level of service previously provided by both visiting and full-time staff by ensuring that remaining staff absorb the workload of the reduced positions. Independent utilisation reviews by Booz Allen & Hamilton, Consultants, have confirmed this is achievable.

3. (a) There is no data available that verifies the amount of time Visiting Medical Staff work. It is accepted that some work outside of allocated hours is consistent with the flexibility of many of the Visiting Medical Staff.

(b) The activities for which staff are paid are for direct clinical services and teaching and these will be maintained as above.

4. The reductions have occurred and there will be no imbalance in surgical services between the Cranio-facial Unit and other surgical units. The Cranio-facial Unit is a part of the Plastic and Reconstructive Surgery Department, and it is a requirement that the cranio-facial surgeons, who are plastic surgery specialists, pick up the plastic surgery workload from the reduced sessional positions.

5. The number of patients from overseas received services in the Cranio-facial Unit in the last 12 months in comparison with the number of South Australian patients are as follows:

From 1.12.91-30.11.92

22 overseas patients

approximately 118 South Australian patients (precise figures are not available for SA patients)

South Australians account for approximately 70 per cent of outpatient attendances, interstate patients 17 per cent, and overseas patients approximately 13 per cent (i.e. approximately 275 outpatient attendances, or 12-13 attendances per patient which are the average numbers of pre- and post-operative attendances for major cases).

6. The services in the Cranio-facial Unit provided for overseas patients are paid for the following ways:

(a) The South Australian Government 'Free Treatment of Patients from Neighbouring Countries' Scheme. Approved for 15 patients a year.

(b) Privately paid for (full fee paying—at a cost specified in the bed day charges which the hospital is authorised to charge).

(c) Privately sponsored (by charities—to a limit of 15 further patients per year for an all inclusive fee which currently stands at $15 000 per annum).

7. In the last 12 months, payment has been:

SA Government funded No charges raised

Privately paid $13 260

Privately sponsored $30 000

NB Charges are raised after treatment, hence amounts may not reflect numbers for the period.

8. The funds received from part of the hospital's operating budget.

9. There will be little change to the waiting lists as it is anticipated that the workload will be absorbed by remaining visiting and full-time staff.

10. Management has told staff that it expects the previous level of services to be maintained, in accordance with the findings of the Booz Allen & Hamilton review.

11. This can be achieved through the reallocation of time between full-time and visiting medical officer staff.

EDUCATION CENTRE

42. **The Hon. R. I. LUCAS:**

1. As part of the refurbishment of the Education Centre, has, or is, asbestos being removed from the building?

2. If yes, is the asbestos being removed from both outside and inside the building and, if the latter, what were the reasons behind the decision for total removal of asbestos products?

3. What is the total expected cost of the refurbishment of the Education Centre and, of that cost, how much has been or will be spent on asbestos removal?

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

1. Yes.

2. Asbestos is being removed from inside and outside the building in conjunction with upgrading of tenancy floors as they become vacant and available for refurbishment and in accordance with the Government's asbestos removal program and, in the case of the exterior, while urgent necessary repairs are taking place.

3. A comprehensive building audit of the education building has been carried out which looks at long term asset management of this building. The total costs and priorities are still to be determined as part of a 20 year plan. However, the asbestos removal program is expected to cost $549 000.

AUDITOR-GENERAL'S REPORT

The PRESIDENT laid on the table the Auditor-General's supplementary annual report for the financial year ended 30 June 1992.

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. C. J. Sumner)—

Magistrates Court Act 1992 - Rules of Court –

Forms - Amendments.

Port Adelaide Trial Court.

Summary Procedure Various.

Friendly Societies Act 1919 - General Laws of the Friendly Societies' Medical Association Incorporated.

Regulations under the following Acts –

Gaming Machines Act 1992 - General.

Police Superannuation Act 1990 - Inclusion - Aboriginal Police Aides.

By the Minister of Transport Development (Hon. Barbara Wiese)—

South Australian Health Commission Report 1991-92.

By the Minister for the Arts and Cultural Heritage (Hon. Anne Levy)—

Non-Government Schools Registration Board - Report 1992.

Teachers Registration Board - Report 1992.

Regulations under the following Acts -

Planning Act 1982 - Moveable Business Signs.

Real Property Act 1886 - Revocation - Friday Lodgment Surcharge.

Sewerage Act 1929 - Examination and Registration Fees.

Waterworks Act 1932 - Registration and Renewal Fees.

Planning Act 1982 - Crown Development Report on proposed land division application, Hundred of Caroline.

By the Minister of Consumer Affairs (Hon. Anne Levy)—

Regulations under the following Act –

Liquor Licensing Act 1985 -

Dry Areas - Whyalla Foreshore.

Exemptions Bed and Breakfast Accommodation.

GENTING GROUP

The Hon. C.J. SUMMER (Attorney-General): I seek leave to make a ministerial statement.

Leave granted.

The Hon. C.J. SUMNER: The following ministerial statement on the Genting Group is being given in another place by my colleague the Treasurer following questions asked in this Chamber and in another place on that topic.

Several questions were asked in the Parliament on 4 March 1993 about the suitability of the Genting Group to remain associated with the Adelaide Casino. Those questions were based principally on a report prepared for the Federal Parliamentary Committee on the National Crime Authority by Mr L D Ayton, who is an Assistant Police Commissioner in Western Australia. I referred the matter to the Chairman of the Casino Supervisory Authority and I now seek leave to table a copy of her response.

Leave granted.

The Hon. C.J. SUMNER: That response makes several relevant points, and I will summarise them for the benefit of the Council. In the first place, it is clear that the submission by the consortium with which Genting was involved in Western Australia for the establishment of the Burswood Casino was a superior one. The recent royal commission in Western Australia found that a reasonable person could readily conclude that it offered most benefit to the economy of Western Australia. The choice of the Genting consortium to develop the casino was therefore readily supportable on economic grounds.

In the second place, it is clear that certain information came to the attention of Mr Ayton in the course of his investigations at that time which was adverse to the Gentling Group. Most of that information proved to be unfounded.

Thirdly, some time after Genting had been appointed as technical advisers to the operator of the Adelaide Casino two directors of the company were alleged to have made false statements in connection with the issue of the prospectus for the Burswood Property Trust. The allegation was that the construction cost of the project was deliberately understated with the intention of misleading prospective investors.

A thorough investigation was carried out by a senior officer of the Western Australian Corporate Affairs Commission with assistance from Mr Ayton. The point at issue was whether it was realistic to expect that an estimate of $180 million for the construction cost prepared just prior to the issue of the prospectus could have been reduced to the figure of $146.5 million used in the prospectus.

After much consideration and with the benefit of expert legal advice, the Commissioner of Corporate Affairs in Western Australia decided not to prosecute. The case rested heavily on inference and it was not possible to exclude other views of the facts which were consistent with the genuineness of the proposed reductions.

The royal commission in Western Australia subsequently concluded that the decision not to prosecute fell within the range of proper discretion of the prosecutor. In reaching this conclusion the commission observed that while Mr Ayton was an upright and conscientious investigator they discounted his suspicions a good deal. It is not necessary to question the sincerity with which Mr Ayton holds his beliefs to conclude that they have not been established as fact.

In conclusion, the Casino Supervisory Authority is aware of the matters which have given rise to the questions asked in the Parliament on 4 March 1993 and has pursued them through every avenue open to it. On the information presently available to it, the CSA has no basis to find that Genting's role as technical adviser to the Casino exposes the Casino to management by people of suspicious background.

COURT SERVICES DEPARTMENT

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a further ministerial statement on the subject of a Courts Services Department award.

Leave granted.

The Hon. C.J. SUMNER: I wish to place on the record through this ministerial statement details of an award recently given to the Court Services Department. Criticism of Government departments always receives publicity; their achievements often go unmentioned.

Late last month, South Australia's Court Services Department was awarded a prestigious gold award by the Technology in Government Committee at a presentation dinner at Parliament House in Canberra. Court Services were one of only 14 organisations which received gold awards during the course of the evening. These were open to every State and Commonwealth Government department in Australia.

Mr President, the receipt of this Technology in Government Award should be acknowledged. It was an excellent achievement and awarded for very good reason. South Australia's Court Services Department has the most advanced courts computer system now operating in the country. As a result, it is also the most efficient Court Services Department in Australia. Its systems are now available to all court offices including country locations.

Five years ago, with very little experience in computer technology, the department embarked on a seven year computerisation system that has so far cost $20 million. The entire seven year project, when it concludes in 1995, will have cost $26 million. The cost efficiencies and benefits of such a system will have far outweighed the initial establishment costs when it is fully operational. The department now recognises that this system is open to enormous potential from within Australia and overseas to sell its computer software to similar services. Indeed, the department has demonstrated its system to representatives from New South Wales, Victoria, Western Australia, ACT, Queensland, New Zealand and Thailand.

The computerisation project has transformed the department and dramatically changed the way in which the courts do their business. Every aspect of courts administration has been affected by the new system.

The new system covers 40 jurisdictions throughout South Australia, including the Supreme, District and Magistrates Courts. It has a number of important functions:

- The Autoprint software now automatically generates and prints more than 30 000 prescribed forms and documents per month. This software (which last year won a Technology in Government Silver Award) prepares court orders and bond or bail papers within a few minutes of a hearing being concluded instead of the three to four hours it took when each form was manually typed. In future, these functions may occur right in the courtroom. This also stops the clogging up of courthouses with people waiting to receive their documentation and eases the burden of staff having to type each form manually. It also saves on the cost of printing *pro forma* documents.
- The caseflow management function has been an essential aspect in reducing the backlog of District Court civil cases from 4 700 two years ago down to 1 200. That backlog is reducing all the time. This particular function keeps a much tighter control over the court lists. The computer monitors progress against previously agreed time standards and will automatically print letters to legal counsel where they have not met the agreed time limit at each step of the process. The computer assists the courts to control the process so that justice is not unduly delayed.
- All court diaries are now computerised, so that at pre-trial conferences when all parties are present the courts can find time slots for listing cases for trial on the spot. This makes for a much more efficient listings process.
- One of the most valuable functions assisted by computing is the Judicial Research Information System, or JURIS as it is now known. JURIS contains all South Australian and Commonwealth Statutes and all judgments of our higher courts. Not only can this information be retrieved very easily; it can be electronically 'cut and pasted' into the department's office automation word processing system.
- The litigation support function keeps on computer a running transcript of each trial. Judges can very quickly call up any part of the evidence given in court, they can cross-reference and make notes next to any of the transcript and this can cut down the amount of time spent on delivering a judgment.
- The Court Services Department makes all higher court judgments available to the South Australian Law Society, a legal data base service known as 'Info One', and the Commonwealth Attorney-General's Department 'SCALE' system.
- In the case of fine payments, the computer will automatically proceed to a reminder notice if payment has not been received. As many fine defaulters pay up when they receive such notices, this system saves

- many matters from going to a warrant so that less police time is wasted. It also allows the courts much better control over outstanding fines because follow-up of non-payment is automatic.
- The computer systems allow for approved transfer of data electronically to the South Australian Police Department, to the Office of Crime Statistics, the Justice Information System, and so on. It is also compatible with the Parliamentary Counsel computer system so that any new statutes keyed into their computers can be easily transferred to the court services computers.
- The computer system is now in the process of being linked to the Motor Registration Department so that it can provide details of court-ordered licence suspensions and cancellation of motor registrations.
- The system also provides a word processing function to 150 court department staff in the metropolitan area, and that service is now in the process of being extended to court staff throughout this State.

The Technology in Government Gold Award is well deserved by the Court Services Department. In considering the magnitude of the investment involved, the enormity of the undertaking, the achievement of benefits and the acclamation which the systems have received from independent consultants and from other court representatives, there is no doubt that this project was worthy of the commendation that it received.

I am sure that the Parliament will join me in congratulating all those in the Court Services Department involved with developing this computer system in South Australia.

QUESTION TIME

OPEN ACCESS COLLEGE

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister representing the Minister of Education a question about Open Access College fees.

Leave granted.

The Hon. R.I. LUCAS: The Brethren are a small fundamentalist universal fellowship following traditional Christian values as taught in the Holy Scriptures. Because of their religious beliefs, a number of Brethren parents have withdrawn their children from schools and want them to be educated at home by correspondence through the Open Access College.

Since late last year parents have been in dispute with the Minister of Education over the exorbitant level of charges for their students. In 1992 five Brethren children were accepted as full-time students in the Open Access College at the base rate of $150. However, the Minister now wants to charge these students over $3 000 each to study at home through the Open Access College. These parents are concerned at this decision by the Minister and they state:

This is obviously discriminatory and prejudicial and designed to discourage us from proceeding despite the undeniable fact that moral isolation is as real as physical. This is emphasised in that Brethren children are charged considerably less interstate, for example, New South Wales $530, Queensland free, Tasmania $115 and Western Australia $400.

I have also been informed that this figure of $3 010 should be compared to the Open Access College charges to adult re-entry students who are also charged $510 for the same number of subjects. Members will know that we have a number of adult re-entry schools, such as at Elizabeth and at Hamilton College, where a good number of adult re-entry students undertake study in this fashion. My questions to the Minister are as follows:

1. Will the Minister explain why adult re-entry students at Open Access College are charged $510, yet Brethren students are being charged over $3 000 for the same courses?

2. Does the Minister accept that she and her department are discriminating against Brethren children on the basis of their religious beliefs?

3. Will the Minister review her decision on this matter?

The Hon. ANNE LEVY: I will refer those questions to my colleague in another place and bring back a reply.

MABO CASE

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about the Mabo case.

Leave granted.

The Hon. K.T. GRIFFIN: Mr President, on 9 February this year I asked a question about the decision of the High Court in the Mabo case. I asked the Attorney-General if he would release any reports to the Government on the effect of the decision on South Australia and particularly on miners and developers. The Attorney-General, in his reply, made some observations about the case and said that he would bring back information including whether or not the reports would be available. Since that question was asked the Northern Territory Government has enacted legislation which depends upon the Commonwealth enacting clarifying legislation because the Northern Territory Government is concerned about the impact of the Mabo decision on mining and development activities in the Northern Territory.

I see that some eight leading business groups have called on the Federal Government to introduce laws to protect the property rights of farmers, miners and land users. Those eight are the Australian Chamber of Commerce and Industry, the Australian Chamber of Manufacturers, the Australian Mining Industry Council, the Australian Coal Association, the Business Council of Australia, the National Farmers Federation, the National Fishing Industry Council and the National Association of Forest Industries. These bodies raised a number of issues, but one of them relates particularly to security of title and the extent to which financiers can rely with confidence on the integrity of a land title in participating in development. Obviously, this is an issue that is of concern to a wide range of people in the community and is likely to have an impact on mining and other major developments in South Australia which are critical to the future of this State. I ask the Attorney-General the following questions:

1. Has he yet decided whether or not reports received by the State Government on the issue can be released?

2. Can he indicate what consultations have occurred by the State with the Commonwealth in order to achieve a solution to the uncertainty created by the decision?

3. Does the State Government regard the issue as one which is serious and which must be resolved as a matter of some urgency?

The Hon. C.J. SUMNER: The State Government has been doing some work on this topic since the decision and that has continued following the honourable member's question in February. I am looking to see whether or not the report prepared for the South Australian Government can be released. If there is no prejudice that will occur by its release I certainly favour that course of action. However, that matter is being examined at present.

The issue is also being looked at in other areas of Government and I expect that a statement will be made about this topic at some time in the reasonably near future. I will ask that the questions asked on previous occasions and on this occasion by the honourable member be dealt with in a statement that will be made by the Government either by me or possibly by the Premier in the reasonably near future.

WOMEN, RETIREMENT

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister for the Status of Women a question about compulsory retirement.

Leave granted.

The Hon. DIANA LAIDLAW: In the past two days I have received telephone calls from older women and on behalf of older women in the work force who are upset about the Government's decision to defer, for up to two years, abolition of the compulsory retirement age, which for women is now 60 years. One women aged 58 years explained that she started contributing to a superannuation scheme only seven years ago. She lives alone and had been counting on the Government to honour its commitment to abolish the discriminatory retirement age for women so that she could work beyond 60 years, build up her superannuation benefits and thereby ensure she was more financially secure in the future. Other women have given similar stories, but they did not want to give their age. In fact, one said that she regrets having given her age to her employer. All these women argue, quite rightly, that their age is irrelevant to their capacity to do their job well.

As the honourable member advised this place on 5 November last that the revamped Women's Information and Policy Unit within the Department of Premier and Cabinet would, 'Overview all Cabinet documents in order to evaluate them in relation to their possible impact on women,' I ask the Minister:

1. Did the unit sight and comment on the submission to Cabinet by the Attorney-General to defer the abolition of the compulsory retirement age and if so what was the unit's recommendation?

2. What is the Minister's assessment of the impact of this decision on older women, acknowledging that more women today are the sole income earners for their families and themselves and that women's superannuation coverage is low, compared to that of men, because of interrupted careers to have children and because, until recently, most superannuation schemes were designed to meet the needs of men and not women?

The Hon. ANNE LEVY: I would endorse the remarks made by the honourable member on superannuation schemes although in recent times superannuation schemes certainly are being designed to be more friendly towards the needs of women, but there is obviously quite a way to go in this regard. I would point out to the honourable member that while under current Federal law women are eligible for the pension at the age of 60, whether there is a compulsory retirement age of 60 for women as opposed to 65 for men does depend on different employers. It does not apply for instance in the Public Service where women are able to continue until the age of 65 in exactly the same way as men. There is no discrimination in that regard. It would seem to me that, if there is a difference between sexes in retirement age, this is a matter where the Commissioner for Equal Opportunity could well provide comment and assistance. The differential compulsory retirement ages between the sexes certainly does not exist in the Public Service and in many other areas, likewise, the availability of the pension at the age of 60 is not equivalent to a compulsory retirement age.

The honourable member obviously was not happy with the pension being available for women at the age of 60 years. Part of the Fightback proposal was to raise the pensionable age for women to 65 years, as applies for men, which would have caused a good deal of hardship for the women to whom the honourable member is referring. Luckily, the country has been spared that upheaval, on the results of 13 March. Regarding the honourable member's other question, it is certainly true that the Women's Information and Policy Unit does cite all Cabinet documents and is able to provide comment on it, and this Cabinet submission was no exception. But I stress that compulsory retirement for women at the age of 60 years does not apply by any means to all sections of the community. It does not apply in the Public Service and nor for many private employers. As I have suggested, if there is a differential between the sexes, I suggest that the individuals concerned make contact with the Commissioner for Equal Opportunity.

MARRIAGE GUIDANCE

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health, Family and Community Services a question about counselling services.

Leave granted

The Hon. M.J. ELLIOTT: I am passing on the concerns of a couple of correspondents regarding the lack of marriage guidance facilities in the Eyre Peninsula, particularly in Port Lincoln. Two counsellors had been working for what was called the Eyre Peninsula Counselling Services, under the Marriage Guidance Bureau, and had received training from there. Due to Government funding cuts, there are now no marriage guidance counsellors in Port Lincoln. This is a particular concern to the women's shelter in Port Lincoln which

often, after a woman has sought refuge there and after a few meetings supervised by its staff, refers couples on to the counsellors. But it is not only people who have reached an absolute crisis who seek the assistance of the counsellors. The rural crisis and recession have put great strain on marriages in rural areas as they have in the city, but the commitment to provide the services to keep families together in difficult times does not seem to be there. My question to the Minister are:

1. Does the Minister agree that it is discriminatory and unacceptable that a community the size of Port Lincoln and the surrounding farm areas should be without marriage guidance services?

2. Does the Minister agree that making those services available can often prevent family crisis, with the resulting demands of more intensive services?

3. Will the Minister review the situation regarding marriage guidance counselling for the Eyre Peninsula with a view to re-establishing a service there?

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

STATE BANK

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General representing the Treasurer a question about the State Bank vehicle pool.

Leave granted.

The Hon. J.F. STEFANI: I have received information that towards the end of 1989 the State Bank had 92 vehicles which were designated as pool cars. I believe that in addition executives within the State Bank group were allocated vehicles for their business and personal use. I have received further information that at an executive committee meeting held on 1 December 1989, consideration was given to the purchase of mobile phones. I have been informed that the Group Managing Director highlighted the purchase of mobile phones which had occurred without appropriate approval and in many instances without sufficient justification for the use of the equipment. My questions are:

1. Will the Treasurer advise Parliament who is responsible for managing and controlling the State Bank fleet?

2. How many vehicles are classified as pool cars and are currently in the fleet?

3. Will the Treasurer advise the type, make and model of the vehicles which are allocated for executive use?

4. Will the Treasurer advise whether a register of all mobile phones owned by the State Bank has been established and whether approval to purchase such equipment is now under the control of the Chief General Manager, Group Management Services, and how many mobile phones are presently issued within the State Bank group?

The Hon. C.J. SUMNER: I am starting to get worried about the honourable member and the journalist who feeds him these questions from time to time because I have little doubt that he is going to suffer severe withdrawal symptoms when the State Bank is sold and he is no longer able to come into the Parliament and ask these questions on—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: You people needn't talk about anything. Keep quiet, Mr Davis; you would have done a better job than Mr Hewson as Leader of the Opposition, which is not really saying very much. However, you would be better off doing that than sitting here interjecting. All I suggest to the honourable member is that, once the State Bank is sold, he will not have anything to do with his time. I do not know how he will earn his salary, but that is something he will have to cope with when the time comes. The honourable member seemed to refer to some 1989 decision—

The Hon. J.F. Stefani interjecting:

The Hon. C.J. SUMNER: What did 1989 have to do with it?

The Hon. J.F. Stefani interjecting:

The Hon. C.J. SUMNER: Oh, I see; 1989 had nothing to do with anything—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER:—except to fill out the honourable member's question. However, he has asked specific questions which I will refer to the Treasurer and bring back a reply.

CHILD ABUSE

The Hon. J.C. BURDETT: I seek leave to make an explanation before asking the Minister of Transport Development, representing the Minister of Family and Community Services, a question on the subject of child abuse.

Leave granted.

The Hon. J.C. BURDETT: An article in the *Advertiser* of Friday 19 March headed, 'New focus on child abuse', said in part:

Police investigations into the level of child abuse in Adelaide's north-eastern and southern suburbs will encourage more people to report abuse and put extra pressure on already understaffed branches of Family and Community Services.

This is the warning by Children's Protection Council Chairwoman Mrs Diana Medlin in response to a call from Detective Senior Constable Peter Ellborn for more members of the public to assist police in determining the level of child abuse.

Senior Constable Ellborn is in charge of the southern region for Operation Balance, which aims to discover the level of child abuse in suburbs south and north-east of the city.

Earlier this month, FACS Minister Mr Evans rejected an approach by the Children's Protection Council for more funding to be directed to the department's child protection effort to help staff cope with a backlog of child abuse allegations. Opposition FACS spokesman Mr David Wotton has claimed only 30 per cent of abuse reports were being 'appropriately' investigated by FACS offices in the north-eastern region.

Mr Evans says he is satisfied that child abuse cases are being dealt with sufficiently, although he did concede that 'we could always do with more resources.'

He says that as more people became aware of the problem of child abuse and more resources were dedicated to tackling the problem, the definition of what constituted abuse had widened.

In 1991 a highly successful police operation in the northern suburbs codenamed 'Keeper' resulted in more than 290 people being charged with about 1 700 separate child abuse incidents. It uncovered a rate of child abuse estimated to be 2 1/2 times the national average.

Senior Constable Ellborn says the level of abuse in the southern suburbs could be just as high as that of the northern areas. The work begun with Operation Keeper has continued with a specialised team of police officers from Elizabeth CIB working closely with FACS social workers. The team has become the model for others throughout the metropolitan area.

The officer in charge of Elizabeth CIB, Detective Chief Inspector Barry Presgrave, says FACS offices 'do need more people'.

'The bottom line as far as I'm concerned is that all Government departments dealing with child abuse could use more staff if they were available,' he says.

Teachers contacted by the *Advertiser* agreed there was a need for more FACS staff to handle child abuse cases. Under the Community Welfare Act, teachers and other professionals who come into contact with children have a legal obligation to report suspected child abuse to FACS.

The principal of a northern suburb school says 'There have never been enough staff to deal with the problem. She says more serious cases, such as sexual abuse and physical abuse resulting in injury, were being dealt with effectively and quickly. 'The ones that almost never get dealt with are what we would call neglect cases,' she says.

Essentially, they are kids who are not getting enough to eat, kids who are being left alone on the weekends and those with health problems.

Another article in the *Advertiser* of 5 March, under the heading 'Child abuse reports flood FACS office', states:

Staff at the Family and Community Services Department are being overwhelmed by a flood of suspected child abuse notifications, the Children's Protection Council says.

The latest figures show that in the last financial year FACS staff received 4 138 notifications of suspected child abuse, including physical, sexual and mental abuse and neglect.

There had been 3 462 reports in 1990-91 and 2 898 in 1989-90.

'It is a really urgent problem,' council Chairperson Mrs Diana Medlin said yesterday.

The Legislative Council's Select Committee on Child Protection Policies, Practices and Procedures in South Australia, which reported on 8 October 1991, had as recommendation 27:

That all cases (of child abuse reported to the Department of Family and Community Services) are allocated.

The evidence given to the select committee was that they were not all allocated. South Australia led the way in Australia in mandatory reporting of child abuse. We have read in the press recently that the Victorian Government has sort of reluctantly agreed to introduce mandatory reporting, but there is no point in mandatory reporting if the reports are not followed up and dealt with.

It is a very controversial question overseas whether or not there ought to be mandatory reporting. For example, in the United Kingdom, there is not. I believe that there should be, but if there is mandatory reporting it must be followed up. My questions are:

1. Are all cases of reported child abuse at the present time allocated?

2. What is the backlog of child abuse cases?

3. How many staff in FACS are allocated to deal with cases of reported child abuse?

4. How does this relate to the 4 136 notifications of child abuse in the past year?

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

YATALA LABOUR PRISON

The Hon. I. GILFILLAN: I ask the Attorney-General, representing the Minister of Correctional Services, a question relating to G Division in Yatala Labour Prison. Is G Division a punishment facility for inmates who infringe the prison regulations? If so, who determines the punishment? Are inmates, on occasions, confined in a cell in G Division dressed only in jockette underpants and issued with a canvass blanket? If so, for how long and why? Are inmates confined in G Division in solitary confinement for terms up to 30 days? If so, how many are currently in solitary confinement? What is the time they will serve in solitary confinement and for what offences are they so confined?

The Hon. C.J. SUMNER: I will refer those questions to my colleague in another place and bring back a reply.

HOSPITAL WAITING LISTS

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister of Transport Development, representing the Minister of Health, Family and Community Services a question about waiting lists for radiotherapy treatment.

Leave granted.

The Hon. BERNICE PFITZNER: I understand that there is a four to six week waiting list for radiotherapy treatment at the Royal Adelaide Hospital. This has disadvantaged many seriously ill patients and two cases are of grave concern. One is a patient with cancer that is very radio sensitive. At present the cancer is spreading and all the patient needs is some radiotherapy treatment. However, he has to wait for an indefinite period and meanwhile the cancer grows, causing immense discomfort.

The second case is a condition of secondary cancer deposits in the brain from a primary area in the lung. This secondary deposit results in hemiplegia, which is paralysis of half of the body in the patient. This patient is still awaiting radiotherapy treatment so that the cancer deposits in the brain can be reduced and possibly reduce the hemiplegia. Meanwhile, the patient waits and possibly the needless paralysis on one side continues. My questions to the Minister are:

1. How long are the waiting lists for radiotherapy treatment?

2. How long have urgent cases, as identified by the two examples to which I have referred, to wait?

3. Will the Minister investigate these two cases and have radiotherapy instituted immediately?

4. Will the Minister investigate the processing of cases in the radiotherapy department of the Royal Adelaide Hospital with a view to obtaining a more efficient and effective service for the community?

The Hon. BARBARA WIESE: I will refer those questions to my colleague in another place and bring back a reply. I would request that the honourable member provide to me or to the Minister the information about the two specific cases to which she referred so that he might investigate those specific instances of the claims that she is making.

333 COLLINS STREET

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Attorney-General, as Leader of the Government in the Council, a question about 333 Collins Street.

Leave granted.

The Hon. L.H. DAVIS: In August 1991 the State Government Insurance Commission was forced to acquire the property at 333 Collins Street, Melbourne for a net price of $465 million. This forced purchase resulted from the put option which SGIC had entered into without any attempt to cover the massive risk involved or recognise the fact that the value of the building represented nearly one-third of their total investment funds in direct contravention to national insurance guidelines which require insurance companies to allocate no more than 5 per cent of investible funds to any one investment.

In the 1992-93 State Budget papers the Government admitted that this building had been written down to a value of just $250 million and that the South Australian Financing Authority had assumed SGICs exposure to 333 Collins Street and taken over the massive debt obligations.

This week I have discussed the value of 333 Collins Street with three leading property experts in Melbourne who all agree that there has been at least a 10 per cent fall in the value of central business district property in Melbourne in this financial year. I am also advised that of the 56 000 square metres of office space in 333 Collins Street 60 per cent remains empty; in other words, over 33 000 square metres of office space remains empty. As one property expert said, the most lettable space has been leased. The bottom floors of 333 Collins Street are a nightmare to lease because there are huge spaces: 3,000 square metres on one floor with big columns and simply no views. These bottom floors in fact detract considerably from the value of the building as an investment. The fact that the building itself remains 60 per cent unlet also diminishes the value of that building.

I am also advised that the only way in which major tenants can be attracted to the remaining spaces is through significant inducements such as free fit-outs and rent free periods, which effectively would aggregate tens of millions of dollars. For example, on a 3 000 square metre floor a free fit-out on average would cost about $800 a metre or $2.4 million. So a tenant taking that whole space would not only have an inducement of $2.4 million in free fit-out but in addition to that, quite likely, a rent free period of some period which, of course, is effectively worth millions of dollars more.

In summary then, it appears that $25 million, perhaps up to $50 million, will have to be written off the value of 333 Collins Street in the current financial year. In other words, property experts are saying it is now worth between $200 million and $225 million, a fall of between $240 million and $265 million in the 18 month period which has elapsed since SGIC was first obliged to acquire that property. So, $25 million to $50 million needs to be written off, it would appear, by June 30 this year. And, of course, there is an on-going interest cost, which when SGIC held it was in the vicinity of $50 million. In other words, 333 Collins Street remains a massive black financial hole for the taxpayers of South Australia. My questions to the Attorney-General are:

1. Will he report fully on the current position of 333 Collins Street, excluding the hotel from that consideration?

2. Will he provide an estimate of what the effective cost to the taxpayer will be of the forced purchase of 333 Collins Street in the financial year 1992-93?

The Hon. C.J. SUMNER: I will refer those questions to my colleague in another place and bring back a reply.

HENLEY AND GRANGE COUNCIL

The Hon. J.C. IRWIN: I seek leave to make an explanation before asking the Minister for the Arts and Cultural Heritage, representing the Minister of Housing, Urban Development and Local Government Relations, a question about council entrepreneurial activities.

Leave granted.

The Hon. J.C. IRWIN: A recent article in the *Advertiser* drew attention to the proposed activities of the Henley and Grange council regarding the development of a golf course on Federal airport land at a cost of approximately $7 million and the acquisition of a $1.5 million block of land in the Kidman Park area within the Woodville council area.

Regarding the proposed golf course, I ask the Minister: what resources does the Minister have to properly carry out his responsibilities under Part 12 of the Act? How many project applications has the Minister over the last 12 months under section 197 (Part 12) of the Act? How many projects are now awaiting a positive outcome of the amendments to the Local Government Act which are in this Chamber at the moment regarding the undertaking of projects outside council areas?

With regard to the land acquisition in the Woodville council area, I ask whether the Minister approved the purchase under section 198 of the Act and, if approval was not required under the Local Government Act, what other Act was used to authorise the purchase of this land?

The Hon. ANNE LEVY: I will refer those questions to my colleague in another place and bring back a reply.

TAXIS

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Transport Development a question about taxi drivers and tourism.

Leave granted.

The Hon. DIANA LAIDLAW: On Sunday, when addressing the Australian Taxi Industry Association conference, the Minister of Tourism said there should be a more rigorous training program for taxi drivers so that they can be better ambassadors for their country and State.

A couple of years ago the Metropolitan Taxi Cab Board implemented a driver training course, which includes a tourism component, for all new drivers entering the industry. The development of this course for all new drivers reflected recommendations made in 1985 by the Legislative Council select committee on the taxicab industry in South Australia. I note that the select committee considered that it would be'impractical to compel drivers already in the industry to take such a training course'.

However, the committee recommended that drivers already in the industry should be encouraged to attend particular sections of the course, especially the tourism component. As it is now eight years since the select committee reported—and I recall that the Minister was a member of the select committee at that time—what action, if any, does the Minister propose to take to encourage taxi drivers already in the industry to attend the tourism component of the taxi driver training program which has now been established for all new taxi drivers?

The Hon. BARBARA WIESE: It is correct that I was a member of the select committee to which the honourable member has referred. In fact, I chaired that select committee and was a very strong advocate for some of the recommendations which were designed to encourage members of the taxi industry to undertake training in appropriate areas and to improve the standards and the service that they provide to members of the community.

Since the introduction of various training courses and particular components, there has been an increase in the number of people who have undertaken such training. Hopefully, this is leading to a better service to the public. I am not sure of the exact numbers of people who have taken up these options since they became available. The comment made by the Minister of Tourism is timely in that it reminds me that it would be a good thing to make some inquiries about those courses and to receive a report from the Metropolitan Taxi Cab Board and other appropriate authorities on the progress that has been made during the past eight years with a view to taking further action should that be deemed desirable. I would certainly like to have the views of the Metropolitan Taxi Cab Board on the success that has been achieved during the past few years working on a voluntary basis and whether further measures ought to be pursued.

As I said, there has been a considerable improvement in Adelaide since the courses were commenced. At least all new entrants into the industry now have some form of training, which was not the case when the select committee first met. If we can improve on that still further and encourage taxi drivers to be even better ambassadors for South Australia and South Australian tourism than they currently are, I am sure we would all agree that it would be a good move.

INFLUENZA

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister of Transport Development representing the Minister of Health a question about haemophilus influenza type B.

Leave granted.

The Hon. BERNICE PFITZNER: Mr President, as you know, I have been most concerned at the gross delay in implementing an immunisation program for HIB. Recently we had an article in the *Advertiser* about a 14-month-old Aldgate child suffering unnecessarily with complications of HIB when only three injections would have protected him completely.

We now hear that the Federal Government will provide only $500 000 for a program that will cost approximately $1 million—a program that will protect children completely. Rather, we now have the likelihood of 3 600 HIB cases per year resulting in 90 deaths and 140 long-term disabilities from complications. The Western Australian Health Department has set aside $1 million for this program.

I initiated a motion at the end of last year which passed this Council in an amended form. The motion reads:

> That the Council requests that the State Government urges the Federal Government to implement an HIB immunisation program for all nought to five-year-old children in South Australia as soon as the licensed vaccine is out for tender, and that if the Federal Government is unable to fund a program immediately it should explore ways and means to make this vaccine available and accessible.

This vaccine is now out for tender. With no further Federal funding, the only ways and means are for this State to provide funding of at least $500 000. My questions to the Minister are:

1. Will the Government provide the necessary $500 000 for an HIB immunisation program in South Australia?

2. If this funding is not forthcoming, what is the justification for this?

3. Does this Government intend to put in place a user-pays program?

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

FAIR TRADING OFFICE

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Minister of Consumer Affairs a question about the Department of Public and Consumer Affairs.

Leave granted.

The Hon. K.T. GRIFFIN: On 11 March I asked a question, and my colleague the Hon. Robert Lucas asked

another question, about the Tilstone report relating to a review of the Office of Fair Trading. That review, in addition to the matters to which we referred on that occasion, also criticised the values of senior operational staff. The report says:

Most of the senior operational staff have spent all or most of their professional careers here. Their values are conservative. Only one of the 22 managers in the Office of Fair Trading is female, and that is the recently appointed Commercial Registrar.

The report, as I indicated on the last occasion on which I raised this question, states that the values and philosophies of the Office of Fair Trading have not matched changes in society in the past 15 years. The report also refers to'self-perpetuating conservative values in a time of considerable change in society; for example, the paucity of women managers in an area (consumer affairs) that is traditionally associated with women'.

What does the Minister now plan to do to correct a situation where the Office of Fair Trading does not represent society values and therefore is patently ineffective in satisfying the community that it should be serving?

The Hon. ANNE LEVY: As I indicated on the previous occasion, the Tilstone report has been received and is in the process of being implemented. I can assure the honourable member that the CEO of the Department of Public and Consumer Affairs is energetically tackling all the problems which have been raised in that report. The structure of the various divisions of the department, under the GME Act, is primarily the responsibility of the Director rather than of the Minister. However, I am sure that the Director is well aware of my views in this regard, and indeed she shares them wholeheartedly. As I indicated previously, all possible action is being taken to implement recommendations from the Tilstone report, and the question raised by the honourable member is one to which the Director is giving attention.

The Hon. K.T. GRIFFIN: As a supplementary question, will the Minister bring back a report on the process of implementation, the steps which are proposed to be taken and the method of implementation which is being proposed?

The Hon. ANNE LEVY: I will certainly request such a report.

TEACHERS

In reply to **Hon. R.I. LUCAS** (10 February).

The Hon. ANNE LEVY: The Minister of Education, Employment and Training has advised that schools are aware that if they over estimate their enrolments they will have to displace teachers early in the school year.

Pimpala Primary School predicted an enrolment of 283 for 1993 and accordingly was allocated 11 classes. On the first day of school the actual enrolment was 249, 34 less than predicted, which entitled the school to ten classes. During the first two weeks of school the enrolment increased to 264, 19 less than predicted, which still entitled the school to ten classes.

The Minister of Education, Employment and Training has established a review of the implementation of the school staffing policy which will include consideration of staffing and enrolment changes.

STUDENT ACCOMMODATION

In reply to **Hon. PETER DUNN** (10 February).

The Hon. ANNE LEVY: The Minister of Education, Employment and Training has approved a change to an arrangement whereby the programme will be conducted for the Education Department by the Young Women's Christian Association (YWCA) rather than by school councils who had been reluctant to undertake this responsibility.

The YWCA will be responsible to a management committee chaired by the Director-General of Education, or his nominee and will report twice per year on financial, organisational management and student welfare.

The YWCA will appoint two housing co-ordinators to oversee the conduct of the hostels, one for Western Area and another for Eastern Area and city locations. The students will live together as a community enabling them to increasingly learn independent living skills. Resource workers will be paid employees.

The Rural Student Accommodation Programme, jointly funded by the Commonwealth Government and South Australian Education Department, provides for accommodation for post compulsory students (15 years plus) to complete their education. Students may attend any local school (government or non government), and/or TAFE college.

Two hostels have been operating at Cleve for the past two years. Students are supervised by unpaid house parents in each location. House parents are provided with free accommodation in return for their services. Parents of a student pay $78 per five days or $117 per seven days full board. Students make their own beds, clean their own rooms, clean bathrooms and common areas on a roster, do their own washing and ironing, prepare their own breakfasts and lunches, and assist with food preparation and washing up for the evening meal.

Two hostels have been completed at Port Augusta, and one is operating in the same way as in Cleve. When each hostel is transferred to YWCA management, current contracts with house parents will be honoured. They will become employees of the YWCA and receive all the benefits provided for under their award (superannuation, long service leave, recreation leave, Workcover and the training required under the Training Guarantee). None of these benefits were available under the former agreement. For 1994, these persons may apply for the resource worker position and may be successfully selected to work under the new arrangements. Negotiations have been held with the current house parents to identify issues that will be resolved in a further meeting, once legal agreements with YWCA are completed.

Parents of current students are being contacted by letter to request a meeting to explain the new arrangements, to indicate possible changeover dates, and to reassure the parents that they can be involved with their young people in negotiating the meal arrangements for 1993. Each hostel will manage these to suit the students and parents concerned. The hostel may well continue with the resource workers providing meals in exchange for an appropriate payment to cover costs, or may involve the students in planning menus with a roster for cooking, or may decide on individual meal preparation. The decision lies with each particular group in each hostel.

The new costs to parents will be $55 per week to cover rent, electricity and other utilities, plus the cost of food. Students are eligible for government assistance (eg AUSTUDY which pays $106 per week for students living away from home). Eighty percent of residents must receive some form of government assistance.

The Education Department in the past paid the rent for these hostels as accommodation to students was free. In the new programme the Education Department will pay the difference between income and running costs. This is and was a significant subsidy, in addition to Student Assistance, from the Department to support country students in completing their education in the country.

A meeting was held with the Cleve Parent Advisory Committee (Board of Management) on 12 February where a full exchange of information and concerns resulted in the Committee being fully supportive of the new arrangements. A further meeting with the house parents gave guarantees about their future employment and plans for further consultation. The same process was followed on 17 February with Port Augusta Committee and parents.

Hostels at Port Lincoln, Whyalla, Lucindale and Kingston South East are currently at various stages of planning for operation as they are completed. Meetings with relevant parties in these locations have resulted in full support for the new arrangements. Isolated Children's Parents' Associations have been consulted and they fully support the new approach, as it resolves all the issues they (and school councils) previously raised.

POWER BLACKOUTS

In reply to **Hon. PETER DUNN** (16 February).

The Hon. ANNE LEVY: The Minister of Public Infrastructure has provided the following response:

1. The longest outage was approximately 26 hours, for the Wudinna Hill line to be restored on the Monday morning, 18 January 1993.

This was due to a combination of the following factors:

- the extremely long lines affected over such a wide area
- the need to patrol all lines for reasons of public safety
- the difficult access due to the heavy rains. Crews had assistance from farmers in pulling out bogged vehicles. Some roads became impassable
- the large number of insulators and equipment damaged by the lightning over the length of these lines
- aerial patrols not able to be deployed in some areas because of poor weather. The greater percentage of restoration work took place during the hours of darkness

2. Storms of the ferocity of those experienced on the Eyre Peninsula this summer have the potential to cause long interruption times. This summer has seen most unusual and severe weather conditions, and no guarantee can be given that these circumstances will not recur.

3. Additional ETSA resources were obtained from Port Augusta, Whyalla, Port Lincoln and Cummins including a private contractor doing aerial patrols. Resources additional to those attending would not have overcome the access difficulties. Restoration work continued unabated over the 26 hour period.

4. ETSA will continue to use contractors with proven standards of safety, operational effectiveness and readiness.

LOCAL GOVERNMENT DISASTER FUND

In reply to **Hon. PETER DUNN** (9 February).

The Hon. ANNE LEVY: The Minister of Housing, Urban Development and Local Government Relations has provided the following response:

1. Under the Natural Disaster Relief Arrangement (NDRA), Commonwealth assistance may be obtained for bushfires, cyclones, earthquakes, floods and storms.

In 1992/93, the State must spend at least $10.967 million before it qualifies for dollar for dollar support from the Commonwealth.

Flood damage to local government utilities in December and January amounted to $8.97 million, which clearly does not meet the eligibility criteria. Hence NDRA assistance will not be sought in this instance.

2. The Local Government Disaster Fund was established by the State Government after discussion with the Local Government Association about the 1980 Stirling bushfire settlement. The Fund is to be used for purposes related to the effect on local government authorities of natural disaster.

The Disaster Fund Management Committee recently considered 38 claims for assistance with flood related damage from councils. A total of $3.45 million was allocated to 23 councils which suffered eligible damage. There were sufficient funds available to pay the grants.

WORKCOVER

In reply to **Hon. J. F. STEFANI** (18 February).

The Hon. C. J. SUMNER: The Minister of Labour Relations and Occupational Health and Safety has provided the following response.

1. WorkCover accepts that the wording which described its actions and intent with regard to the levy reduction from 1st January, 1993 could have been ambiguous to those without a detailed understanding of the legislation. This is especially so when the advice is being presented in brief form.

The Board decided on 4th December, 1992 to provide an across-the-board 10% reduction in levy collection to employers - to reflect cost reductions for the Scheme as a whole - due to fewer claims, better management of claims and the impact of legislative changes.

II. WorkCover wanted to provide that reduction as early as possible - viz 1st January, 1993. Within the time available, it was not possible to conduct a General Review of all industry levy rates based on a 10% reduction in the overall average rate for the State. Also the legislation relating to the setting of industry levy rates [S66(8)] does not permit the application of a uniform 10% reduction to each industry rate; these rates must be fixed having regard to the expected cost of claims for each industry *(and* other factors relating to "full-funding"). A uniform 10% reduction to each industry rate would have reduced rates for industries whose expected cost of claims has in fact increased, which would be a breach of S66.

However, under S67 of the Act, the Corporation can "grant to an employer a remission of the levy that would otherwise be payable" having had regard to all or any one of a number of specified matters and such other matters as the Corporation considers relevant".

It was under this latter Section that the Corporation provided an'adjustment' (a 10% remission) to the levy payable by each employer - in addition to other bonus/penalty adjustments already in place.

Where there was no other bonus/penalty adjustment, the 10% remission from 1st January, 1993 was equivalent to a 10% reduction to the Industry rate. But, as pointed out in the preamble to the Hon Stefani's question, the final levy rate payable by employers *with a penalty* is marginally higher under

the method adopted by WorkCover for providing the 10% adjustment than would have been the case had all Industry rates firstly been reduced by 10% before application of bonus/penalty adjustments.

On the other hand, reductions to employers *with a bonus* are marginally larger than under the alternative method - producing a 10% reduction *overall,* as the Bonus and Penalty Scheme is revenue-neutral.

Under the circumstances, given that a uniform 10% reduction to each Industry rate of each employer was not feasible within the legislation, the approach adopted by WorkCover seems appropriate as the better performing employers (those with a bonus, who have contributed to the improvement in the Scheme's funding position) should benefit more by the overall 10% reduction than the poorer performers.

III. It is not feasible for WorkCover to adjust industry levy rates before 1st July, 1993. Work is in progress to have new rates for each industry (to reflect at least an average 10% reduction for the scheme overall) to operate from 1st July, 1993 - to be advised in May/June, 1993.

DRUGS

In reply to **Hon. J.C. IRWIN** (18 February).

The Hon C.J. SUMNER: The Minister of Correctional Services has provided the following response:

1. The conducting of a full investigation into the supply and distribution of drugs in South Australia is not the role of the Minister of Correctional Services. However in relation to the prison system the Department of Correctional Services has recently released a comprehensive Correctional Drug Strategy, which has been developed after close consultation with the Public Service Association, the Drugs and Alcohol Services Council and the Prison Medical Service. The document outlines three strategies that are considered critical in addressing drug issues in South Australian prisons. These strategies are Demand Reduction, Supply Reduction and Harm Reduction. In relation to Demand Reduction the Department has recently introduced new strategies and has several others currently under review.

The Department of Correctional Services liaises very closely with the Police Department in addressing the supply and distribution of drugs in prison. The various methods by which drugs may be introduced are well known to authorities in all correctional jurisdictions, as illicit drugs within prisons is a universal problem. It is considered that a public inquiry would at this time provide little in the way of new information. The Department of Correctional Services would be delighted to supply more detailed information in relation to the Correctional Drug Strategy if required.

2. The Department of Correctional Services conducted 515 urine samplings from 1/7/92 to 31/12/92. A total of 280 (54%) of these were positive. It should be noted however that these samples were conducted on the basis of suspicion rather than random selection. The Department is in the process of finalising the introduction of random and total population prisoner urine sampling, which will be operational before the end of this financial year.

CHILDREN'S COURT

In reply to **Hon. K.T. GRIFFIN** (2 March).

The Hon C.J. SUMNER:

1. The time frames referred to in the report of the Children's Court Advisory Committee of August 1991 which was tabled in this House on the 19th March 1992, together with a Ministerial Statement and the government's response to the recommendations.

2. As indicated in the Statement referred to above, Police and FACS have accepted the proposed time frame as operational objectives. The periods of delay prior to the acceptance of the committee's recommendations are set out in the report.

3. The working party consisted of officers of the relevant agencies as listed below -

- Attorney-General's
- FACS
- Police
- Courts
- Legal Services Commission

The Committee reported to the Chief Executive Officers' Group from the Justice Agencies (JACA). The last report was in September, 1992.

MULTICULTURAL MANAGEMENT PLANS

In reply to **Hon. J.F. STEFANI** (18 February).

The Hon. C.J. SUMNER: The Premier and Minister of Multicultural and Ethnic Affairs has provided the following response:

1.9.

2. Agencies who provided progress reports to date on the planning and/or implementation of their MMCPs:

Office of Tertiary Education (now DETAFE)

Office of the Commissioner for the Ageing

Department of Agriculture (now Department of Primary Industries)

Department for the Arts and Cultural Heritage

Children's Services Office

Education Department

Department of Employment and Technical and Further Education

Department for Family and Community Services

Department of Fisheries (now Department of Primary Industry)

Department of Industry, Trade and Technology (now Economic Development Authority)

SA Health Commission - Child, Adolescent and Family Health Service

SA Health Commission SA Dental Service

Department of Marine and Harbours

Department of Mines and Energy

Office of Multicultural and Ethnic Affairs

Department of the Premier and Cabinet

Tourism South Australia

Treasury Department

Woods and Forests Department (now Department of Primary Industries)

3. The Multicultural Management Commitment Plans process is being phased in over a three year period. Year 1 agencies were required to report on their progress by July 1992.

Year 2 agencies commenced their planning in April 1992 and provided progress reports in July 1992. They are expected to complete these plans by 30 June 1993.

The following year 3 agencies are expected to commence their Multicultural Management Commitment Plans in the current financial year by participating in a seminar to be conducted by OMEA on 6 April.

Attorney-General's Department
Auditor-General's Department
Department of Correctional Services
Court Services Department
State Electoral Department
Engineering and Water Supply Department
Department of Environment and Land Management
Department of Labour
Police Department
Department of Public and Consumer Affairs
Department of Recreation and Sport
SA Department of Housing and Construction (SACON)
State Services Department
Office of Transport Policy and Planning
Office of Business and Regional Development
Office of Planning and Urban Development
Office of Public Sector Reform

These agencies will be expected to complete their Multicultural Management Commitment Plans by 30 June 1994.

If any of the year 2 or year 3 agencies should fail to complete their three year Multicultural Management Commitment Plans by the due date, explanations will be sought from them.

RAILWAY CROSSINGS

In reply to **Hon. DIANA LAIDLAW** (2 March).

The Hon. BARBARA WIESE:

1. A major review of safety provisions at pedestrian crossings was undertaken in 1986-1988 and the STA does not believe that another review will produce any additional information to the previous review.

Rather it proposes to take a pro-active stance in regard to education about train safety and to that end the STA, in conjunction with the Education Department, is proposing to produce an educational package on train safety for use by teachers in schools.

2. The use of automatic locking gates at pedestrian crossings is not recommended because:—

- of the high cost involved with the sophisticated equipment required;
- gates would encourage 'people in a hurry' to cross at unauthorised areas. The STA already has problems with people breaking down fences to achieve illegal access to the track area. In addition, the use of such gates was considered by the State Coroner following a dual fatality at Smithfield on 24 April 1987.
- On that occasion investigations revealed that even without gates fitted to the pedestrian crossing, more than half of the people that crossed the railway line at that location, walked along the roadway to avoid using the pedestrian crossing mazeway;
- gates may, under certain circumstances. lock a person within the track area, particularly in the case of the disabled or elderly;
- as with most railway equipment, gates would be subject to vandalism with the accompanying potential for injury to people legitimately using the crossings; and
- locking gates will not prevent the type of incident which occurred on 2 March 1993.

The STA has advised me that they monitor the development of rail safety equipment around the world, and any innovative development which comes to its attention will be considered. It is difficult to place a price on the injury or death of a person but, it is considered that the substantial cost of any significant upgrade of the safety equipment at pedestrian crossings would be better spent in areas more needy of road safety improvements.

The STA has a policy of ensuring that its pedestrian crossings are kept in good condition and complaints from employees or the public are promptly acted upon if a deficiency is found

GRAND PRIX

In reply to **Hon. J.C. BURDETT** (27 October).

The Hon. C.J. SUMNER: The Premier has provided the following response:

1. The Grand Prix Office is not the only one in the world which operates for twelve months. An event which raises some $17 million per annum from the private sector requires careful and continuous management and can not operate on a "part time" basis. Commercial contracts have to be put in place, the event programme arranged, and the event is marketed twelve months of the year. Tickets are on sale from April and advertising campaigns have to be produced in advance of this date.

The Grand Prix is a major promotional Event for the State of South Australia.

Promotion commences in March and runs through to November. This promotion is critical in order for the office to efficiently promote the State and generate the level of sponsorship and corporate revenue achieved each year.

The Grand Prix Office also manages the Adelaide Entertainment Centre and has regularly staged other events since 1985 at no additional management cost to the taxpayer. For example, World Equestrian Event in 1986, Formula One Powerboat Grand Prix at Port Adelaide in 1989, World Squash Championship in 1991.

Further in 1992 the event management area of the Grand Prix Office, Australian Event Management, managed the Australian Motor Cycle Grand Prix in New South Wales, three national motor racing events at Sandown Park in Victoria, and provided consultancy services to the Malaysian Motor Cycle Grand Prix and the World rally Championship staged in Western Australia.

2. International Chartered Accounting firm, Price Waterhouse, undertook a detailed economic assessment of the impact of the 1988 Grand Prix on the State of South Australia and have calculated that in excess of $30 million is injected into the economy each year.

The report undertaken by Price Waterhouse is based on detailed visitor surveys, discussions with local business, Government departments, airlines, hoteliers, restaurants, retail outlets and other entries.

The report evaluates the **net** cash inflow into the State which would **not** have occurred if the Event had not been held.

Since the event commenced in 1985 a return of in excess of $200 million has been achieved. Approximately 2,500 people work on the Grand Prix. Many gain casual work as a result of the event in hotels, restaurants and other service industries.

Each year 40,000 to 45,000 interstate and international tourists visit Adelaide and South Australia as a direct result of the Grand Prix. Since 1985 that amounts to 280,000 visitors.

COURT PENALTIES

In reply to **Hon. K.T. GRIFFIN** (12 August).

The Hon. C.J. SUMNER: The facts referred to by the Hon. Member were that a juvenile appeared in the Children's Court charged with a total of 9 breaches of the Road Traffic Act and

the Motor Vehicles Act and received a total of 4 months licence disqualification.

The charges arose out of two incidents, with multiple charges arising from each incident. In relation to the first set of five charges, the juvenile pleaded guilty to charges of driving dangerously, failing to wear a safety helmet, and of breaching a learner's permit. Two other charges were withdrawn by the prosecutor. The Court ordered that the defendant be disqualified from holding a driver's licence for a period of 1 month on the first charge, and imposed a fine of $100. Fines were imposed in relation to the other two charges. No conviction was recorded in relation to any of the offences. The defendant pleaded guilty to two charges arising out of the other incident, namely, driving while under the influence of alcohol and contravening licence conditions and two other charges were withdrawn by the prosecutor. Again no convictions were recorded. The defendant was disqualified from holding or obtaining a licence for 3 months, and a fine was imposed.

Hence, the defendant ended up with an order whereby he was disqualified from holding a licence for 4 months, fined $290 and ordered to pay levies and costs totalling $156.

The Children's Court made these orders pursuant to the sentencing discretion granted to it by Section 51 of the Children's Protection and Young Offenders Act. At the time of the incident under discussion, the wording of Section 81b of the Motor Vehicles Act required the Registrar of Motor Vehicles to effect a disqualification of the licence upon being notified of the person's conviction or expiation of the offence. As no conviction was recorded the Registrar was not empowered to effect a disqualification of the defendant's licence.

The relevant section in the Motor Vehicles Act (Section 81b) now requires the Registrar of Motor Vehicles to give notice to a holder of a learners permit or a probationary licence that he has been disqualified from obtaining or holding a licence or permit for six months, when the Registrar becomes aware of the fact that the person has committed an offence of contravening probationary conditions attached to a permit or licence. The change in wording resulted from amendments to the Motor Vehicles Act which implement the national points demerit scheme, and was not addressed specifically to the issue raised by this case.

The current wording is wide enough to catch juveniles who are found guilty of committing the offence of contravening a probationary condition but against whom no conviction is recorded. The Registrar had taken the view that he was not entitled to act on matters where no conviction was recorded. And indeed there is at present no obligation on the Children's Court to notify the Registrar of the fact that a person has been found guilty of committing relevant offences. Hence, the Registrar could theoretically be in a position where he is unable to perform the obligations imposed on him by Section 81b in a systematic fashion. However, I am advised that the Registrar now does obtain records from the Court Services Department which enables him to perform his obligations under Section 81b, and that he is now doing so. The issue can therefore be dealt with satisfactorily by administrative means for the time being.

However, an amendment to Section 93 of the Motor Vehicles Act will be prepared to remove all doubt. The amendment will require the Courts to supply the information which the Registrar of Motor Vehicles needs to enable him to carry out the statutory obligation imposed on him by Section 8lb.

TEACHERS

In reply to **Hon. R.I. LUCAS** (3 March).

The Hon. ANNE LEVY: The Minister of Education, Employment and Training has provided the following response:

1. The terms of reference for the Review of the Teacher Placement Process being conducted by Ernst and Young require an examination of all aspects of placement policy, process and procedures. This will include the frequency of teacher placements.

2. The review will also report on strategies which will ensure minimum disruption to students and schools at the beginning of each year.

PARKING

In reply to **Hon. J.C. IRWIN** (5 November).

The Hon. ANNE LEVY: The Minister of Housing, Urban Development and Local Government Relations has referred the specific concerns raised by the Honourable Member to the Council and agency concerned.

As the responses have not yet been received, the Minister will write to the Honourable Member when further information is available. The Minister has already written to the Honourable Member about the more general concerns he has with parking matters.

ST JOHN AMBULANCE

In reply to **Hon. R.I. LUCAS** (9 February).

The Hon. ANNE LEVY: The Minister of Education, Employment and Training has provided the following response:

1. To address the desirability of continuing to subscribe to the St John Ambulance service, schools have been provided with the following information:- Consistent with Regulation 128(2) under the Education Act 1972, the Ambulance Services Act, and the information contained in the Department's Administrative Instructions and Guidelines:-

It is the Education Department's policy to encourage parents/guardians to arrange their own insurance.

Section 17 (4) of the Ambulance Services Act 1992 states:- "The fee for an ambulance service is payable by the patient transported to or from, a hospital, surgery or other place whether or not he or she consented to the provision of the service."

2. Yes. The Resources Division of the Education Department has already commenced discussions with Treasury Officers and Officers from St John Ambulance Operations, with a view to examining options for financing ambulance services required by students.

ABORIGINAL EDUCATION

In reply to **Hon. R.I. LUCAS** (10 February).

The Hon. ANNE LEVY: The Minister of Education, Employment and Training has provided the following response:

1. The release of reports of the schools in the Pitjantjatjara lands was delayed, pending advice from the Pitjantjatjara Yankunytjatjara Education Council (PYEC). This information was provided to the Honourable Member in reply to his question of 7 October 1992. The PYEC has recently received advice from all community and home lands councils accepting the public release of the reports. The Education Review Unit has

now forwarded reports to the Orphanage Teachers Centre for public access.

2. Yes. A copy has been provided to the Honourable Member.

STATE TRANSPORT AUTHORITY

In reply to **Hon. DIANA LAIDLAW** (2 March).

The Hon. BARBARA WIESE:

1. Mr Morgan has been appointed to the position of Ticketing Systems Checker Supervisor. Mr Morgan applied and was interviewed for a position of Transit Link Coordinator. He was not successful in gaining this appointment, however the interview panel for the position considered that Mr Morgan would be suitable for the vacant position of Ticketing Systems Checker Supervisor. As a redeployee Mr Morgan received preference in employment and was appointed to the position.

2. The position of Ticketing Systems Checker Supervisor was created to improve response times to the maintenance of the ticketing equipment. Mr Morgan was appointed on the basis that as a redeploy he received preference in employment for positions of equivalent status to his former substantive position of bus driver.

3. Mr Morgan ceased to be Secretary of the Australian Tramways and Motor Omnibus Employees' Association in somewhat controversial circumstances. The State Transport Authority (STA) has previously placed ex union officials in alternative employment not directly associated with their former substantive position where their cessation of being a union official has been 'controversial'.

4. Mr Morgan is employed as a salaried officer pursuant to the Salaried Officers Award. His salary is commensurate with that of his previous substantive position of bus driver. The primary objective of the position is as follows:

'Supervise a team of up to six employees who ensure the proper functioning and usage of ticketing equipment on-board railcars and tram cars, and the daily collection of data from the ticketing equipment.'

5. No application for reclassification has been received from rail staff at the Adelaide Railway Station nor has the Public Transport Union sought to place a claim on the STA for increased wages or conditions for rail staff at the Adelaide Railway Station.

AUTISM

In reply to **Hon. M.J. ELLIOTT** (9 February).

The Hon. ANNE LEVY: The Minister of Education, Employment and Training has provided the following response:

1. The Autistic Children's Association manages the time and funding allocation for each child/student within the context of the Negotiated Curriculum Plan or its equivalent in other education sectors. The funding to the Association provides supplementary teaching and assistance time according to the need within available resources. The extra time and funds from the Association are not the only available assistance for these children/students and therefore opportunity continues to be provided for them.

2. All children and students with disabilities attending pre schools and schools are involved with systematic negotiation of curriculum plans as soon as they enrol. During this process teaching personnel, specialist support teachers, therapists and the family decide who is going to provide a service for the curriculum areas, requiring support. The Autistic Children's Association are part of this process and so the policy, in place since 1991, guarantees the process of assessing need and designating services.

3. The funding package for the Autistic Children's Association has been maintained by the State in difficult times of Commonwealth cuts. Within this package the funding for early intervention has increased from $46,439 in 1991 to $104,600 in 1993.

These funds are supplemented by this non-government organisation's fund raising program which in these economic items has been significantly affected. In the past 2 years the Special Education Consultative Committee has worked with the Autistic Children's Association to develop new programs that train more teachers and support more students. The Committee provided a further $20,000 for those new programs in the south and north of the metropolitan area.

These programs are based at the Mitchell Park Special Education Unit and Holden Hill Special Education Unit. The Education Department matches the Autistic Children's Association commitment with extra staffing and time for training and development programs for support and classroom teachers. All non government agencies, who provide support services for children and students with disabilities, equitably share the resources within the available budget constraints of the day.

SPEED CAMERAS

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Emergency Services, a question about speed cameras.

Leave granted.

The Hon. J.F. STEFANI: On 22 January 1993 at 10.17 a.m. a retired pensioner was travelling in an easterly direction along Northgate Street, Unley Park. This zone is subject to a 40 km/h speed limit imposed by the Unley council. Unfortunately, the pensioner did not notice the speed restriction sign when he turned into Northgate Street and subsequently was fined $89 for travelling at 50 km/h. The fine was issued through the South Australian Police Department after the driver of the vehicle was detected by a speed camera.

Previously, the Minister has advised me that the criteria for the use of speed cameras is set by the Police Department and is based on a policy which identifies black spot locations; high volume traffic where excessive speeding and accident potential exists; roads where it is unsafe or impractical to use conventional radar; and roads where legitimate validated complaints have been received. My questions are:

1. Which of these four categories has been used to allocate the use of the speed camera in Northgate Street, Unley Park?

2. Can the Minister advise the number of fatalities or serious accidents reported in the last three years in Northgate Street?

3. Will the Minister confirm the number of infringement notices issued through the speed camera system for motorists exceeding the 40 km/h speed limit in Northgate Street, Unley Park?

The Hon. C.J. SUMNER: I will refer the question to the appropriate Minister and bring back a reply.

GOVERNMENT MANAGEMENT AND EMPLOYMENT (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 March. Page 1400.)

The Hon. C.J. SUMNER (Attorney-General): I thank members for their support of the Bill. There were a number of questions asked which I will attempt to answer in this reply. The Hon. Mr Lucas asked a question about the appointment of Dr Peter Crawford and Dr Ian McPhail. These appointments were not made on the basis of negotiated conditions pursuant to section 50(c) of the Government Management and Employment Act. Both Dr Crawford and Dr McPhail were appointed as Chief Executive Officers to the Department of Premier and Cabinet and the Education Department respectively, pursuant to sections 36 and 37 of the Act. Dr Crawford was appointed for a term of three years and Dr McPhail was appointed for a term of five years. In each case the right to tenure in the Public Service beyond the term of the current appointment pursuant to section 37(1)(c) does not apply and compensation has been included in the package in lieu of that right.

Dr McPhail's remuneration package consists of a base salary of $106 048 per annum plus allowances totalling $18 952 per annum, plus appropriate relocation and removal expenses. Dr Crawford's remuneration package consists of a base salary of $111 485 per annum plus allowances totalling $44 006 per annum. This equates to the remuneration he was paid in his previous position of Chief Executive Officer, Industry, Trade and Technology.

The next question asked by the Hon. Mr Lucas was relating to appointment on negotiated conditions. Temporary reassignment to a higher level provides adequate flexibility when a position is required for up to three years. However, for periods beyond three years the flexibility is severely curtailed. For example, if a position is required for a period greater than three years there are only two methods available to fill it: the selection process on a permanent basis, in which case there is an excess employee at the end of a period; or the position is offered on the basis of negotiated conditions in which case a permanent employee would have to resign to accept the appointment.

The new fixed term appointment category would provide for a position to be held for up to five years without a permanent commitment to that salary level by the Public Service and without loss of tenure by the employee filling the position. It could also be used to enable appointment from outside the Public Service to a position which is required only for a specific period. This is currently accomplished by appointment on negotiated conditions with the only special condition being the term.

The new fixed term appointment category will also help to facilitate increased career development opportunities and mobility for employees. However, appointment to the new category of fixed terms with negotiated conditions will require a formal selection process in every case and a permanent public servant would be required to resign before accepting an appointment. There is presently no intention to add any further negotiable conditions to the list extracted from Commissioner's Circular No. 3 and placed on the public record by the honourable member.

The Hon. Mr Lucas also requested me to provide examples of suspension without pay in recent years. The Commissioner for Public Employment has canvassed all departments regarding the use of suspension without pay in the last two years. From the information obtained he is able to advise that in the last two years there have been only 11 cases where suspension without pay has been invoked. Ten of the 11 cases involved a police charge for a serious offence which is defined by the Act as an indictable offence or an offence punishable by imprisonment for two years or more. To date there have been five court convictions from the 11 cases. Out of those cases, four employees have resigned, two have been recommended for dismissal and court findings are awaited in four cases. I have a summary in table form of suspension without pay cases in the last two years, under the heading 'Nature of offence and action taken'. I seek leave to have it inserted in *Hansard* without my reading it.

Leave granted.

SUSPENSION WITHOUT PAY CASES IN LAST TWO YEARS

NATURE OF OFFENCE	ACTION TAKEN
1. Possession of drugs larceny as a Public Servant	Suspended with pay when charged. Suspended without pay when committed for hearing (three months later). Employee resigned on conviction (6 months later).
2. Attempt to pervert course of justice	Suspended with pay when charged. Suspended without pay when committed for hearing. Suspension revoked on hardship grounds to allow employee to use sick leave and recreation leave. Suspension re-invoked on conviction (12 months later) pending dismissal. Suspension revoked again to allow employee to use leave up to 25.03.93. Recommendation to dismiss held pending employee pursuing appeal against conviction in court.

NATURE OF OFFENCE	ACTION TAKEN
3. False pretences, embezzlement, larceny	Suspended without pay when charged. Employee resigned (five months later) subsequently convicted.
4. Bribery and corruption	Suspended without pay when charged. Suspension revoked on hardship grounds to allow employee to take long service leave. Suspension to be reimposed on expiration of leave. Waiting for court case to be held.
5. Larceny as Public Servant ($2 000)	Suspended without pay when charged. Convicted (two months later). Dismissal recommended.
6. Fraud and larceny	Suspended without pay when charged. Waiting for court case to be held (eight months).
7. False pretences and larceny as a Public Servant	Suspended without pay when charged. Convicted (two years later). Dismissal recommended.
8. False declaration	Employee required to relocate. Grievance lodged-dismissed (six months later). Employee directed to relocate. Sick leave claimed. On medical advice sick leave application rejected. Employee again directed to relocate. Employee claimed workers compensation for sick leave period granted (two months).

Bill read a second time.

EVIDENCE (VULNERABLE WITNESSES) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 10 March. Page 1544.)

The Hon. C.J. SUMNER (Attorney-General): I thank members opposite and others for their support of this Bill, which introduces measures to protect vulnerable witnesses giving evidence in a courtroom. The Hon. Mr Griffin and other members have raised a number of matters and I will deal with them in the order in which they were raised. The Hon. Mr Griffin raised the matter of whether the term 'vulnerable witness' could include any witness in the proceeding and/or the accused. The intention of the Bill was to protect any person who falls within the definition. It may be that the accused is able to take advantage of the possible orders to be made by the court. However, that is a matter for the court to decide in any given case.

The Hon. Mr Griffin asked why a specific provision has not been inserted in this Bill to the effect that an order should not be made which would be unfair to a party in the proceeding. It is clearly implicit in the wording of the Bill that the court should consider all the issues including those of fairness to both parties to the proceedings before making an order. Subsection (5) of the Bill states that the court should determine whether an order should be made regarding the taking of evidence in the proceedings. In determining this matter it is clear that the court must look to all the competing interests and consider all the relevant arguments put before it by both parties.

The Hon. Mr Griffin has raised various recommendations of the Select Committee on Child Protection, Policies, Practices and Procedures and has requested information as to the Government's response to certain of them. The Government has been examining all the recommendations and the Child Protection Council has also examined the report in detail. The select committee recommended that all the legislation dealing with children be brought together under one Act. This recommendation was made with reference to the United Kingdom Children's Act 1989, which brought together all the public and private law on children, including wardship, removal of children into care and parents' rights of access.

This recommendation was considered and found to be complicated in the South Australian context by the fact that the State has responsibility for some issues while others are within the purview of the Commonwealth. The Children's Protection and Young Offenders Act deals with the Children's Court, in need of care procedures and juvenile offenders. The common thread is the jurisdiction of the Children's Court. The Community Welfare Act 1972 and the Guardianship of Infants Act 1887 deal with matters outside the jurisdiction of the Children's Court. The Commonwealth Family Law Act deals with issues of maintenance and access. Therefore, it is not a simple exercise to include all provisions dealing with children in one piece of legislation. In any event, the Select Committee on Juvenile Justice in another place has now recommended that three separate pieces of legislation deal with this area.

The select committee called for an inquiry into less adversarial systems for achieving justice for children. The Bidmeade Report looked at a less adversarial system for in need of care. That part of the report was widely criticised by the legal profession. The select committee

and the Juvenile Justice Committee undertook an extensive review of juvenile justice.

The Hon. Mr Griffin also raised the matter of delays in the hearing of child abuse matters. I am advised that delays in criminal matters have been reduced significantly. In fact, the time from the first appearance in the District or Supreme Court to trial is approximately three and a half months. The select committee specifically referred to long delays which occur before a case is tried and cited one agency as stating that two and a half years was common. Clearly, there has been a vast improvement in the time delay before a matter proceeds to court. I am further advised that if there are insufficient judges to hear cases set down for a given day priority listing will go to prisoners on remand, child abuse cases and indecent assaults.

The Hon. Mr Griffin refers to other recommendations of the select committee, namely that support people be attached to the courts to assist the child witness. Under the present provisions of section 12 of the Evidence Act the child is entitled to have a support person present when giving evidence. The support person may be a parent, relative, friend, social worker, etc. I am advised that the child witness often has such a support person present. It is felt that it is more advantageous for the child to have a known person present than a person attached to the court who has no rapport with the child.

The Government is concerned about the number of times that some child witnesses may be interviewed. Efforts have been made to reduce the need for numerous interviews. The Hon. Mr Griffin has raised an example of deposition taking in the United States as a possible solution. Similar models were considered by a task force on child sexual abuse. The Government is committed to pursuing the options for giving evidence in this Bill. However, further refinements may be considered in the future.

The Hon. Mr Griffin has requested information concerning videotaping of statements. Pursuant to section 104 of the Summary Procedure Act, if the witness is a child under the age of 12 years or a person who is illiterate or mentally retarded, the videotape or audiotape of the interview, accompanied by a written transcript, may be presented at the committal hearing.

I am advised there is one such specific unit in the child sexual assault unit and several units in country areas. I am advised that videotaping of statements is extensively used and that the approximate cost of the unit in Angas Street is $5 000.

The Hon. Mr Griffin has asked for further details in relation to the matters contained in this Bill and the Hon. Diana Laidlaw has also requested details as to the necessary resources. The Government has been advised by Treasury that fitting out of selected court locations throughout the State with a combination of closed circuit television and screens/partitions or one-way glass will cost $220 000 for the period of 1993-94. Two higher courts and four metropolitan courts, including the Children's Court, will be wired and equipped for closed circuit television. Five metropolitan courts are proposed to be fitted with screens/partitions or one-way glass only.

After the practical impact of the legislation has been reviewed for 12 months, it is proposed to consider 10 country courts for closed circuit television. The Hon. Mr Griffin raises the matter of it being stated in this legislation that the place from which the child is giving evidence be taken to be part of the courtroom. I do not believe such an amendment is necessary. It is contemplated that the child would be giving his/her evidence from a room within the court building itself and as such, any explicit statement along the lines suggested by the honourable member would not be required.

The Hon. Mr Griffin makes the point that our Bill is the widest of all the legislation allowing for the evidence of child witnesses to be taken by video link. I would say, in reply, that our legislation is also the most recent. Since the enactment of legislation in other States, Professor Graham Davies and Elizabeth Noon have prepared a report analysing the live television link system in England and Wales in use since 1989. Professor Davies concludes that the live link has been demonstrated to have positive and facilitating effects on the courtroom testimony of children and to be accepted by the professional groups involved in the process.

The Australian Law Reform Commission has also completed a pilot study into closed circuit television in the ACT and concluded that there was evidence that closed circuit television may reduce the stress of child witnesses and improve the quality of their evidence. Even though the results in this study were not as clear as hoped, both reports show that there are advantages for a vulnerable witness in giving evidence in a manner which removes the stress caused by facing the accused. Accordingly, our Bill takes note of these recent reports and allows for an order to protect the witness from embarrassment, distress or intimidation. In the circumstances, the Government believes this protection is necessary and appropriate.

The Hon. Mr Griffin has indicated that he will move to delete paragraph (d) of the definition of 'vulnerable witness'. The Government believes that it would defeat the purpose of this legislation if the categories of vulnerable witness were defined too narrowly. There may be well deserving witnesses who would benefit from such an order and ultimately provide better evidence, who would be excluded from this benefit simply because they did not fall within the tightly defined categories. The Government concedes that paragraph (d) would not often be called upon but considers that it is necessary for cases that may occur in the future.

The Hon. Mr Griffin raised the matter of '75 years of age' as part of the definition of a 'vulnerable witness'. This was included as it was considered that most people over this age may be vulnerable and would require protection. However, I take the honourable member's point that persons of 30 may also be intimidated by the courtroom process but under the Bill he/she could be covered by paragraph (d) if he/she could show some special disadvantage. The Government would not object to a deletion of the 75 year age limit or to an amendment to include the term 'intellectual disability'.

The honourable member has raised the matter of having a communicator for a witness with an intellectual disability or others with speech difficulties. A witness must be considered as competent to give evidence in the first instance. The courts are also experienced in taking evidence from witnesses and already take into account any special difficulties. With regard to whether the

witness will have to go through a *voir dire* to prove likely distress, this may be necessary to prevent the jury hearing such matters. It will ultimately be a decision for the court hearing the matter.

The Hon. Mr Griffin has raised the possibility of the courts reporting each time that an order has been made in an annual report, as is currently prepared for suppression orders. While I do not believe such reporting is really necessary I will consider an amendment along these lines if the honourable member proposes it. I do not believe that another category should be added for victims of assault. This point simply proves my earlier point that paragraph (d) should not be deleted. There will be circumstances, unforseen as yet, which will prove paragraph (d) to be necessary.

The Hon. Ms Laidlaw quotes from the Law Reform Commission's draft report on the use of closed circuit television in the Australian Capital Territory in support of her argument that there should be no judicial discretion in ordering protection for a vulnerable witness. I believe that an amendment to this effect at this stage is not necessary. It should be left up to the court to assess the necessity for evidence to be given via another manner, after consideration of all the relevant viewpoints, and for the court to consider which is the appropriate order in the circumstances. However, if courts do not utilise these provisions to provide the protection proposed by Parliament then an amendment may be warranted at a later date.

Bill read a second time.

GOVERNMENT MANAGEMENT AND EMPLOYMENT (MISCELLANEOUS) AMENDMENT BILL

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. R.I. LUCAS: Will the Attorney-General give an indication of the date that the Act will come into operation?

The Hon. C.J. SUMNER: It is anticipated that the Bill should be ready for proclamation in approximately two or three months.

Clause passed.

Clauses 3 to 6 passed.

Clause 7—'Basis of appointment to the Public Service.'

The Hon. I. GILFILLAN: I move:

Page 3, line 26—leave out 'or' and insert 'and'.

I indicated in my second reading contribution the basis for moving an amendment to clause 7. In the amendment to the principal Act, paragraph (a) of subsection (4) provides:

> The following provisions apply to an appointment on a casual basis:
>
> (a) An appointment may not be made on that basis except for the performance of duties—
>
> (i) over a period not exceeding four weeks;
>
> or
>
> (ii) for hours that are not regular or do not exceed 15 hours in any week.

My amendment is to delete the word 'or' and replace it with the word 'and'. The reason for moving this amendment is that the description of employment as being casual in my judgment requires both those conditions to be genuinely the case so that if a person is allocated 15 hours a week then for that to be truly a casual form of employment it must be limited in time because, otherwise, on a regular basis 15 hours on set days a week, indefinitely, does not fit what I believe is a reasonable definition of casual employment.

The Hon. C.J. SUMNER: The amendment is not supported. The Government has included a provision for casual appointment because existing employment categories under the principal Act do not adequately cater for casual employment arrangements. The present definition of 'casual work' suits the needs of the Public Service. It provides the required flexibility to employ a person for full or part-time hours for a continuous period of less than a calendar month or for an irregular pattern of hours.

The Public Service has been employing people on a casual basis now for over 30 years. The description of 'casual employment' contained in the Bill is identical to the definition which has existed in personnel guidelines issued to departments as far back as 1979. Much of the present flexibility will be lost if the amendment proposed by the Democrats was adopted; for example, some departments, such as the Motor Registration Division and the Department of Road Transport, have casual staff on call to cover fluctuations in work demand. These casual people may work for periods longer than four weeks, and their hours are irregular and vary from week to week according to agency needs; sometimes they exceed 15 hours in any one week. The amendment proposed by the Democrats would prevent these arrangements from continuing.

The Hon. R.I. LUCAS: As I indicated some weeks ago in the second reading debate we, too, received the same submissions from the Public Service Association and other interested parties in relation to casual employment. But, as I indicated on that occasion, it is not our intention to support this amendment, as we would see it as being unnecessarily restrictive. As the Attorney-General has indicated, and as I indicated in my second reading contribution, casual employment using this definition has existed in the South Australian Public Service for over a decade.

The Attorney has referred to the Commissioner's directive that has outlined that, and I have a recollection, too, as I indicated in my second reading contribution, that the PSA, on various occasions during the past 10 years, has indicated some support for the continuation of casual employment in that way.

I understand the concerns of the PSA. It is concerned that some massive movement towards casualisation of the Public Service will occur. As I said, my understanding from the officers to whom I have spoken is that this really is a continuation of the *status quo.* Certainly, if there was ever any indication that in some way these provisions were to be used for a massive casualisation of the Public Service, I indicate on behalf of the Party a preparedness, anyway, to address the issue again with the Hon. Mr Gilfillan and with others who might be interested.

Certainly, on the undertakings that have been given to me and on the understandings that the Liberal Party has received, this really is a continuation of an existing situation, and a movement down the path that the Hon. Mr Gilfillan has suggested would be unduly restrictive in areas of the Public Service, one example of which has been given this afternoon. So, for those reasons, we do not intend to support this amendment.

Amendment negatived.

The Hon. I. GILFILLAN: I move:

Page 3, lines 15 and 16—Leave out for a term exceeding two years' and insert 'on that basis'.

Once again, I addressed this matter in my second reading contribution. It is a theme that runs through my amendment, that is, to minimise the scope of appointments which do not have the scrutiny of normal appointment procedures. The phrase 'for a term exceeding two years' fits into the Bill in this way. New subsection (4a) provides:

The following provisions apply to an appointment for a fixed term:

(a) an appointment may be made for a term (not less than 12 months nor more than five years) determined by the appointing authority;

(b) a person must not be appointed for a term exceeding two years unless selected through selection processes conducted in pursuance of this Act;

The requirement is that any appointment over a 12 month period would require the selection processes to be complied with. In general terms, as I said in my second reading contribution, the Public Service Association has certainly alerted us to the concern of appointment involving favouritism—or even nepotism and corruption—as the potential misuse of arbitrary determination and selection of people to certain positions.

If these selection processes have been formulated with the intention of getting the best person for the job in the fairest possible manner, I am certainly prepared to support amendments and legislation which make that as widespread and as unavoidable as possible. It does appear to me that a term of two years is quite a long period of time for an appointment which avoids the full selection process requirements.

The Hon. C.J. SUMNER: The Government opposes this amendment. The Bill, as introduced, requires a formal selection process with promotion appeal provisions in cases where a fixed term appointment is to go beyond two years. The amendment proposed by the Hon. Mr Gilfillan will require such a process in every case. The Government has selected two years because that timeframe allows some flexibility and is consistent with the timeframe set under the provisions for temporary employment. The temporary employment provisions enable an appointment to be made for a period of two years without a formal selection process. The two year limit for term appointment is necessary to enable the Public Service to fill short-term vacancies quickly without having delays associated with the due processes of formal selection mechanisms.

Under the new fixed-term provision, it would also be possible to rotate staff through a particular position for periods less than two years to foster essential training and development.

Under the Act, managers in the Public Service are compelled to take steps to ensure that their staff are afforded opportunities for training and development in the workplace. Fixed-term employment will allow some increased scope for this to happen for short periods of time. Mobility for individual development benefits, the department and the individual, increases workplace moral and needs to be encouraged throughout the public sector.

The Hon. R.I. LUCAS: The Liberal Party shares the concern that the Hon. Mr Gilfillan has expressed in relation to the potential for nepotism or favouritism implicit in some of the changes to the legislation. We are certainly still actively considering this amendment. Therefore, I seek some information from the Attorney-General to help us finalise a view. In relation to a temporary promotion or reassignment, does the capacity to use that provision in the GME Act apply only to changes or staffing movements which entail a movement from one classification level to, as the name suggests, a higher classification level, and would this fixed term option that we are talking about here, when the Attorney talked about the potential to use people in an acting capacity basically for training and development purposes, be used in cases where you are moving around at the same classification level? If I can try to summarise the question, can the temporary promotion or reassignment provisions of the Act be used to do the sorts of things that the Attorney has indicated the Government wants to do, and what extra flexibility does this fixed term appointment option offer that the temporary promotion or reassignment option does not offer?

The Hon. C.J. SUMNER: A temporary promotion or reassignment can be used only for a person who is already in the Public Service. The fixed term employment option, which is what we are debating now, can be used to employ a person on a short term from outside the Public Service where, for instance, short-term funding may be available. It happens from time to time that the Commonwealth provides funding in the area of primary industries for drought assistance or research, and this option enables a person to be put on for a fixed term, up to five years, in cases where there might be that funding.

The two differences between what we are considering here and temporary promotion or reassignment are, first, that this enables appointment from outside, and secondly, it enables up to five years, not three years, which is the limit for temporary promotion or reassignment. However, it needs to be emphasised that, for a fixed-term employment option, appointment for more than two years still requires the process of advertising and merit selection.

The Hon. R.I. LUCAS: Why does the Government require these provisions for the appointment category of fixed term and not for the category of fixed term and subject to negotiated conditions?

The Hon. C.J. SUMNER: Fixed-term negotiated conditions are there to attract people where it may be necessary to pay more for the job than the going rate in the Public Service. This fixed-term employment option enables people to be got in at the going rate for the job and subject to the normal conditions of Public Service employment without having to do it with the negotiated conditions.

The Hon. R.I. LUCAS: If I understand the Government's position correctly, this provision is required for a fixed-term appointment because appointments might have to be made quickly or there could be special funding. I presume the inference is that one cannot wait for the normal selection process to be conducted in pursuance of the Act. I would have thought that, if that applied to a fixed-term appointment, equally and logically it would apply in the same circumstances to an appointment in certain positions which might be fixed term and subject to negotiated conditions. The Government is arguing that in certain circumstances you have to bypass the merit appointment for fixed-term appointments, yet it is now saying to me and the Chamber that it does not need that flexibility in relation to a fixed term and a negotiated conditions appointment.

Further, as I understood the Government's argument earlier that this was in some way useful for training and development purposes, if we are talking about people coming from outside the Public Service into the Public Service, I would not have thought that that argument carried significant weight in relation to this provision. I can certainly see the Government's using that argument when we come to the temporary promotion or reassignment clauses of the Bill. I indicated in the second reading debate my concerns at the way in which some Government departments operated. I instanced my personal knowledge of the Education Department and the way in which it used provisions of the GME Act that I think was unfair to a good number of other people within the department; favoured persons were given the inside running for various appointments for a variety of reasons which I will not enter into during this Committee stage. Many of them were acting appointments, but they were given favoured treatment for a number of appointments. I must say that the GME Act and the inside running principle that has operated within the Education Department has personally coloured my consideration of the amendments and the consideration of the GME Act in total.

Looking at the amendments that the Hon. Mr Gilfillan is moving and having heard the Government's response, I point out that when one looks at new subsection (4a)(c) of this particular provision and reads the provisions together—and the Hon. Mr Gilfillan is seeking to amend and delete parts of those new subsections—it is not just two years that one can be looking at in regard to a non-merit based appointment. One could have a situation—if the Commissioner of Public Employment agrees—that this non-merit based employment process or perhaps a favoured appointment could go on almost indefinitely. New subsection (4a)(c)(i) provides:

> The aggregate term of appointment of an employee who was not selected through selection processes conducted in pursuance of this Act does not exceed two years, or such longer period as the Commissioner may allow in a particular case.

So, if the Commissioner happens to agree with the Director-General of Education, for example, then the non-merit based appointment can continue not just for that two year period but for such longer period as the Commissioner may allow in a particular case.

These fixed term appointments are meant to be for not less than 12 months and not more than five years. However, new subsection (4a)(c)(ii) provides:

> The aggregate term of appointment of any employee does not exceed five years, or such longer period as the Commissioner may allow in a particular case.

Taking these particular provisions together you could have someone feted by the Director-General or the Chief Executive Officer of a particular department who has given a favoured appointment in the first instance up to two years and then, if that person gets the agreement of the Commissioner of Public Employment, that particular favoured appointment, or the inside running appointment, could continue indefinitely. That is not a position that I can support for the reasons I gave in the second reading and that I have just briefly instanced. For those reasons I would indicate my intention to support the amendment moved by the Hon. Mr Gilfillan.

The Hon. C.J. SUMNER: There is one matter I would like to respond to in relation to the amendment we are currently considering. In his later remarks the honourable member got involved in the next amendment dealing with the capacity of the Commissioner for Public Employment to extend the two year period but we will get to that in a minute.

I want to point out to the honourable member that all negotiated condition appointments are made after merit selection. When you have a negotiated condition appointment you do not thereby do away with merit selection. At present we have to appoint term appointees, who are not negotiated condition appointees, as temporary employees limited to two years in order to fill in this category that we are dealing with under the current Act. So, it is done now. We appoint term appointees but they have to be appointed as temporary appointees limited to two years. What we are trying to do here is to overcome that requirement by creating this new employment category of term employment for a period of up to five years. What we are seeking to do can currently be done under the Act but it is not a very satisfactory way of doing it.

The Hon. R.I. LUCAS: That is not the dispute, is it? We are not disagreeing with the concept of having fixed terms; it is whether or not having agreed to have fixed terms it is whether you do it on merit or whether you do it without merit.

The Hon. C.J. SUMNER: You do it on merit after two years; that is what we are saying.

The Hon. R.I. Lucas: Not necessarily. That is the point we make.

The Hon. C.J. SUMNER: I am surprised that the honourable member decided to support both of the Hon. Mr Gilfillan's amendments because it seems to me that he is not necessarily arguing with the Government's position on this amendment from the Hon. Mr Gilfillan; his main concerns seem to be whether the Commissioner should be able to extend the two years. I have some comments to make about that when we get to that amendment.

I am not sure whether he is open to persuasion on this particular matter but basically we are 'trying to put in the legislation specifically this category of term employment for a period of up to five years with merit selection definitely necessary after two years to overcome the devices that are currently used to get to that sort of employment category.

The Hon. R.I. LUCAS: It is true that my principal concern is the next amendment but I must say, having listened to the reasons offered by the Government and its advisers for this particular provision and against the amendment being moved by the Hon. Mr Gilfillan, I am not convinced and it is for those reasons that I intend to support the Hon. Mr Gilfillan's amendment in relation to this provision and also his subsequent, semi-consequential amendment, which is the next amendment he intends to move.

Amendment carried.

The Hon. I. GILFILLAN: I move:

Page 4, lines 20 to 24—Leave out all words in these lines.

This has been discussed in previous debate in Committee between the Leader of the Opposition and the Attorney-General but to make it clear, and to formally move it, it is applicable to paragraph (c) of (4a), which provides:

the term of an appointment may be extended from time to time by the appropriate authority provided that—

(i) the aggregate term of employment of an employee who was not selected through selection processes conducted in pursuance of this Act does not exceed two years, or such period may allow in a particular case;

(ii) the aggregate term of appointment of any employee does not exceed five years, or such longer period as the Commissioner may allow in a particular case.

I am moving the deletion of paragraph (i) so that in effect it takes out the opportunity for an appointment to be extended by the appropriate authority where the aggregate term of employment of the appointee, who was not selected through selection processes conducted in pursuance of this Act, does not exceed two years or such longer period as the Commissioner may allow in a particular case. I must say that it is that latter phrase which I find the most obnoxious because however much one has confidence or trust in the Commissioner this is an open-ended opportunity for an appointment of an employee not selected through selection processes conducted in pursuance of this Act to continue to be appointed in the longest term for maybe one or two decades: 10, 20 years. I move the amendment.

The Hon. C.J. SUMMER: The Government opposes this amendment. Although it has been partially debated already, and I understand the position of the Leader of the Opposition, I will put the Government's point. The Government's provision provides for the Commissioner to use his discretion to extend beyond two years a fixed term employment position and to do so without the need for a selection process. The Commissioner would exercise this discretion for a short period of time only in special cases where he has been persuaded on the merits of the case by a Chief Executive Officer. For example, if a person has been engaged for a particular project which is due for completion in two years and that person were required to spend two years and one month on the project because it was delayed or extended in content, then this should be allowed to happen without the need to stop the project and have a formal selection process for the sake of an extra month. Under the Democrat amendment this discretion by the Commissioner would not be allowed. In effect, the project would be halted until the formal selection process was completed and the same or a different person was selected, assuming that somebody would be interested in the position for one month. If a different person were selected following the formal process, they would probably need to be trained and more time would be lost before work on the project could recommence.

To make the provision work in a practical and sensible way, there is a need for someone in the system who knows about the Public Service to have some discretionary power and to ensure fairness. The Bill acknowledges that the best person to do that is the Commissioner, who would need to be convinced on the merits of each case. The Government, like others in this place, is concerned about protecting individual rights and ensuring that there is no nepotism or patronage. That is precisely why the Government saw fit to put in the two-year limit and to give the Commissioner the discretionary power. Others may say that Chief Executive Officers know best about their departments and that more powers should be decentralised to them, including this one. However, on this issue the Government has taken the view that it is in the interests of the Public Service for this power to be exercised centrally.

I am concerned by the tenor of the amendments that have been moved by the Hon. Mr Gilfillan and supported by the Opposition. One of the things that has been spoken about a lot recently is the need for public sector reform. An important part of that is the need for greater flexibility in the Public Service and what can be done with it to meet the needs of the day. These amendments restrict the capacity to develop the greater flexibility which will be necessary in the Public Service for it to do its job in future. Whether the amendments are passed today or next year, they will happen at some point in future. It is an inevitability. One can stand in the way of something for a short period because it suits one's political position, but the reality is that these flexibilities in the Public Service will occur. They are inevitable. With a change of Government—it does not matter what happens, whether the Democrats are here or not—at some point Parliament will have to acknowledge that in order to get the Public Service into a more flexible mode some of the existing practices which stultify and rigidify the Public Service will have to go. In my view, these are minor examples of it.

The Hon. R.I. LUCAS: I reject the notion that there is any political intent in our support or otherwise for these amendments. The Liberal Party is committed to supporting merit-based selection in the Public Service.

The Hon. C.J. Sumner: So are we.

The Hon. R.I. LUCAS: That is the position that the Liberal Party is supporting and you are not. You are saying that if a Chief Executive Officer has a favoured person, they can use a series of devices under this fixed term appointment category to ensure that that favoured person gets appointed and can maintain that appointment indefinitely. That is the position that the Attorney-General is supporting. Let us not in relation to this provision hear any fine rhetoric about the need for flexibility in the Public Service. We had that on second reading and we supported it, and I think that the Hon. Mr Gilfillan in most cases supported it as well. We indicated, by way of our opposition to what we saw as a restrictive amendment in relation to casual employment in the Public Service, that we support the widest range of

employment options possible with substantial flexibility within the Public Service.

Nevertheless, as I said on second reading, we need to balance flexibility with a sense not only of what is right but also of fair play in relation to public sector appointments. In relation to these amendments and the position that the Attorney-General is putting forward, if the appointing or appropriate authority and/or the Commissioner of Public Employment agreed, a non-merit-based appointment could continue for years. I concede that would be a rare occasion, but the possibility is that it could continue indefinitely. For those reasons, and those reasons alone, the Liberal Party supports this amendment. Given that the earlier amendment was passed, as this amendment is in part consequential, it should be accepted.

The Hon. I. GILFILLAN: I believe that we should have appointments made on merit. Flexibility is desirable in the administration of the public sector, and I believe we are moving along that track, but it is important that there is a balance. Flexibility should not open up the opportunity for improper appointments. I do not see any reason why, if we are not doing it in this step, eventually we cannot have flexibility in the selection processes or modifications of them and avoid what would seem to us to be the opportunity for abuse through over-hastily opening up measures on the basis of the argument for flexibility. The down side of that is suspicious and distrustful public sector employees who feel that favouritism has been exercised. I think we are obliged to look at the risks of improvident changes to the legislation just on the altar of flexibility.

Amendment carried; clause as amended passed.

Clause 8—'Filling of positions through selection processes.'

The Hon. I. GILFILLAN: I move:

Page 5, lines 30 to 37, and page 6, lines 1 to 9—Leave out all words in these lines.

This amendment is directed at the appeal process in this clause. I believe that the present situation in the Act, where there is the availability of appeal regarding appointments, is fair, and I am advised that it is rarely used. The appeal would be by way of a challenge to an applicant's appointment to a position. The Bill seeks to allow certain classifications to be determined and, therefore, for certain positions there would be no right of appeal or challenge. That is not a fair procedure to have in the public sector, and I do not believe that it has caused any inconvenience to the management of the public sector and the appointment of people to certain positions.

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

Page 5, lines 33 and 34—Leave out all words in these lines and insert:

(i) The position is below a prescribed classification level;

Page 6, lines 22 to 25—Leave out all words in these lines.

This is the first of a package of amendments. The Liberal Party does not support the position that the Hon. Mr Gilfillan has just put, namely, a return to the *status quo*. I think it is worth while noting that even under the current arrangements there are certain executive level classifications already about which there are no rights of appeal, and we as a Parliament and a community have accepted that. It really is a question in relation to that principle of where you draw the line and how the line is to be drawn.

The package of amendments that the Liberal Party is moving is as follows. We believe that there ought to be a line drawn as there is at the moment, but that line ought not be drawn by Government by proclamation where Parliament has no say. That is the first important principle. We accept that there ought to be a line as there exists at the moment. It might be a different line and it might be slightly lower but nevertheless there ought to be a line, and above that there would be no appeals. Under our package of amendments, that line would be drawn by way of a regulation and it means that Parliament would have some say as to where that line ought to be drawn. Under the Government's proposition, the Parliament would have no say as to where that line might be.

The concern from the PSA and others is—and I know that the Government advice is that it does not intend to pursue this particular course—that this line that the Government would draw by proclamation may well be at a level which would mean there were virtually no appeals for any classifications within the Public Service; that is, the line may well be drawn at the very bottom classification and therefore there would be no appeals at all. The concern the PSA and others have is that, irrespective of what the Government of the day might say—and they may well believe this Government and may well be wary of future Governments or future Commissioners of Public Employment—the line might be drawn at a very low level and that basically all appeal rights would disappear within the Public Service.

The Parliament has no say, under the Government's proposals, because it is to be done by proclamation. So, the Liberal Party proposition is that the Parliament have some say, because it would be done by regulation. Below that particular line that would be drawn, the Liberal Party believes there ought to be restricted rights of appeal similar to—and we have had long discussions with Parliamentary Counsel about the drafting of appropriate amendments—the rights of appeal that exist for certain classifications under the Commonwealth Public Service Act; that is, that they would be appeals on the basis of process, that there is some serious defect, that there has been nepotism or patronage, or something along those lines.

The intention of the package of amendments is to not allow, in effect, a redetermination of the relative merits of the various applicants; that is, under the current arrangements as outlined to me, if I am unsuccessful in seeking a particular appointment, I can then appeal on the basis that the panel made the wrong decision, that they got it wrong in that I was, on a relative basis, the person who should have been appointed, not alleging that there was any patronage or nepotism, but that basically they just got it wrong and that the whole process ought to be entered into again. The Liberal Party does not accept that particular proposition, that, in effect, there should be a redetermination of the relative merits of the various applicants. If the panel has made a decision on the relative merits we believe that that should stand and that that should not be grounds for an appeal.

However, if there are process irregularities; that is, nepotism or patronage or some serious defect, then the intention of the package of amendments is to allow

appeals on that basis. Therefore, the whole package of amendments is intended to restrict considerably the grounds for appeals that exist at the moment. However, we believe that it does attempt to balance the flexibility that the Government is seeking with some right of fair play; that is, that in relation to these process appeals if there are defects or irregularities, such as nepotism or patronage, or other serious irregularities like that, then there would still be the basis of an appeal on those grounds. But the intention of the amendments is to remove appeals on the basis of relative merit, and we agree with the Government position, that above this line, however it is to be drawn, there would not be any appeals at all.

The Hon. C.J. SUMNER: The Government opposes the amendment moved by the Hon. Mr Gilfillan. The Government's Bill aims to streamline the promotion and appeal system and the amendment would prevent this from happening. In addition, the amendment provides promotion appeal rights against fixed term appointments and fixed term appointments involving negotiated conditions which are presently not available under the principal Act. Fixed term appointments are short term in the main and the Government does not see the need for a long process of formalised appointment involving appeal provisions. The aim of the Bill is to provide increased responsiveness and flexibility in the Public Service, not to be put in a straitjacket where managers are delayed at every turn when they try to fill positions, particularly those which are not being filled on a permanent basis. That is our attitude to the Hon. Mr Gilfillan's amendment. However, on this issue the Government is prepared to accept the amendment proposed by the Hon. Mr Lucas.

The Hon. I. GILFILLAN: It may be that I have not correctly interpreted the amendment of the Hon. Mr Lucas in context with the Act, and there may be further consequential aspects which I have not picked up, but it seems to me that the amendment is not much different from the provision currently in the Act. Section 51(5) of the Act provides:

Where an applicant selected for the purpose of filling a position is an employee then the employee shall in any case where—

(i) the position is below a prescribed classification level; and

(ii) some other employee made an application in respect to the position...

Then the issue of subsection (5) applies, and as I see the amendment moved by the Hon. Mr Lucas he actually does put into the Bill and therefore retains in the Act:

(i) the position is below a prescribed classification level.

I do not know what his intention is in the final draft, whether (ii) of subsection (5) should remain in the Bill or not. It seems to me that some other employee would need to make an application in respect to a position for there to be any particular validity to an appeal. So, in view of my possible misunderstanding, I invite the honourable member to explain how his amendment varies in effect from mine, which actually would still leave in the Act the capacity for the Government to, by regulation, prescribe a level.

The Hon. R.I. LUCAS: The Hon. Mr Gilfillan is partly correct in that the provision which sets this line by way of regulation, which is part of my amendment, is the provision which exists within the legislation. So, to that extent the position that the Hon. Mr Gilfillan is pursuing and the position that the Liberal Party is pursuing is consistent, namely, that it should not be by proclamation but by regulation, and the Parliament has a say.

The difference between the package of amendments that we will move later to clause 10 in particular is that beneath that line there would be a restricted avenue of appeal. Earlier I gave an example of where I have just lost an appointment which someone else got. If the .ion. Mr Gilfillan won the appointment and I did not, and I happen to think that I am better than the Hon. Mr Gilfillan, I go back to the tribunal and say, 'You got it wrong. I want you to go through that process again because I think I am better than the Hon. Mr Gilfillan.' I am not alleging that there was nepotism or patronage or some serious defect or serious irregularity in the way the process was done. I am not alleging, for example, that one of the panel members is a family member of yours, that you are a close personal friend or that you were seen for a day prior to the interview being briefed by the panel member—which has occurred in some cases in the Education Department. I am not alleging any of those sorts of things in relation to irregularity in the particular appointment. That is the difference. We believe that it does restrict the number. The advice to us is that it will restrict the number and certainly the range of appeals that will potentially be possible.

The Hon. I. GILFILLAN: Mr Chairman, rather than putting both amendments, it may be simpler if I withdraw my amendment, because obviously I have picked up the Government's intention and my amendment is fated for defeat. In doing so, I point out that I believe that a fuller understanding of the Opposition's amendments are really what I require to make an informed judgment. I confess that I either have not had them long enough or have not looked at them long enough (that is probably more the point) to understand the consequences of so-called consequential amendments. But it appears to me that I can support the amendment reasonably comfortably in that it still retains appeal scope but, as I understand it, it does restrict the avenues in which the appeal can be taken to those that apply now under the current Act. I indicate that I support the amendment.

Leave granted; amendment withdrawn.

The Hon. Mr Lucas's amendments carried.

The Hon. I. GILFILLAN: I move:

Page 6, lines 17 and 18—Leave out all words in these lines.

Proposed new subsection (6) provides:

Where an employee is nominated under this section for reassignment to a position—

(a) the nomination may be withdrawn by the authority who made the nomination at any time before the employee is reassigned to the position—

(i) at the request in writing of the employee;

or

(ii) with the approval of the Commissioner.

I propose to delete paragraph (ii). It is very hard to see the logic that a nomination to be withdrawn should be dependent on the approval of the Commissioner under

these circumstances. It seems to me to be an unnecessary restriction.

The Hon. C.J. SUMMER: The Government opposes the amendment. Under the principal Act it is not possible for an employee to decline a nomination for reassignment to a position or for a Chief Executive Officer to withdraw a nomination once approved. In some cases lengthy appeal proceedings have taken place for no useful purpose. In order to overcome this problem the Bill now allows for a nomination to be withdrawn by the authority which made it if the employee does not want to be reassigned to the position and indicates this in writing. The approval of the Commissioner for Public Employment is not required in such a case as indicated by the Democrats.

The Bill will also allow the nominating authority to withdraw a nomination in other situations subject to the approval of the Commissioner for Public Employment. This would occur only where a flaw or omission in the selection process was discovered after the nomination and it was serious enough to discontinue the process. The withdrawal of a nomination by the appointing authority could also be justified whether there has been a delay in the process and in the mean time, because of reorganisation, the position is no longer required.

The Hon. R.I. LUCAS: Obviously the Liberal Party has had a similar briefing to the Attorney-General and the Government. For those reasons we, too, intend to oppose the amendment.

Amendment negatived.

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

Page 6, lines 22 to 25—Leave out all words in these lines.

This amendment is consequential on earlier amendments.

The Hon. I. GILFILLAN: I indicate support for the amendment.

Amendment carried; clause as amended passed.

Clause 9—'Reassignment.'

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

Page 7, line 8—Leave out 'three years (or such longer period' and insert '12 months (or such longer period not exceeding 3 years'.

The Hon. Mr Gilfillan has an amendment to this subsection as well, but it is slightly different. The Liberal Party shares the concern the Hon. Mr Gilfillan obviously has about this provision in relation to temporary promotional reassignments. It states:

A temporary promotional reassignment—

(b) is, in any event, subject to the requirement that the employee is within three years (or such longer period the Commissioner may allow in a particular case) reassigned to the position formerly occupied by the employee or, if that position is no longer available, to a position at the same classification level as the position formerly occupied by the employee.

The Liberal Party is moving to leave out 'three years (or such longer period)' and insert '12 months (or such longer period not exceeding three years)'. We think that these sorts of temporary promotional reassignments ought to have some sort of maximum limit, and we are suggesting three years as the maximum limit. Under the Government's arrangement, they could extend for very many years, again if the Commissioner for Public Employment agrees with the proposal. We think the position that the Hon. Mr Gilfillan will move in a moment is unduly restrictive, limiting it to just 12 months. We accept that there may well be some cases where it may need to be a temporary promotional reassignment for a period longer than 12 months, so we have made the arrangement that, in those circumstances, if the Commissioner agrees, that ought to occur.

Again, my experiences with the Education Department lead me to believe that we must amend this particular provision in some way or other. It is an unsatisfactory position to have a Chief Executive Officer or some other person being able to give certain applicants within a department such as the Education Department favoured appointments in an acting capacity for extended periods of time, when there may well be very many other persons within that department who could or would do that job in a better capacity. If there was any fair merit-based appointment for that position, the favoured applicant might not win that appointment. For those reasons, I believe we have to amend it in some way or another.

The Hon. I. GILFILLAN: I move:

Page 7, lines 8 and 9—Leave out 'three years (or such longer period as the Commissioner may allow in a particular case)' and insert '12 months'.

I move this amendment on the basis that 12 months appears to us to be a reasonable time for a reassignment to a superior position without there being any selection process or assessment of comparative merit from other people who may have been available for that position. The Opposition's, has been explained by the Hon. Rob Lucas has the same intention but leaves it virtually up to three years. Although the wording says '12 months' as I read the amendment the words '(or such longer period not exceeding three years)' give virtually open slather for three years. No prescription is included in the amendment that triggers it off, so it is virtually at the whim of the appointing authority.

The Hon. R.I. Lucas: The Commissioner.

The Hon. I. GILFILLAN: The Commissioner can appoint for up to three years, so there is the scope for what I consider to quite an excessive period of time for a person to be appointed arbitrarily to a superior position. I do not think there is any point in my putting further argument for my amendment. I think I can probably predict that the Government will lean towards the Leader of the Opposition's amendment. I have been wrong in the past, and I could be wrong now. I will wait and see.

The Hon. C.J. SUMNER: The Hon. Mr Gilfillan is correct.

The Hon. Mr Gilfillan's amendment negatived; the Hon. Mr Lucas's amendment carried; clause as amended passed.

Clause10—'Amendment of section 53—promotion appeals.'

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

Page 7, lines 22 to 24—Leave out all words in these lines and insert—

(a) by striking out subsection (2) and substituting the following subsections:

(2) An appeal against a nomination may only be made on one or more of the following grounds:

(a) that the employee nominated is not eligible for reassignment to the position;

(b) that the selection processes leading to the nomination were not properly directed towards and based on assessment of the respective merits of the applicants;

(c) that the selection processes were affected by nepotism or patronage; or

(d) that there was some other serious irregularity in the selection processes resulting from non-observance of principles or procedures governing selection processes under this Act,

and may not be made merely on the basis that the Tribunal should redetermine the respective merits of the appellant and the employee nominated.

(2a) The Tribunal may, if of the opinion that an appeal is frivolous or vexatious, decline to entertain the appeal;

(ab) by striking out from subsection (3) 'irregularity in the selection processes leading to the nomination' and substituting 'serious irregularity in the selection processes leading to the nomination such that it would be unreasonable for the nomination to stand';

(ac) by striking out subsection (6);

This is in substance consequential on the earlier debate that we had, but the Attorney or others may have views about the appropriateness or otherwise of the exact form of words that Parliamentary Counsel has put together for us.

The Hon. C.J. SUMNER: I am not opposing it.

Amendment carried; clause as amended passed.

Clauses 11 to 16 passed.

Clause 17—'Amendment of section 69—suspension of transfer where disciplinary inquiry or serious offence charged.'

The Hon. I. GILFILLAN: I move:

Clause 17, page 13, lines 25 and 26—Leave out 'or without remuneration and with or without' and insert 'remuneration and'.

This amendment relates to suspension without remuneration, with or without the accrual of the benefits, and I spoke to it in the second reading debate. I believe that until someone accused of an offence has had that conviction substantiated it is unfair to penalise on the basis that the Act is being amended. Although I understand that this has been exercised through the current Act, that does not give it justification in justice. I have therefore moved my amendment, which I argue is the basis of justice; someone should not be punished for an offence of which they have not yet been found guilty.

The Hon. C.J. SUMNER: Sometimes the Hon. Mr Gilfillan amazes me. He seems to be a bit away with the fairies. While that principle may be an interesting one, I challenge him and the PSA to consider the odd case. Let us take someone charged with a serious offence, say, the Fleurieu murderer or, say, Mr Von Einem, who happened to be employed in the Public Service and who was charged with those offences. The case, because of its complexity or perhaps because of delays in the court system, or whatever, at that time went on for two years before it was determined.

I can assure the honourable member that, if he happened to be in Government at that time and was the Minister responsible, the public outrage would be so great at a situation like that that he would almost certainly have to bring an amending Act into the Parliament to suspend the person without pay if that was not available under the existing legislation. It is just not a sustainable position in the public arena. Whatever the purest view of the situation is, you must have the capacity to suspend without pay in the case of serious matters. What if it is a serious drug offence involving—

The Hon. I. Gilfillan: If that is a criminal offence, I understand that is a different procedure.

The Hon. C.J. SUMNER: My advice is that it is not. In the case of serious criminal offences such as those I have mentioned or a serious drug offence, you would be prohibiting the Government's capacity to suspend that charged person without pay. It is just not a tenable proposition as far as I am concerned, and I would be very surprised if the Opposition supported it. I have already given in my second reading reply the details of the suspensions without pay so I will not repeat them. However, one of those 11 cases which illustrates the need for suspension without pay related to police charges of drug trafficking. The employee in that case did not even make contact with the department for several months after being charged. I just do not think it would be tolerable for the public, that is, the taxpayer, to pay in those sorts of circumstances while people are waiting to appear before a court on those sorts of charges. But that is what would be permitted by the Hon. Mr Gilfillan's amendment.

The Hon. R.I. LUCAS: As I indicated in the second reading debate, I understand the purity of the Hon. Mr Gilfillan's argument. It is a dilemma for members of Parliament, because at one end you have the examples just given by the Attorney-General, but at the other end you have examples of people being wrongly accused, suspended without pay leaving families with no other means of support and with children to feed, in relation to all of which you have an equally powerful argument. As I indicated, it was a difficulty for members of the Liberal Party to try to balance these cases which the Attorney and I have just mentioned at both ends of the extreme.

The other point I made in the second reading debate, and I do so again briefly, is that the PSA—under different leadership, admittedly—in the past has supported the suspension without pay provisions under the GME Act. I do not have them to hand at the moment, but I quoted correspondence and the Commissioner's directive which indicated the PSA's support for this option. It is quite within the province of the new leadership of the PSA now to adopt a different position in relation to a suspension without pay, and I do not criticise it for doing that.

As a result of the discussions the Liberal Party has had on this matter, we have decided not to support the Hon. Mr Gilfillan's amendment, but we intend at a later stage to make clear that an aggrieved person, someone who is suspended without pay, has the right to appeal to the grievance appeal tribunal. They will have to make a case to that tribunal. If in the case that I have indicated, where someone perhaps at the lower end of the scale has half a dozen children to feed, has no other visible means of support, has been suspended without pay and can make a good case to the tribunal, that person might gain some change in arrangement or circumstances. Clearly, at the other end of the extreme, in the case quoted by the Hon. Mr Sumner, I suspect that that person might not have much success in having the decision overturned.

I noticed in the Attorney's responses that, even under the current arrangements—at least in one case—there appeared to be some changed arrangement as a result of hardship, where one person suspended without pay—obviously under some provision or other, I am not sure how—made a case to the Commissioner or somebody else and was then allowed to go out on long service leave with the suspension without pay hanging over that person's head when they came back from long service leave. For those reasons we intend to oppose this amendment, and we intend to move later what we see as a partial compromise position.

The Hon. I. GILFILLAN: It is all very well to take the case of someone who has committed a serious criminal offence, but there are very few of those. Section 69 of the Act refers to an employee who is charged with a serious offence, or is given a notice of inquiry under section 68, which involves offences, problems—potential discipline within the confines of the Public Service itself—and obviously the majority of the cases will not be involved with serious criminal offences.

It is on that basis that I think the Bill is too severe and is a travesty on a basic concept of justice. If there is to be an acknowledgment that the rare and extreme cases where a person charged with a serious offence is either held on remand or there is a long drawn out case of a criminal nature, efforts should be made to—

The Hon. C.J. Sumner: It's done now.

The Hon. I. GILFILLAN: What?

The Hon. C.J. Sumner: Suspension without pay.

The Hon. I. GILFILLAN: For serious criminal offences?

The Hon. C.J. Sumner: Yes; you want it removed.

The Hon. I. GILFILLAN: But it is also applicable to people who are charged with disciplinary measures within the public sector: they are not criminal offences, and that is the area with which I am concerned. A person who is charged with a disciplinary offence or is subjected to a charge within the public sector itself and not a criminal offence can be suspended without remuneration or an accrual of rights, and that is the purpose of my amendment.

Amendment negatived.

The Hon. I. GILFILLAN: I have some further amendments but, because they are consequential, I will not move them.

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

Page 14—

Line 13—Leave out 'A' and insert 'Subject to subsection (8), a'.

After line 14—Insert subclause as follows:

(8) A decision to suspend a person without remuneration under this section may be the subject of an application for review to the Promotion and Grievance Appeals Tribunal.

As I indicated earlier, in indicating opposition to the Hon. Mr Gilfillan's position, we believe that at least a partial compromise is formally to allow a person who is suspended without pay to take the matter to the Promotion and Grievance Appeals Tribunal for review and let him or her argue the case there. In the circumstances I indicated before, perhaps they will be able to get some relief.

The Hon. C.J. SUMNER: The Government opposes this amendment. We do not accept that employees should have a right to lodge a grievance appeal if they are suspended without pay. Employees are only suspended without pay if they are under investigation for serious disciplinary breaches. It is also true that Chief Executive Officers have shown compassion in the way they manage suspension powers. Furthermore, the guidelines on suspension without pay issued to Chief Executive Officers by the Commissioner for Public Employment were revised with the support of the Public Service Association following the case of the two Correctional Services Officers mentioned in the debate by the Leader of the Opposition.

A grievance appeal, once lodged, creates the potential for serious delay which can frustrate a Chief Executive Officer's attempts to quickly and fairly resolve disciplinary matters. Due processes of inquiry and formal hearings as required under the Act may also be stalled pending the outcome of the grievance appeal. It should be remembered that the GME Act's disciplinary provisions provide ample opportunity for accused employees to defend and refute allegations made. If an employee is not satisfied with the final outcome of the process, a disciplinary appeal right is available. The Act's disciplinary process already involves considerable time and effort to ensure that their is fairness and natural justice. There is no need to provide multiple appeal rights as proposed by the honourable member.

The Hon. R.I. LUCAS: If I could respond briefly, the Attorney-General indicated earlier in response to a question I asked that, as best as the Commissioner for Public Employment can establish, there have been only some 10 or 11 cases of suspension without pay in the past two or three years. Certainly I do not believe that this appeal right will grind the promotion and grievance appeals tribunal to a halt because, looking at those cases, I cannot imagine that all of them would take the matter to appeal. In some cases, they actually resigned from the Public Service within a few days of their being sprung anyway, so it will certainly not grind the system to a halt.

Secondly, with respect to the suggestion that it might in some way interfere with the process that the Chief Executive Officer might have in relation to that person, again I am not convinced about that in that all we are talking about here is a question of whether or not the person will be suspended with or without pay. Clearly the person is suspended, if the person has not resigned, and the question is: with or without pay. That may well be a matter of dispute. I do not see that, in the limited number of circumstances we are talking about—probably no more than one or two a year, I suspect, that might go to appeal—it will in any way grind to a halt the processes in a particular department or the promotion or grievance appeal tribunal system.

The Hon. I. GILFILLAN: I indicate support for the amendment. To a limited extent it does put in place the principle which I indicated earlier with my unsuccessful amendment that it seemed unfair to suspend without pay someone who was charged but not at that stage found guilty of an offence. There is also the other significant factor that the suspension of salary would not only affect the person charged but also their family. If they are eventually found innocent of the charge, there is scope for recovery, but the interim has been very stressful and,

I think, quite unfairly so. I hope that the provision of an appeal to the suspension without pay does give an opportunity to people in that circumstance to have relief. I repeat what the Hon. Rob Lucas has pointed out: this does not mean an appeal against the actual suspension but the suspension without remuneration, and/or the accrual of rights.

Amendments carried; clause as amended passed.

Clause 18 passed.

Clause 19—'Transfers of excess employees within public sector.'

The Hon. I. GILFILLAN: I move:

Page 15, lines 18 and 19—Leave out 'the same salary as, or a higher salary than,' and insert 'a salary equivalent to'.

Where the Commissioner has transferred an employee to another position, new subsection (3) of the Bill provides:

Except as otherwise agreed between the Commissioner and the employee—

(a) a transfer under this section may be only for a term not exceeding 18 months determined by the Commissioner;

(b) the employee must, at the expiration of the term, be transferred back to a position in the Public Service or in the employment of the State instrumentality by which the person was employed prior to the transfer as the case may require, being a position with—

and this is the key part—

the same salary as, or a higher salary than, the salary payable to the employee in that prior employment immediately before the transfer;

The Bill allows the Commissioner, by this device, to actually ratchet a public servant up into a higher category with higher salary without that appointment going through due process. It is reasonable that my amendment takes away that opportunity and stipulates that the position must be at a salary equivalent to the salary payable to the employee prior to the move to another part of the Public Service or to a different State instrumentality.

The Hon. C.J. SUMMER: The Government opposes this because, on some occasions, a position with an identical salary may not be available for this employee on return to the Public Service. The words 'on a higher salary than' will enable the Commissioner to transfer the employee to a position in a different classification stream which has a salary nearly the same as the employee's salary prior to the transfer. For example, take the case of a junior technical officer who returns from a State instrumentality. A technical position may not be available in the Public Service, but a clerical position may be vacant. Here the salary difference could be around $200 per annum. If the employee was skilled for this clerical position and was willing to take it, it seems sensible to allow the transfer to take place.

The Hon. R.I. LUCAS: The Liberal Party opposes the amendment for the same reason.

The Hon. I. GILFILLAN: The reasoning of the Attorney is quite sound, and maybe a minor word adjustment will allow that tolerance but, unless we take the words exactly as the Attorney has just stated, that qualification that the higher salary is only marginal to allow the flexibility for slotting back is not spelt out in the Bill. The Bill states quite clearly, 'or a higher salary than the salary payable'. That could be twice the salary.

The Hon. C.J. Sumner: You don't know the Commissioner for Public Employment!

The Hon. I. GILFILLAN: Maybe I don't, but I know the words in the Bill, and I know the accuracy that we ought to attempt to get into legislation. I would have personally interpreted the words 'a salary equivalent to' to certainly embrace the amount that the Attorney mentioned of an increase of about $200 per year, but I believe that, unless the wording is changed, the Bill leaves it open for a direct appointment by the Commissioner to a person back to a higher position than they held before—significantly higher—without that person having gone through any due process of selection.

I would urge both the Attorney and the Leader of the Opposition to consider whether in fact they would entertain a variation on the wording to provide for the salary or a salary close to the salary payable, but not below, so that we achieve the guarantee that the employee would go back to a salary which would not be less. With the proper wording, it will assure people that the Commissioner would not have this avenue to arbitrarily appoint a transferee back to a position above or maybe well above one that they had before without going through the proper processes of assessment and appointment.

As no-one wishes to respond, it appears they are both insensitive to my argument. I repeat: by opposing this amendment, in my view it definitely leaves the position with the Commissioner, so that he or she could make an appointment that the appointee has not merited through any proper or fair assessment.

The Hon. R.I. LUCAS: I am never insensitive to the submissions made by the Hon. Mr Gilfillan but I was otherwise detained with Parliamentary Counsel on another matter. I understand and appreciate the point the Hon. Mr Gilfillan is seeking to achieve. I think he is talking about a salary close to the previous amount. I guess it is a question of whether that is an appropriate form of wording for legislation. It is not particularly precise as to what would be intended by that. I mean, how close is close to?

I understand the position he is putting but equally I understand the position the Government is putting to this Chamber that the intention is not to use this as some sort of a device to give someone a $10 000 a year pay rise. It really is to be used by the Commissioner for Public Employment, or whoever else is responsible, to bring, for example, a technical officer back to a clerical officer position as close to a salary as possible. If I am a technical officer on whatever a technical officer is earning, perhaps $22 000 a year, I am going to be unhappy if I lose even $200 when I come back to the clerical officer position. It might not seem much to us but to the technical officer or clerical officer and his or her family $200 is something that they do not want to lose.

The Government is basically trying to say it is almost the same salary or a little bit more. If there is a better way of saying 'a little bit more' and not 'a lot more' then I am comfortable but if I am the clerical officer I would not like to have a little bit less. That is the concern that I would have.

If the Hon. Mr Gilfillan, the Attorney, Parliamentary Counsel and advisers can come up with a form of words

which says the same salary or a little bit more but not a lot without it being ridiculous then perhaps we can discuss it.

The Hon. C.J. SUMNER: I do not think we could. In any event it would be splitting hairs to an incredible extent. I do not quite know what the Hon. Mr Gilfillan is worried about. Trying to get the Commissioner of Public Employment to put people in categories that are above what they are normally entitled to is an impossible task. It takes you about 10 years to go through the system. They fight like cat and dog with anyone who wants to muck up the nice, orderly system.

I can assure him the suggestion that someone will be brought back at $10 000 more than they are entitled to and therefore throw the whole of the system of relativities in the Public Service out is in my opinion just silly.

The Hon. I. GILFILLAN: I am not going to be persuaded on how I deal with legislation on how the current Commissioner of Public Employment might be exercising his particular parsimony. I think it is reasonable to look at what are the loopholes in the way legislation is worded. The Attorney may well be right that in the current circumstances in a general sense this does not pose any risk, but we have identified and he has identified that a lot of legislation is an attempt to minimise the scope of patronage and nepotism. If we are going to put meaning into those words we must look for the avenues and loopholes where that patronage, nepotism or favouritism could be applied and this is one such case.

It seems to me that a minor wording change would allow for the tolerance that the Attorney has argued is needed so that you do not have to be absolutely prescriptive about the exact dollars and sense but you avoid the very thing we are trying to prevent—the appointment to a substantially higher position without an open and fair selection process and/or assessment.

That is what I am asking for in this amendment. If the Committee wants to move on with its business so be it and I may seek the consideration of the Committee to resubmit when some proper words come to hand because I think Parliamentary Counsel can evolve a phrase which expresses exactly what I think we all want.

Amendment negatived; clause passed.

Clauses 20 to 22 passed.

Clause 23—'Persons excluded from the Public Service.'

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

Page 18, lines 13 to 26—Leave out paragraph (i) and insert—

(i) any officer or employee appointed by the Minister under the Education Act 1972;

(j) any officer or employee appointed by the Minister under the Technical and Further Education Act 1976;

It is a matter I canvassed fully during the second reading stage so I do not intend to cover that ground again. To my way of thinking the Government in this clause was trying to slip through a shonky. They have been trying for sometime to bring teachers and TAFE employees under the GME Act. They have been rejected by this Parliament on at least one occasion and rejected by the courts when they tried a different path and under the guise of the GME Act they have attempted to do it again.

What I find most interesting is that while they were trying to bring the teachers from the Education Act under the GME Act they did not have the courtesy to notify the Institute of Teachers that they were planning to do so. As I have said, there is no doubt it was nothing more nor less than an attempt to pull a shonk. They thought they would get away with it and I think they have been caught out.

They have produced no substantial reason for the move and my amendment is such that employees and officers under the Education Act or the TAFE Act will not be subject, just by proclamation of the Government, to be brought under the GME Act.

The Hon. C.J. SUMNER: The Government does not support this amendment. The Government did not set out to deceive by including this provision in the Bill; it was simply trying to clarify its understanding of the intent of the Act in relation to persons employed under the Technical and Further Education Act and the Education Act. When the GME Act was proclaimed in 1986 certain public employees, including employees appointed under the Education Act 1972 and the TAFE Act, were excluded from the Public Service under section 21 and schedule 2 of the Act. However, it was intended that the Governor would have the power, through proclamation, to incorporate into the Public Service any particular group of excluded public employees, including those appointed under either the TAFE Act or the Education Act, if that action was considered to be appropriate in respect of that particular group. This proposed power was highlighted in the clause notes which were made available to the Parliament in 1985 when the legislation was debated. Therefore, it is not something new that has been sprung on the Parliament in the context of this Bill. The Governor's right to exercise this power, which we thought was being given by the 1985 Act, in relation to TAFE principals was tested in the courts and found to be invalid. The Government's amendment, as proposed, has been included to ensure that in future the Governor will have the necessary powers to incorporate any group of employees as originally intended when the Act was proclaimed.

Obviously it was never intended that members of the judiciary, members of the police force and those other office holders who must be seen to be independent of the Public Service should be able to be incorporated into the Public Service, and the proposed amendment does not interfere with that intention. The Government does not, however, see any reason why officers of the teaching service or employees under the TAFE and Education Acts should be included in this category of 'independent' persons. That is obviously not the case. Although the Government has no immediate intention to incorporate any of the groups presently excluded under schedule 2 of the Act, the proposal by the Democrats would restrict the power almost to the same extent as the current deficient wording. Therefore, it is not acceptable to the Government. It must be remembered that a good number of people appointed under the TAFE and Education Acts are basically involved in administrative work and it may be appropriate in some circumstances that they should be brought under the GME Act.

The Hon. R.I. LUCAS: The Liberal Party indicated its position on second reading in similar terms to those

expressed by the Hon. Mr Elliott. We were intending to move an amendment, but we are happy to support the amendment moved by the Hon. Mr Elliott.

Amendment carried; clause as amended passed.

Clause 24—'Amendment of schedule 3—The Promotion and Grievance Appeals Tribunal and the Disciplinary Appeals Tribunal.'

The Hon. I. GILFILLAN: I move:

Page 18, lines 30 to 33—Leave out all words in these lines.

This amendment seeks to ensure that the Chair of the Promotion and Grievance Appeals Tribunal and of the Disciplinary Appeals Tribunal will not be a member of the Public Service, which is the present position. I believe it is inappropriate for a person with significant powers for determining matters within the Public Service and to whom members of the Public Service will turn for an objective, independent judgment to be compromised in any way. However tenuous it may be, I believe there is scope for at least appearing to be part of the system if the chairperson is employed in the public sector.

The Hon. R.I. LUCAS: The Liberal Party has a similar amendment, so we are happy to support the amendment moved by the Hon. Mr Gilfillan for the reasons that he has given and which we outlined on second reading.

The Hon. C.J. SUMNER: The Government does not support the amendment. The Government has included this amendment in the package in order to ensure that a suitable person can be appointed to the position when it becomes vacant. The Act requires that the person selected 'has in the opinion of the Governor appropriate knowledge and experience of principles and practices of personnel management in the public sector.' The Act also requires that that person not be an employee of the Public Service.

When the present Presiding Officer was selected, organisations, including the Public Service Association, were consulted to ensure that all parties were satisfied before the appointment was made. The same process of consultation will take place when the position is to be filled in future. If an employee is selected, that employee will be granted leave without pay from the Public Service. It is anticipated that the most suitable people available for appointment will be public servants. However, it is very unlikely that they will show an interest in this position if one of the conditions of appointment requires them to resign from the Public Service without the right of return. Furthermore, if the volume of appeals should reduce in future because of likely changes to the appeals system, there may not be a need for a full-time Presiding Officer. If that situation should occur, the difficulty of finding a suitable person would be even greater. By allowing an employee to be appointed we will overcome the problem of tenure and a strong field of candidates is assured if this post is advertised. The Government does not accept that the independence of the Presiding Officer will be undermined in any way or that the person selected will be prevented from discharging responsibilities in a fair and independent manner.

Amendment carried; clause as amended passed.

Clause 25—'Amendment of schedule 4—Hours of attendance, holidays and leave of absence.'

The Hon. I. GILFILLAN: I move:

Page 19, after line 33, insert:

and

(g) by inserting in clause 9(2) 'by reference to the rate of remuneration applying to the employee's position during the period of the leave and the extent to which the employee's effective service was part-time or on a casual basis' after 'Commissioner'.

Briefly, this is an attempt to specify the level of the accrual of benefit for people employed on a casual basis rather than to leave it to the general determination of the Commissioner 'by reference to the rate of remuneration applying to the employee's position during the period of the leave and the extent to which the employee's effective service was part time or on a casual basis'.

Amendment carried; clause as amended passed.

The Hon. I. GILFILLAN: By courtesy of Parliamentary Counsel, I have been handed a potential improvement on the wording for the amendment to clause 19 that I had earlier. I indicate now that I should like to have the Bill recommitted in the appropriate manner so that I can move the amendment.

Title passed.

Bill recommitted.

Clause 17—'Amendment of s.69—Suspension or transfer where disciplinary inquiry or serious offence charged'—reconsidered.

The Hon. R.I. LUCAS: The Attorney-General, in an aside to me during the Committee stage, highlighted a potential problem of interpretation with the amendment that we have successfully incorporated into clause 17 in relation to an appeal right for a person suspended without pay to the Promotion and Grievance Appeals Tribunal. On subsequent discussions with Parliamentary Counsel, I have an alternative wording for that particular amendment which I think will clarify the situation. The intention of the amendment was to ensure that a person who was suspended without pay would be the subject of the appeal to the Promotion and Grievance Appeals Tribunal—involving the without pay aspect, and not the whole question of suspension. At the moment we have incorporated the following into the Bill:

A decision to suspend a person without remuneration under this section may be the subject of an application for review to the Promotion and Grievance Appeals Tribunal.

I move:

Page 14, after line 14—Delete the words 'to suspend a person without remuneration' and insert 'that remuneration be withheld from a person suspended'.

The clause would then read:

A decision that remuneration be withheld from a person suspended under this section may be the subject of an application for review to the Promotion and Grievance Appeals Tribunal'.

It makes it quite clear that it is the without pay question that will be the subject of the application for appeal and not the whole question of suspension.

Amendment carried; clause as further amended passed.

Clause 19—'Transfers of excess employees within public sector'—reconsidered.

The Hon. I. GILFILLAN: I move:

Page 15, lines 18 and 19—Leave out 'the same salary as or a higher salary than' and insert 'a salary not less than but not substantially more than the salary payable to the employee in that prior employment immediately before the transfer'.

This, I think, will satisfactorily allay any fear that this particular opportunity for replacement would allow a commissioner to unfairly appoint a transferee to a position to which he or she was not entitled. In my judgment, this wording eliminates that possibility but allows flexibility in that it does not have to be specifically and exactly in dollars and cents the same salary as that which was being paid prior to the transfer.

The Hon. C.J. SUMNER: The Government is still not convinced. It can lead to litigation about what the word 'substantially' means and I therefore think that what we had in the Bill, with the explanation that I gave as to how that was going to be used, should be adequate to deal with the situation. If there is abuse of it, which is what the Hon. Mr Gilfillan is concerned about, then no doubt it can be revisited by Parliament at some stage in the future. However, I can assure the honourable member that whether it is this Commissioner of Public Employment or some other commissioner in the future they are terribly mean and they hate paying out money to anyone, and to get them to pay money, particularly money to particular groups of employees that will upset the relativities that exist in the Public Service, is extremely difficult and I have absolutely no fear at all that this clause will be abused.

The Hon. R.I. LUCAS: I do not think the legislation and the Parliament's consideration is going to rise or fall on this particular amendment. I indicated previously that if it could be phrased in terms 'not less than but not a lot more'—which is basically what the Hon. Mr Gilfillan has done—I would support such an amendment, and I so do.

Amendment carried; clause as further amended passed.

Bill read a third time and passed.

CRIMINAL LAW (SENTENCING) (EDUCATION PROGRAMS) AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Criminal Law (Sentencing) Act 1988. Read a first time.

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

That this Bill be now read a second time.

This Bill seeks to amend the Criminal Law (Sentencing) Act by providing for the approval of educational programs for certain classes of offender. In June 1990 magistrates began requiring offenders, by way of a bond, to attend educational programs conducted by National Corrective Training Pty Ltd (NCT) on a user-pays basis. The offences involved were primarily shoplifting and, to a lesser degree, assault and domestic violence offences.

Over the last year a pilot program has been conducted into the use of education programs. Programs conducted during the pilot have been well received by the magistracy and the course participants. However, there has been a growing reluctance by the magistrates to continue sentencing offenders to the programs as a condition of a bond, based on doubt about the legality of a condition that requires the offender to pay the course fees.

The principal object of the Bill is therefore to provide as a sentencing option that a court can impose a bond condition requiring a defendant to attend an educational course. In the first instance it is intended to approve programs dealing with shop stealing, domestic violence and offences under section 46 of the Road Traffic Act (driving in a manner dangerous to the public). The system as it is will provide as follows:

- During the first two years of the scheme it is envisaged that there will be only one approved program provider. Following an evaluation of the usefulness and effectiveness of the programs in the first two years, this number may be increased.
- An offender will attend such a program as soon as possible but at least within six months of the date of the bond.
- A certificate of attendance will be issued by the program provider to the offender and to the originating court as proof of attendance.
- The method of payment of fees for attendance at an approved program will be provided as a condition of approval of the program.

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

Leave granted.

Clause 1 is formal.

Clause 2 provides for commencement by proclamation.

Clause 3 amends section 42 of the principal Act. The amendment authorises the court to include in a bond a condition requiring a defendant to attend an educational program approved by the Attorney-General in respect of the particular offence involved.

The Attorney-General may approve, conditionally or unconditionally, such educational programs and may revoke or vary the conditions of approval of a program. The fees for such a program are to be borne by the defendant, subject to any relief provided by the program provider in accordance with the approval conditions.

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

[Sitting suspended from 5.48 to 7.45 p.m.]

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

In Committee.

(Continued from 11 March. Page 1581.)

Clause 3—'Interpretation.'

The Hon. C.J. SUMNER: I am prepared to agree to $1 000 being the monetary amount with respect to this definition, which deals with financial benefit—that is, it deals with income earned. I think there is a difference between the threshold for income earned and the threshold for receiving a gift. So I will be arguing later about the threshold for gifts, which the Hon. Mr Griffin wishes to increase. I think that there is a distinction between the receipt of a gift by a member of Parliament and income earned by a member of Parliament. On this point, that is, income earned, which is what we are debating at the present time, I am prepared to go along with the honourable member's amendment. Therefore, I seek leave to withdraw my amendment.

Leave granted.

The Hon. K.T. GRIFFIN: I appreciate the Attorney-General's indication of support for my amendment. The rationale for the increase was that since 1983 the CPI index has increased substantially, and $500 in 1983 would as at 31 December 1992 have been worth something like $860. So I felt that there was some value in seeking to increase the amount, and to take into account that probably this figure will not be looked at by Parliament for a few more years, maybe another 10 years. I can acknowledge that there is a distinction between income earned and gifts. I would like still to argue for my amendment, or some compromise, at the point where we deal with the issue of gifts but, for the moment, I am pleased that the Attorney is supporting this amendment.

Amendment carried.

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

Page 1—Insert paragraph as follows:

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

I expressed a concern at the second reading stage that the definition of a person related to a member was in my view much too broad. That included a member of the member's family, which is defined in the principal Act, and also a proprietary company in which the member or a member of the member's family as a shareholder or a trustee of a trust other than a testamentary trust of which the member or a member of the member's family is a beneficiary.

I expressed the view then that, even if the member or the member of the member's family did not have any capacity to control the proprietary company or the trust, the disclosure obligation would nevertheless require the member to disclose details of the income sources and other matters required to be disclosed by a member when they were matters within the knowledge and activity of a proprietary company or a trust.

It seemed to me that that was casting the net so broadly as to make it almost impossible for members to comply with the obligation which was being imposed by the amendment, and it was an unrealistic expectation of compliance.

I went back to what I discerned to be the principle of the principal Act, that is, that the focus was on the member and on the member's family. The member's family is spouse, which will include a putative spouse, and children under the age of 18 years. If I am correct in asserting that that is the focus of the principal Act, it seems to me that what the Government was seeking to do was to focus upon the means by which a member could establish a company or a trust, put assets into that company or the trust, and have the company or the trust do the sorts of things which, if done by the member, would have to be disclosed, and the proprietary company or the trust would form a veil against disclosure.

On that basis, I sought to find a means by which that could be addressed without casting the net so wide as to make the obligation upon the member onerous and, I would suggest, potentially unworkable. I came up with the proposition of a focus upon a family company and a family trust. The definition provides that a family company is a proprietary company in which the member or a member of the member's family is a shareholder and 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. So, that would give them control, and, in respect of a trust, where the trust was established or administered wholly or substantially in the interests of the member, a member of the member's family or any such persons together.

I think that achieves the primary objective of the Government, and it also satisfies the public expectation of disclosure as well as satisfies the desirable objective of not putting a member under such pressure to disclose that it became impossible to achieve and also created the very real risk that members might inadvertently overlook the disclosure of information, particularly where it was information within the control of a company or a trust over which the member did not have effective control or the potential to control.

So my focus is to make it manageable, and it does achieve the objective, as I have said, that the Government is seeking to achieve and makes the proposition, if carried, an eminently reasonable one.

The Hon. C.J. SUMNER: I have given some consideration to this matter, and I am prepared to agree to the amendment at this stage. Basically, it achieves the objectives the Government was trying to reach with the Bill that we introduced, namely, to try to ensure that members were not, by the use of family companies or family trusts, getting around the disclosure provisions. Certainly, in some cases, with the original Bill as introduced, the requirements could have been fairly onerous, and I guess one option is that we introduce this and see how it works. I would have thought that members who were trying to do the right thing in this area would be generous about their disclosures rather than trying to hide them artificially by some means or other.

It does seem as though some people have been able to hide their income sources by the use of family companies and trusts, and that is why the Government introduced the legislation to correct that. In the future, if it seems as

though new devices have been found to stop proper disclosure, then maybe we will have to revisit it.

I repeat: I hope that all members in this Chamber and the other place would adopt an expansive view of disclosure and not necessarily be bound by the strict provisions of the Act. In any event, it is in members' interests. If they disclose as much as they possibly can, and an issue arises in the Parliament in relation to a matter, it is a protection for the member if the member has given as full a disclosure as is possible.

My preliminary view at this stage is that what the honourable member has done probably resolves the main policy issue that the Government is concerned about in this area, so I am prepared to accept it at this stage. However, I do reserve the right to reconsider it when the matter is being debated in another place to see whether or not there is some fine tuning that might be necessary of what has been done here. However, for the moment, I support the amendment.

The Hon. M.J. ELLIOTT: I concur with the comments of the Attorney-General. It is the Democrats' view that, if one takes public office, you have some responsibilities to make full disclosures about sources of income, whatever they be. I would hope that members do not contrive ways of hiding those sources. If there is to be confidence in the legislators and people in public office, then full disclosure is necessary.

The Hon. K.T. GRIFFIN: I appreciate the Attorney-General's observations on the proposals and his tentative acceptance of them. I must say that I do not share his suspicions about what members may or may not have done. I have no information which suggests that members have deliberately sought to hide income sources. In fact, it may be that members had a trust or company structure when they came into Parliament and took the view that they should satisfy the obligations imposed upon them in terms of disclosure but, where it related to a matter that was before the Parliament, I know that a number of members have disclosed interests which technically they were not required to disclose, pecuniary interests, under the narrow provisions of the Standing Orders, and others.

My colleague the Hon. Peter Dunn has made a disclosure on several pieces of legislation and I know that, in the House of Assembly, disclosures have been made by at least members on the Liberal side of the House in relation to matters which they were not obliged to disclose but which they felt ought to be put on the public record. It is a good balance that members feel that in terms of dealing with legislation before the Parliament they should disclose where they might have a direct or indirect interest, or where their family might be involved. The Hon. Jamie Irwin has done the same thing, as have other members. That is the more important issue.

As I said in my second reading speech, one has to question the value of the disclosure of interest at a particular time in relation to this sort of legislation, but I do not want to revisit that debate. All I want to do is say that I do not have the same suspicion about deliberate acts designed to hide information when in fact the more generous disclosure on particular issues in the Parliament has generally been followed rather than not.

Amendment carried.

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

Page 1, lines 27 to 29—Leave out all words in these lines and insert—

> 'gift' means a transaction in which a benefit of pecuniary value is conferred without consideration or for less than adequate consideration, but does not include an ordinary commercial transaction or a transaction in the ordinary course of business:;.

When I spoke during the second reading debate, I did raise some concern about the definition of 'gift'. In his reply, the Attorney-General referred me to various legislation at the Commonwealth and State level, election funding legislation in particular, and I pursued my researches back to the State and Federal gift duty Acts which contained a fairly comprehensive definition of what was a gift. Rather than getting into that which dealt with not only gift but disposition of property and what that meant, it seemed to me that we could focus more on something simple, if at all possible.

The difficulty with the definition of 'gift' was the transfer of value concept which I thought was a nebulous description of what the definition was seeking to deal with. I had some concern about 'adequate consideration' and 'ordinary commercial transaction', but I have been satisfied that probably there is not much better way of describing 'gift', so I am proposing this amendment to the definition of 'gift' which focuses on a benefit of pecuniary value conferred without consideration or for less than adequate consideration, but which does not include an ordinary commercial transaction or a transaction in the ordinary course of business. That focuses again the issue of the gift to what, as I understand it, the Government was endeavouring to achieve with the inclusion of a definition.

I did raise issues like lottery or raffle tickets which members are required to acquire invariably on a week by week basis at functions they attend. That is probably an ordinary commercial transaction or, if not, at least it is a benefit of pecuniary value which is really acquired for adequate consideration because everyone else is acquiring a raffle ticket for the same price, so that would not have to be disclosed if the member won a prize, although invariably, when one goes to Party functions, the obligation is that generally members of Parliament return the benefit rather than take advantage of it.

The Hon. C.J. Sumner: What!

The Hon. K.T. GRIFFIN: Maybe your Party works differently from ours. I thought it was important to include transactions in the ordinary course of business because one could get into a situation where a member may own a business which is run by a manager where, in the ordinary course of business, there are promotions by suppliers of goods who offer to the business, as they offer to other businesses, special arrangements on the business taking particular products. If the member was not actually in control of that business on a daily basis, it would seem to me that inadvertently the member could fail to disclose that because it may not be an ordinary commercial transaction but it would be a transaction in the ordinary course of business.

What I have attempted to do is recognise the Government's desire to include a definition of 'gift', but try to pin it down so we are not all wrestling with what is a transfer of value or trying to keep detailed records of

the sorts of benefits that businesses, not at arm's length but not under the direct management of a member, might attract and thereby inadvertently commit a breach of the provisions of the Act.

The Hon. C.J. SUMNER: Not opposed.

The Hon. M.J. ELLIOTT: I wish to ask a question which could be answered by either the Attorney or the Hon. Mr Griffin. There are some sorts of gifts which |come the way of members of Parliament and which come the way of other members of the community as well, which I think might be picked up by either definition that we have before us. For instance, there are restaurant chains that give away half price meals; you do not get it especially because you are a member of Parliament. I do not think that those sorts of gifts are unusual.

Would there be an expectation that those sorts of gifts would have to be regularly monitored? I imagine they would but they are things, as I said, that probably many members of the community do in fact receive. They are not a special consideration in the light of your position.

The Hon. C.J. SUMNER: My view is that if they reach the threshold they should be declared even though they might be being offered to the member in common with other members of the public. I still think that if a member gets gifts of free meals or free accommodation, which get to the point of the $500 threshold in a year from a particular hotel chain or restaurant chain, then it probably does get to the point that it should be disclosed.

The Hon. K.T. GRIFFIN: I do not disagree with that. There is one particular chain which at Christmas time always sends a Christmas card with a number of vouchers in it. I must say I do not think I have ever taken them up but I do not know whether it goes to a wide range of people in the community or only comes to members of Parliament, public servants and others.

The Hon. C.J. Sumner: You would have to eat a fair bit to get to $500 worth at half price.

The Hon. K.T. GRIFFIN: You certainly would. But there are some hotel chains that do the same sort of thing. I would agree that I do not think the exceptions to the definition of 'gift' would exclude the requirement to disclose that information.

The Hon. M.J. ELLIOTT: That does not cause me any problems but what I had not picked up was that the consideration had to be $500 from one individual chain. That is perfectly reasonable.

Amendment carried.

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

Page 2, lines 2 to 5—Leave out paragraphs (b) and (c) and insert—

(b) a family company of the member;

(c) the trustee of a family trust of the member:;.

This is consequential upon my earlier amendment to include a definition of company and family trust.

Amendment carried.

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

Page 2, line 12—Leave out 'a trustee or'.

The concern I had was that there appeared to be some inconsistency between the proposed subsection (2) and other provisions including—until we moved that last amendment—the definition of a person related to a member.

What proposed subsection (2) provided was that for the purposes of this Act a person who is a trustee or an object of a discretionary trust is to be taken to be a beneficiary of that trust. I must confess I could not understand why that was there in the first place, anyway. But if a trustee was to be taken to be a beneficiary it opened up all sorts of questions whether a person who is a mere trustee of a testamentary trust should therefore be taken to be a beneficiary. So I believe, consistently with the general theme of the principal Act and the Bill, that those words should be deleted.

The Hon. C.J. SUMNER: Not opposed.

Amendment carried.

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

Page 2, lines 14 to 21—Leave out subsection (3) and insert—

(3) For the purposes of this Act, a person is an investor in a body if—

(a) the person has deposited money with, or lent money to, the body that has not been repaid and the amount not repaid equals or exceeds $10 000;

or

(b) the person holds, or has a beneficial interest in shares in, or debentures of, the body or a policy of life insurance issued by the body.

Proposed subsection (3) sought to define an investor and it seemed to me that that was very wide open in two respects. There was no limit on the amount of the investment; I am proposing that that be $10 000. Although at the second reading stage I questioned the desirability of even having to disclose any amount as an investment but on the basis that there is an argument at least that that should be disclosed I am proposing that it be anything in excess of $10 000.

More particularly I was concerned about the beneficial interest in securities as defined by section 92 of the Corporations Law. The concern I had about that was that one would, as a member, need to go racing off to look at section 92 of the Corporations Law and then wade through various provisions of Corporations Law to find out exactly what was included within the description of 'securities'.

That was a particular difficulty with prescribed interests. Prescribed interests are a very complex security and I thought it was unnecessary to send members of Parliament off to try to define that and to identify their own activities to determine whether or not they held a prescribed interest. What I have done is to seek to be more specific, remove the reference to section 92 of the Corporations Law but still require disclosure of beneficial interest in shares or debentures of the body or a policy of life insurance.

Policy of life insurance is a new provision. I do not have any difficulty with that on the basis that holders of policies of life assurance in mutual societies do in fact have a right to vote at the meetings of mutual societies. My amendment seeks to clarify the definition of 'investor'.

The Hon. C.J. SUMNER: The Government accepts this amendment including the threshold of $10 000 where a member has lent money or invested money with a body. However, where a member owes money to someone else, that is the member is indebted, which is a debate coming up subsequently, I will not be accepting $10 000 as the appropriate threshold because I think there is again a distinction between money that is owed to a member—that is where the member has invested or

deposited money with another body and the threshold there is $10 000—and where a member is indebted to someone else and there, I think, a lower figure than $10 000 should be included but we will have that debate subsequently.

The Hon. M.J. ELLIOTT: I would ask the Attorney whether or not he does not think the $10 000, even in this case, is a little generous. I mean, after all, the potential exposure you have there is a significant one and can have as much influence on a person's decisions as $1 000 in hand or $10 000 in hand. If you consider that having deposited money, that that money is put at risk by decisions you are making, then you should be required to declare that interest. $10 000 appears to me to be rather on the generous side of things.

The Hon. K.T. GRIFFIN: I understand the argument used by the Attorney-General in relation to debts, and we shall have that debate later. However, the $5 000 in relation to debts was fixed in 1983, and it seems to me that, if we are to set a threshold, we should put in a realistic figure based on the original figure escalated by the CPI.

The Hon. M.J. Elliott: That may be generous, too.

The Hon. K.T. GRIFFIN: It may be generous, but I would not have thought so. I do not see the same problem with a member acting to protect an investment of $10 000. If it were $100 000, that would be a different matter. If any member were voting on a Bill which directly affected his or her investment, if it were $2 000 I think he would have to declare it because it would be a pecuniary interest. If it were just a general piece of legislation which applied to the credit union industry, the cooperatives or the building societies, that interest would be held in common with a range of other people. In those circumstances, I do not think that $10 000 would be a sufficiently large sum to cause the concern that the honourable member raised. In any event, I am not sure that there are many interests covered by the definition 'investor' that might not be required to be disclosed under other provisions. This is just a catch-all provision to mop up what may not have been disclosed in other areas. I would argue fairly strongly that with the current value of money, whilst individually $10 000 is a lot of money—to me it is, too—it is not an unreasonable limit to place in this disclosure legislation.

The Hon. C.J. SUMNER: I am not inclined to change my view, having expressed it, despite the exhortation from the Hon. Mr Elliott. If $10 000 is invested in a body like a bank, building society, credit union or something of that kind, which is reasonably large and stable, it is unlikely that the member will be making decisions that will be influenced by that investment. I suppose that in circumstances where the money is invested in some other organisation which is less stable and which could run into difficulties there might then be some incentive for the member to take action which would promote the business on the basis that it remains solvent and the member can get his or her money out of it. However, if they are shares or debentures, they are covered irrespective of the limits. That is in the second part of the honourable member's amendment.

The categories of investment in which a member might be involved which would be picked up by the first part of the amendment are likely to be fairly narrow. It is unlikely that a member in debate in Parliament would be in much of a position with regard to legislation to influence the future of that business in a favourable way. There is a stricter obligation on Ministers. A Minister would probably have to disclose that situation in Cabinet if an issue came up involving the particular body in which he or she had invested.

The only other way that a member might seek to use influence would be by making representations to the Government as a member of Parliament if the debate did not come up in the Parliament. In those circumstances, I think it would be prudent for the member to disclose it just to protect himself. If he had invested $8 000 in some body that was not going particularly well and looked as though it was going to crash and the member then tried to bring pressure to bear on the Government to prop it up and thereby save his investment, he would be running a very high risk, if that was discovered, of being exposed and having his political career affected. Before a member got into that direct lobbying situation, trying to support a body which was in trouble and in which he had invested, the member's best course of action would be to disclose that interest in any event. Having said that, I think that the area of the operation of this clause, which has the threshold of $10 000, is fairly narrow. While I can understand the concerns of the Hon. Mr Elliott, I do not think that they are major. I am prepared to continue my support for the amendment.

Amendment carried; clause as amended passed.

Clause 4—'Amendment of section 4—Contents of returns.'

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

Page 2, after line 26—Insert paragraph as follows:

(ab) by striking out from subsection (2)(c) and (2)(d) 'five hundred dollars', wherever occurring, and substituting, in each case, '$1 000';.

Paragraph (c) deals with any contribution towards the cost of travel. Presently anything over $500 has to be disclosed for that. I understand from what the Attorney-General said earlier that this might be an area where we have a debate about the amount. Paragraph (d) deals with any gift of or above the amount or value of $500. I am proposing that that be increased in line with the CPI to $1 000. It may be that there can be some compromise on that, but, in order to test the view of the Committee, I move the amendment. Clause 4(2)(c) requires the source of any contribution for travel to be disclosed and paragraph (d) relates to gifts. I understood from what the Attorney-General said earlier that he had difficulty with both of those because they are in effect gifts. I am proposing the figure of $1 000, and I have indicated that, while there is an opportunity to adjust the amount, we should consider leaving it not at $500 but possibly something in between.

The Hon. C.J. SUMNER: I am less inclined to increase the threshold, for the reasons that I stated previously, but I think there is a difference where a member is getting a direct gift either in cash or in kind through travel, and where we are talking about the appropriate threshold for the disclosure of income actually earned. I agreed to increase to $3 000 the

threshold for income actually earned. However, I am reluctant to see this increased significantly, if at all. An amount of $500 is still a reasonable amount to receive by way of a gift from an individual or company to a member of Parliament. The current amount for Cabinet Ministers and public servants is $200. On my calculation, the CPI increase from the December quarter 1983 to the December quarter 1992 was just over 64 per cent, which I worked out at $320 to be added to the $500, which brought it up to $820, if we were to maintain 1983 money values. I am prepared to look at the matter but I still think that in the area of direct gifts we have to be much more careful.

The Hon. M.J. ELLIOTT: I think in these circumstances $500 is not an unreasonable amount and I will not support the amendment.

The Hon. K.T. GRIFFIN: The Hon. Mr Elliott seems to have set the cat among the pigeons. I was going to suggest to the Attorney-General that he might contemplate $750, just to split the difference. If it was good enough on 30 June 1983 or thereabouts when this came into operation to put the amount at $500—and that is now, on my calculation, $860—it seems to me reasonable to try to update it. I have said $1 000 and I am working on the basis that we will not look at this for another 10 years and by that time, the way the value of money is going, $500 will not buy more than a breakfast.

The Hon. M.J. Elliott: Put an indexing clause at the end of the Bill.

The Hon. K.T. GRIFFIN: Let's start off with a base now and put an index clause in later; I don't mind. But if the Attorney-General was prepared to accept some compromise I would be happy to go along with it, and he can accept it now and rethink it and, if he wants to, deal with it again in another place. However, I think that to be reasonable, if one takes the CPI indices 30 June 1983 to the end of the December quarter 1992, that is $860, and something like $750 or $800 is not unreasonable.

The Hon. C.J. SUMNER: I can understand the Hon. Mr Griffin's arguments and I am prepared to settle for $750.

The Hon. K.T. GRIFFIN: I seek leave to amend my amendment by replacing '$1 000' with '$750'.

Leave granted; amendment as amended carried.

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

Page 2, lines 28 and 29—Leave out 'related to the member or a member of the member's family by blood or marriage' and insert 'related by blood or marriage to the member or to a member of the member's family'.

This is a technical drafting amendment which makes it clear that the only gifts which are excluded from disclosure are gifts which have been given to the member or a family member by a blood relation or relation by marriage.

Amendment carried.

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

Lines 31 to 36—Leave out paragraph (e) and insert:

(e) where the member or a person related to the member has had the use of any property of another person during the whole or a substantial part of the return period and—

(i) the use of the property was not acquired for adequate consideration or in the course of an ordinary commercial transaction;

(ii) the market price for acquiring a right to such use of the property would be $750 or more; and

(iii) the person granting the use of the property was not related by blood or marriage to the member or to a member of the member's family—

the name and address of that person;

This amendment clarifies that it is the value of the use which must exceed $750 rather than the value of the property which is being used. This makes the provision consistent with the provision relating to gifts.

The Hon. K.T. GRIFFIN: I support the amendment. I did raise this question during the second reading debate and the Attorney-General did acknowledge that the focus should be on the value of the right rather than the property to which the right related. I move to amend the Attorney-General's amendment as follows:

Leave out 'in the course of an ordinary commercial transaction' and insert 'through an ordinary commercial transaction or in the ordinary course of business'.

This is to achieve consistency between this provision and the definition of gift provision.

Amendment to amendment carried; amendment as amended carried.

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

Page 3 line 6—After 'trust' insert '(other than a testamentary trust)'.

This amendment seeks to recognise what I understood was accepted in relation to the principal Act and also in relation to this Bill; that where there is a testamentary trust it is not necessary for the particulars of the trust to be identified. So, in order to tidy up what I suspect is a drafting difficulty but to maintain that consistent theme I move to exclude a testamentary trust from the information to be disclosed.

The Hon. C.J. SUMNER: This is not opposed.

Amendment carried.

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

Page 3, after line 8—Insert paragraph as follows:

(ea) by striking out from subsection (3)(f) 'five thousand dollars' and substituting $10 000;

This amendment relates to the question of indebtedness and it is an issue that the Attorney-General referred to earlier where he could accept the amount of $10 000 for an investment by the member or member's family but was not supportive of an increase of the indebtedness disclosure from the $5 000 threshold to $10 000. Notwithstanding that, I still move the amendment because I think it is not an unreasonable provision.

The Hon. C.J. SUMNER: Given that something could be allowed for an increase in the CPI since 1983, I would be prepared to agree to $7 500, if the honourable member is prepared to move that way.

The Hon. K.T. GRIFFIN: I seek leave to move it in that amended form.

Leave granted; amendment as amended carried.

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

Page 3, line 13—Leave out '$5 000' and insert '$10 000'.

This is to address the issue of a member or person related to the member who is owed money by a natural person. The Bill provides for $5 000; I am proposing $10 000. That would be consistent with the amendment

we moved earlier relating to an investment, so that where the member had lent money to a natural person in an amount exceeding $10 000 the name and address of the person to whom the money was lent would have to be disclosed. I think the $10 000 in this instance is an appropriate figure and is consistent with the change in the definition of 'investor'.

The Hon. C.J. SUMNER: Yes.

Amendment carried.

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

Page 3—

Line 14—Leave out 'the following subsection' and insert 'the following subsections'.

After line 14—Insert subclause as follows:

(3a) A member is required by this section only to disclose information that is known to the member or ascertainable by the member by the exercise of reasonable diligence.

These amendments are interrelated. I did make the point at the second reading stage that the responsibility upon members to disclose is a strict one. The Attorney-General in his second reading reply did make reference to the fact that a member is required only to disclose information that is known to the member. I am proposing to ensure that beyond doubt, and therefore I propose to insert a provision which declares that a member is required only to disclose information that is known to the member or ascertainable by the member by the exercise of reasonable diligence. I do not think it is sufficient for the member merely to say, 'I do not know.' However, I think it is reasonable that a member who reasonably diligently makes inquiries and is still unable to ascertain the information should have discharged his or her duty.

The Hon. C.J. SUMNER: This is the current position which the Government has always taken and which was the view of the Solicitor-General when this issue erupted into some controversy when the Act first came into effect and when the member for Coles expressed some concern about providing details of the interests of her then husband. At the time the point was made by me and the Government that you cannot disclose what you do not know, and in any event you cannot be influenced by what you do not know. So the disclosure of what you know, or, as the honourable member has put it here, what you can find out by the exercise of reasonable diligence I think meets the test that has always been applied but gives it a statutory basis. So I do not oppose the amendments.

Amendments carried.

The Hon. C.J. SUMNER: One point has occurred to me during the debate, as my conscience was severely pricked by the Hon. Mr Elliott when we were talking about the appropriate monetary limit for gifts, etc., that is, the situation where a series of gifts might be given by the one person less than the monetary limit of now $750. I suppose if it is just the one gift of $749 and that is not disclosed that is one thing. My view is that it would probably be prudent to disclose that, anyhow, particularly if a member had direct dealings with the person who gave him or her that gift. But let us work on the statutory basis of $750. If it is one gift of $749 or less that is not disclosed, and that is an isolated one-off instance, then that may not be a problem. However—and this is the point I am getting to and at which I will have another look, and the Hon. Mr Griffin may well be looking at it now when I am speaking because he has obviously worked out what the point is—if that same person gave a series of gifts worth $749 to a member then there might be a problem.

While the Bill is in another place I will look at that point and see whether that is open to someone, and try to get an aggregation clause put in which would ensure that if a member got a series of gifts the total of which amounted to more than $750 they would have to be disclosed. I think that is a reasonable proposition. Hotels or restaurants, maybe airlines, or it could be anyone, I suppose—it is generally in that sort of area—might offer a member some gift in kind, and if that was done on a regular basis it might give the impression of a conflict. In fact, I would suggest that there would be a conflict, and therefore disclosure I think would not only be prudent but also ought to be required under the legislation. I raise that at this time. We will look at it. If it is not a problem now we will not worry about it but, if it is a problem, we will move an amendment in another place.

The Hon. K.T. GRIFFIN: I do not think there is a problem, but I appreciate that the Attorney wants to have a look at it. The provision in the principal Act in relation to travel, for example, is the source of any contribution made in cash or in kind of or above the amount or value of now $750 for or towards the cost of any travel beyond the limits of South Australia undertaken by the member or a member of his family during the return period. It seems to me that if the one airline, for example, gives you an upgrade every time you fly, if it is worth only $100 on each occasion but if you are an extensive traveller and if you get over the $750 in the return period, it is aggregated by the fact that it refers to the source of any contribution made in cash or in kind during the return period. The same applies with a gift: particulars including the name of the donor of any gift of or above the amount or value of now $750 received during the return period.

It may be that there is a problem that there is no aggregation, but I have never thought of it in that context: I have always thought that there has been aggregation and that the return period reference is a total period and you do not look at each of the gifts or benefits in isolation.

The Hon. C.J. Sumner: The gift does not contain any aggregation.

The Hon. K.T. GRIFFIN: I am saying the very same thing in relation to gift: that particulars of any gift of or above the amount or value of $750 received during the return period. I would have thought that that quite clearly means that, if you get a series of gifts from the one person and they aggregate to more than the threshold, you have to disclose them. I cannot take it any further than that. It relates to the return period. I would have thought that any failure to disclose a series of gifts from the one donor on the basis that they did not aggregate might well be regarded as a sham.

The Hon. C.J. SUMNER: In any event, we will have a look at it. It was interesting that the honourable member mentioned airline upgrades, which I know received some controversy somewhere else.

The Hon. R.I. Lucas: Ask the Governor of Victoria.

The Hon. C.J. SUMNER: The Governor of Victoria; that's right, not in South Australia. I am not sure that an airline upgrade is a gift, anyhow.

The Hon. R.I. Lucas: He would be pleased to hear that.

The Hon. C.J. SUMNER: Yes. It may be—

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: It depends who is paying for the ticket in the first place, I think. If you are using your parliamentary travel allowance to travel and you get upgraded, I am not sure that that is a benefit you are getting out of it, or if the Government, if you are a Minister travelling economy class—

The Hon. R.I. Lucas: If you are getting a couple of thousand dollars worth of upgrades from Ansett or Qantas or something during any particular year, you might be favourably disposed towards that company as a result of that.

The Hon. C.J. SUMNER: Not if you are obliged to travel, anyhow. It probably would be covered if you were on a private trip, but I am not sure that you are getting any benefit out of it if you are travelling, for instance, as a Minister or, indeed, as Leader of the Opposition, to Victoria effectively on Government or parliamentary business—

The Hon. M.J. Elliott: Do you get upgrades very often?

The Hon. C.J. SUMNER: They have increased recently to some extent.

The Hon. M.J. Elliott: I think you will have to declare them.

The Hon. C.J. SUMNER: You think I will have to declare them? Well, okay, I don't mind particularly. I usually travel economy class to save the State money but, if I cannot get any upgrades any more, I will just travel first class, as did the Hon. Mr Griffin. It actually does not happen all that often. But, as the honourable member mentioned, I am not sure that, if a person is not paying for a ticket, an airline upgrade would constitute a benefit or a gift to the member; it may do. It would be a different matter if you were paying for it privately. In any event, my general approach to these things is that people should be careful and disclose as much as they possibly can.

The Hon. K.T. Griffin: If in doubt, disclose.

The Hon. C.J. SUMNER: That's right, as the honourable member says: if in doubt, disclose.

The Hon. R.I. Lucas: We will have a lot of upgrades disclosed in the next return period.

The Hon. C.J. SUMNER: Yes, that's right. We will see; we might get that looked at, and I will let members know whether there is any difference in them.

The Hon. Diana Laidlaw: It is important that we make clear our obligations, so that one does not inadvertently fall into a trap.

The Hon. C.J. SUMNER: It is fair to say that with the privatisation and increased competition the chances of its occurring in the future are more likely than those in the past. Certainly, it was fairly rare in my experience in the past, as I sat down the back.

The Hon. R.I. Lucas: They might have recognised you.

The Hon. C.J. SUMNER: No, well, that's true.

The Hon. M.J. Elliott: Is that because they did or didn't recognise you?

The Hon. C.J. SUMNER: I don't know.

The Hon. R.I. Lucas: You're a senior citizen now.

The Hon. C.J. SUMNER: That's true; I know; I'm feeling it, too. However, I raise both those points and perhaps we can clarify them.

Clause as amended passed.

Title passed.

Bill read a third time and passed.

EVIDENCE (VULNERABLE WITNESSES) AMENDMENT BILL

In Committee.

Clause 1—'Short title.'

The Hon. DIANA LAIDLAW: Both the Hon. Mr Griffin and I, during our second reading contributions, raised the issue of resources. It is true that so many of the initiatives proposed in this Bill will require a commitment from the Government for resources. I note that in the Attorney-General's reply this afternoon he outlined estimates by Treasury, for instance, $220 000 for the period 1993-94, for the fitting out of selected court locations throughout the State with a combination of closed circuit television screens and partitions or one-way glass systems. Is there a commitment by the Government that these funds will be provided, because I would like some indication other than the estimates that the Attorney has provided that there is a commitment by the Government to actually enact a number of these measures which will be essential to the effective administration of this Act?

The Hon. C.J. SUMNER: The Government has indicated the implementation costs. Obviously the Bill will have to be proclaimed once it has passed the Parliament, and moneys will have to be found from some source or another.

The Hon. K.T. GRIFFIN: Do I take it therefore that there is no final plan about the staged introduction of closed circuit televisions or other screening facilities, or is there some plan which has been agreed for implementation?

The Hon. C.J. SUMNER: I am not sure that I can take it very much further than a planned implementation of it, once the Bill has passed and is proclaimed. Action will then have to be taken to spend the money on the video link, the alterations to the courtrooms, the screens, etc. I do not know how long that will take but there is an acknowledgment that the implementation costs will be up to $220 000 for 1993-94, and that will now have to be considered as part of the 1993-94 budget process.

The Hon. K.T. Griffin: That is the cost, but it is still to be considered?

The Hon. C.J. SUMNER: Whether the Court Services Department will be asked to absorb that within its current budget or whether there will be a specific allocation given from general revenue to deal with it has not been decided, but an assessment has been made of the costs, and that assessment has been approved by Cabinet. It will be a matter of finding the source of funds to implement it during the next financial year. That is what will happen.

The Hon. K.T. GRIFFIN: Has there been any assessment made of the recurrent costs necessary to service the scheme? I presume there will need to be an operator of the camera and maybe an operator of the screen in the courtroom. Perhaps the Attorney could give some indication of what assessment has been made of recurrent costs, how much they will be and what those costs cover.

The Hon. C.J. SUMNER: The assessment I have is that the figure I gave is the capital cost for 1993-94 to do what I indicated in my second reading reply, but the assessment does not include any provision for recurrent costs. I assume they will be absorbed within the existing staffing of the courts.

The Hon. K.T. GRIFFIN: So there is no assessment of what recurrent costs there will be?

The Hon. C.J. SUMNER: No, the figure I have given on the information I have is the capital cost. I can only assume that the recurrent costs will be absorbed. That is, the courts consider that existing staff can operate the videos and shift the screens and do whatever is required. I would not expect there to be a lot of work involved in that. Therefore, it could be accommodated by existing Court Services Department staffing.

The Hon. DIANA LAIDLAW: The Attorney is aware that I have some concerns about the discretions provided in this Bill for judges to determine whether or not protection is to be provided for witnesses in courts. Is there a possibility that, if the courts determine that they do not have much money for the recurrent costs associated with operating these devices, the judges may then determine that a witness who should be provided with protection would not be provided with such protection merely because financial resources in terms of recurrent costs were not available?

The Hon. C.J. SUMNER: Once the capital cost has been expended to provide the videos, screens, etc., I do not imagine that the judges who are to exercise discretions in this area would in any way be influenced by any considerations of recurrent costs. I do not think that the fear expressed by the honourable member is likely to be realised at all.

Clause passed.

Clause 2 passed.

Clause 3—'Protection of witnesses.'

The Hon. K.T. GRIFFIN: Can the Attorney-General indicate whether there is any target date for proclamation of this Bill?

The Hon. C.J. SUMNER: We have not set a date yet but obviously it cannot be done until the screens have been obtained and the videos are set up. So it will depend on that. I cannot give a precise date but I assume that it will be in place sometime in the next financial year; as far as I am concerned, sooner rather than later.

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

Page 1, lines 19 and 20—Leave out 'to protect the witness from being intimidated by the atmosphere of a courtroom, or for any other proper reason,' and insert 'or to protect the witness from being intimidated by the atmosphere of a courtroom,'.

Clause 3 enacts the new section 13 which embodies the comprehensive scheme for the protection of vulnerable witnesses. I have a number of amendments, several of which are interrelated but most of which can be taken separately. The first amendment is directed towards limiting the scope of the reasons why a witness may be afforded protection. Whilst similar legislation has been enacted in other jurisdictions it is quite clear that it is still relatively new.

In the Attorney-General's reply at the second reading stage he referred to the Australian Law Reform Commission pilot study into closed circuit television in the ACT. He referred to the fact that even though the results in this study were not as clear as hoped both reports showed that there were advantages for a vulnerable witness in giving evidence in a manner which removed the stress caused by facing the accused.

There is no difficulty with the general concept and we have indicated positive support for that, but it seems to us that we ought to be clear about the basis upon which the order may be made and the circumstances in which it may be made so that there are defined limits within which the court may operate. What we are proposing is that the special arrangements may be made in order to protect the witness from embarrassment or distress and from being intimidated by the atmosphere of a courtroom. Those are the factors which are generally recognised in other jurisdictions and in fact in some instances go further.

The adding of the words 'or for any other proper reason' means then that the scope is limitless and because of the potential prejudice to an accused where the discretion is exercised very widely it seems to us that we ought, as I said in the second reading speech, to walk before we run. Therefore, we are seeking to focus upon embarrassment or distress and to prevent a witness from being intimidated; that will then adequately address the issue.

The Hon. C.J. SUMNER: The Government opposes the amendment. We think that it is reasonable to give to the court a discretion to permit the special arrangements for any other proper reason. I do not imagine the courts would go outside the basic prescriptions in the Act but it seems to the Government that there may be some circumstances which are not specifically dealt with in the Act—perhaps circumstances unforeseen that might lead to the special arrangements being made—and we therefore do not accept the honourable member's attempt to restrict the capacity of the courts to make the special arrangements.

The Hon. I. GILFILLAN: I oppose the amendment for the same argument or very similar to the one put forward by the Attorney-General.

Amendment negatived.

The Hon. I. GILFILLAN: I move:

Page 1—

Line 20, after 'the court should' insert ', subject to subsections(la) and (lb),'.

After line 21, insert new subsections as follows:

(la) An order must not be made under subsection (1) if the order would prejudice any party to the proceedings.

(1b) An order must not be made under subsection (1) if its effect would be—

(a) to relieve a witness from the obligation to take an oath;

(b) to relieve a witness from the obligation to submit to cross-examination;

or

(c) to prevent the defendant in criminal proceedings, the judge and (in the case of a trial by jury) the jury from seeing and hearing the witness while giving evidence.

These two amendments should be read together. One of the areas of concern which this addresses is, first, to ensure that the rights of an accused person are maintained so that one of the focuses of the judicial officer must be whether or not an order would prejudice a party to the proceedings and that includes an accused. It also focuses upon the concern that was expressed to us that the order which may be made is so wide that it could even extend, in perhaps exceptional circumstances, to relieving a witness from the obligation to take an oath; to relieve a witness from the obligation to submit to cross-examination and even prevent the defendant, the judge and the jury from seeing and hearing the witness while giving evidence.

In some of the legislation in other jurisdictions, such as Queensland and New Zealand, there is an express statement that the order should not be made if there is likely to be any prejudice to a party to the proceedings. Because of the breadth of this Bill that is something which ought to be specifically included.

In terms of the observation of the witness the UK legislation, as I recollect it, provides specifically that the witness ought to be visible to the judge, the jury and the defendant. It is again reasonable to ensure that that is included in the Bill to put that issue beyond doubt.

In his reply the Attorney-General said that this legislation is far ahead of anything else because it is the most recent and experience in other jurisdictions has been the basis upon which this has been drafted. I do not deny aspects of that assertion but because of that and because it is so broad one ought to at least build into it the recognised protections to which I have referred. It is for those reasons that I move the two amendments and indicate that this is an issue upon which I feel fairly strongly and if it is not accepted by the Government and I lose it on the voices I would be inclined to divide.

The Hon. C.J. SUMNER: I do not have any problems with most of this amendment. It seems to me that there is a potential inconsistency in one part of the honourable member's amendment where it says that the special arrangements cannot be made if they prevent the defendant in criminal proceedings from seeing and hearing the witness while giving evidence. I am not sure how that is consistent with using a screen or partition to separate the defendant from the complainant witness. Certainly one-way glass would fit the bill because that would enable the defendant to see the witness but would not allow the witness to see the defendant.

The Hon. R.J. Ritson: One-way glass is a standard training aid in psychiatry.

The Hon. C.J. SUMNER: The Hon. Dr Ritson has given us some interesting information, although I am not sure that it is relevant.

The Hon. R.J. Ritson: It is not all that difficult.

The Hon. C.J. SUMNER: I am not saying that one-way glass is difficult. If the amendment provides that we cannot have these special arrangements if the defendant is prevented from seeing the witness, how do we cope with the provisions in the Bill which say that a screen or partition can be ordered to be put up if one cannot see through an ordinary screen or partition? It may be possible to set it up in a way that would enable the defendant to see the witness without the witness seeing the defendant. That could be done, as the Hon. Dr Ritson has pointed out, with one-way glass, but it is less obvious that it can be done with a screen or partition. That is the only point that I was making. There seems to be an inherent inconsistency in the Hon. Mr Griffin's amendment and what was in at least part of the Bill.

The Hon. DIANA LAIDLAW: Does the Attorney-General agree that in principle it is important for the defendant to see the witness? If the Attorney-General agrees with that principle, perhaps we should amend the Bill in that respect because a screen or partition would prohibit the defendant from seeing the witness.

The Hon. C.J. SUMNER: I have not yet worked it out, but it may be that we can have a screen or partition which enables the defendant to see the witness. That is desirable.

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: The purist would say that this proposal undermines the rights of an accused person because an accused person has a right to be directly confronted by his or her accuser. 'Directly confronted' means eyeball to eyeball, so the witness has to give the evidence in the court in the presence and in front of the accused person. That is the purist view of it and it is certainly the Chief Justice's view. On balance, because we want to facilitate the giving of evidence by certain categories of people, we are modifying that principle to some extent. I do not think we are greatly abusing it. Once an exception has been made to the principle, whether or not the defendant can see the witness does not matter all that much. The important point is that the witness is not actually directly confronting the accused person with the evidence because the witness is protected from seeing the accused's reaction to the evidence. I do not think that the problem of the accused not being able to see the witness is as great as the Hon. Ms Laidlaw has made out. Once we remove the witness from giving evidence directly in front of the accused person we are removing what some would say is the necessary interaction between the accuser and the accused in open court and directly confronting them. The fact that the accused cannot see the witness does not seem to me to improve that situation very much from the accused's point of view.

However, having said that, I think it is desirable that the accused should see the witness. I cannot say whether that is achievable with a screen or partition. I would not have thought it could be achieved. That was the point I was making with regard to the Hon. Mr Griffin's amendment, but it may be that he has a solution to it.

The Hon. K.T. GRIFFIN: I acknowledge the point made by the Attorney-General. I am not sufficiently familiar with screening techniques to determine whether or not it could be arranged for the witness still to be seen by the accused but not to have the accused in the direct line of vision of the witness. It is interesting that in the Victorian legislation-Crimes (Sexual Offences) Act 1991—alternative arrangements may be made. Section 37c(3) provides:

Without limiting subsection (2), any of the following arrangements may be directed to be made:

(a) permitting the evidence to be given from a place other than the courtroom by means of closed circuit television or other facilities that enable communication between that place and the courtroom;

(b) using screens to remove the defendant from the witness's direct line of vision.

In my reading on the subject it is always that issue, removing the defendant from the witness's direct line of vision, which has been the concern. In the New Zealand Evidence Act amendment, section 23E deals with the modes in which the complainant's evidence may be given and refers to a direction that:

...while the complainant is giving evidence or is being examined in respect of his or her evidence a screen or one-way glass be so placed in relation to the complainant that—

(i) the complainant cannot see the accused; but

(ii)the judge, the jury and counsel for the accused can see the complainant.

So, the defendant is not specifically given the right to see the complainant but the judge, jury and counsel for the accused can see the complainant. The focus is on the complainant not seeing the accused. Then paragraph (d) provides:

Where the judge is satisfied that the necessary facilities and equipment are available, a direction that, while the complainant is giving evidence or is being examined in respect of his or her evidence, the complainant be placed behind a wall or partition, constructed in such a manner and of such materials as to enable those in the courtroom to see the complainant while preventing the complainant from seeing them, the evidence of the complainant being given through an appropriate audio link.

Then there are other provisions. In the light of what the Attorney-General has raised, one option which presents itself to me on the run is that in proposed subsection (lb) paragraph (c) (and I am having something looked at now) it could be something along the lines to prevent the defendant in criminal proceedings, the judge and, in the case of a trial by jury, the jury from seeing and hearing the witness while giving evidence where closed circuit television or one-way glass is the medium of communication, and to prevent the judge and jury and counsel for the defendant from seeing and hearing the witness while giving evidence where the medium of communication is a screen.

There may be a much more refined way of drafting that, but it still acknowledges that the judge and the jury and counsel for the accused must see and hear the witness where there is the screen, but where there is closed circuit television or one-way glass then it is the defendant, judge and jury who both see and hear. There are two ways to do it. One is that I do not proceed with the amendment now and we recommit it once Parliamentary Counsel has had an opportunity to refine it, or we deal with it now and that aspect of it is tidied up in the House of Assembly.

The Hon. C.J. SUMNER: I prefer the latter course. I will accept the amendment.

The Hon. CAROLYN PICKLES: The question that the select committee addressed was to ensure that the vulnerable witness was not intimidated by the court atmosphere and I would want to be sure that the arrangements which have been suggested in the compromise would be that the witness would still not feel intimidated by being aware of being under close scrutiny, either by the judge or the jury, because that can be just as intimidating to the witness as the accused.

The Hon. K.T. GRIFFIN: There is no intention to alter the philosophy of the Bill. All it is designed to do is to ensure that there are guarantees about defendants' rights included in the Bill and I cannot see with one way-glass, for example, that there is any sense of intimidation, if judge, jury and counsel see the witness. The closed circuit television presents no problem. It is just a question of how this screening matter is addressed to ensure that the witness is not intimidated and not within direct line of vision, and that really has been the thrust of the legislation in other jurisdictions. So, there is no intention to circumvent that principle concerned. It is a desire to ensure that there are adequate protections for an accused and that we find the right form of words that do that.

Amendments carried.

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

Page 1, after line 29—Insert new subsection as follows:

(2a) If a witness is accompanied by a relative or friend for the purpose of providing emotional support, that person must be visible to the parties, the judge and (in the case of a trial by jury) the jury while the witness is giving evidence.

Some concern has been expressed that, where there is a person allowed to be supporting a vulnerable witness, if there is closed circuit television, for example, that supporting person may not be visible to the judge, the jury or other persons in the courtroom. The same applies with screening and one-way glass. I think it is a very important issue that we must address and put to rest the concern so that it is not a source of debate or even a cause for appeal. I am proposing that we write into the Bill that this be a requirement when special arrangements are made.

The Hon. C.J. SUMNER: I accept that.

Amendment carried.

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

Page 2, line 12—Leave out 'or over 75'.

Whilst agreeing with it, the Attorney-General may have a different basis for agreeing with it than I have. I indicated at the second reading stage that the definition of 'vulnerable witness' is very broad; that we have no difficulty with those witnesses who are under 16, those who suffer from intellectual handicap, or alleged victims of sexual offences, and I am seeking to include a witness who is the alleged victim of an assault in certain circumstances, so that again we walk before we run. The subsequent amendments stand alone from this, anyway.

The Hon. C.J. SUMNER: I accept that.

Amendment carried.

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

Page 2, line 13—Leave out 'handicap' and insert 'disability'.

It has been represented to me by a number of bodies concerned with intellectual impairment that 'disability' is a more appropriate description than 'handicap'.

Amendment carried.

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

Page 2, lines 17 to 19—Leave out paragraph (d) and insert:

(d) a witness in criminal proceedings who is the alleged victim of an assault by the defendant in those proceedings and asks for protection under this section

on the ground that he or she is known to the defendant.

This amendment can be addressed without necessarily conceding whether or not paragraph (d) ought to be removed or remain part of the Bill. I have taken the view, and the Liberal Party has taken the view, that some special reference needs to be made to those who are victims of an assault by a defendant in proceedings where the witness seeks protection on the ground that he or she is known to the defendant.

One of the responses which comes from elderly people in the domestic violence arena who are the victims of assault is that they are intimidated by the defendant (the assailant). It seems to us that we ought specifically to provide for those situations of domestic violence and assault where the victim is otherwise known to the defendant and include them within the category of 'vulnerable witness'. As I say, I think that can stand separately from the catch-all provision of paragraph (d) which later I will be seeking to remove. I know the amendment is couched in terms of leaving out paragraph (d), but one way or another it can still remain in if necessary.

The Hon. C.J. SUMNER: The Government opposes the honourable member's amendment. We think the general definition of 'vulnerable witness' which leaves some discretion to the court to look at special disadvantage is preferable to specifically referring to another category. The other category of assault victims would be included in the general provision that the Government has in its Bill in any event. So we prefer that it remain general and therefore argue that the honourable member's further specific category is not necessary, and that to remove the general clause altogether would be limiting the discretion of the court in an unacceptable manner.

The Hon. I. GILFILLAN: I believe that paragraph (d) in the Bill is appropriate. I think there may be circumstances which would not be covered by the amending paragraph (d) and which would justify the definition of 'vulnerable witness'. I indicate support for the original Bill and oppose the amendment.

Amendment negatived.

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

Page 2, after line 19—Insert new subsections as follows:

(7) If a court makes an order under this section, it must report to the Attorney-General on the nature of the special arrangements made for the witness, and on the court's impression of the efficacy of those arrangements in the circumstances of the case.

(8) The Attorney-General must, on or before 31 October in each year—

(a) have a report prepared comprising the substance of the reports received under subsection (7) during the previous financial year;

and

(b) have copies of the report laid before both Houses of Parliament.

On the basis of the previous amendment, I think it is even more important that we carry my next amendments. I think that the potential for the use of this section is quite extensive. In subsection (1) special arrangements are being made where it is necessary to protect the witness from embarrassment or distress, or from being intimidated by the atmosphere of a courtroom or for any other proper reason. That is very wide.

We now have a very wide category of other witnesses who may be at some special disadvantage because of the circumstances of the case or the circumstances of the witness. In those circumstances I think it is appropriate for us to ensure that when a court does make an order to make special arrangements for a vulnerable witness that is reported to the Attorney-General and that the court's impression of the efficacy of the arrangements is made known.

That would then allow adequate information to be gathered and be on the public record on the basis that we want to ensure that defendants particularly are not disadvantaged and that vulnerable witnesses are adequately protected, and this would provide a valuable means for gathering that information rather than having to do it in two or three years time. It may be that after the first couple of years the provision can be repealed, but I think it is important in the early stages to ensure that it is properly monitored.

The Hon. C.J. SUMNER: The Government opposes this amendment. We think it is a bit over the top in terms of the bureaucracy that is required and that it is unnecessary. I think the scheme should be allowed to operate. The courts can comment on it in their annual reports to the Attorney-General which are tabled in Parliament (in the case of the Supreme Court); and the Director of Public Prosecutions is required to report through the Attorney-General to Parliament. I am sure that they could point to any problems. I would expect some kind of assessment to be done, anyhow, in a couple of years of the operation of the section, and I doubt whether just purely statistical information of this kind would assist very much in any event.

The Hon. I. GILFILLAN: I am not persuaded that this is actually helpful. I can understand that we will be curious as to how these new measures are used, and there is no doubt that the media will give us graphic descriptions as to how, where and when they are invoked. Just reporting the statistics to Parliament does not appear to me to be progressing very far to an efficient assessment of it. From that point of view, I do not support the amendment. I think the issue will be whether in fact Parliament in review regards the new facilities in the legislation to have been improperly, inefficiently or ineffectively used, and that would be the proper basis of a debate in this place either by way of some amending legislation or through the normal question and answer process. I do not see that the amendment offers very much in helping us to assess the way in which the legislation may work.

The Hon. CAROLYN PICKLES: I agree with the Attorney that this amendment is rather over the top. This Bill has been the result of a select committee of members of both sides of the Council, including a Democrat. Members of this Council who were on that select committee have an ongoing interest in this issue, and I am quite sure that we are confident that we will be monitoring the effect of this. I just do not see that it is necessary at all. I cannot quite understand why the honourable member has such a suspicion about this that he needs a report to Parliament on it.

The Hon. K.T. GRIFFIN: It is easy to use the throw-away line that it is over the top. The fact is that it is quite a significant change in the way in which trials will be conducted. It is all very well for the Hon. Ms Pickles to say that there are people in here who have an ongoing interest in it. It is all very well to have an ongoing interest but, if you do not have the information and you cannot get it, your interest is not satisfied.

I remind the Attorney-General that it is not just statistical. What I am seeking to do is to have in the report to the Attorney-General the court's impression of the efficacy of the arrangements. It may be that that relates to the substance or it may be that it relates to the mechanics of the way in which it is implemented. But it seems to me that, where you have an issue which has the potential to disadvantage an accused person and where there are differing views among the judiciary about the appropriateness of such provisions, if there is some obligation upon the court to report to the Attorney-General at least there is a conscience and statutory obligation to maintain not only statistical information but also that as to the way in which this works.

So, I think it is a valuable obligation; it is done with suppression orders which again relate to the conduct of proceedings. That does not seem to me to cause any great difficulty, and it is important information about the way in which those orders are made, and judgments can be made about the use to which suppression orders are put. I suppose with suppression orders you could keep a running list of orders that are made because the media always express an interest in them. It is less likely that you will be able to pick up on a publicly-communicated basis those occasions where orders have been made by courts for special arrangements. What I am saying is that it is all so wide that it is important, at least in the first years of its operation, that this reporting be made.

The Hon. Ms Pickles referred to the recommendations of the Select Committee on Child Protection Policies, Practices and Procedures, but I remind her that that relates only to child witnesses: it does not talk about all the other things which are now in this Bill which relate to witnesses beyond children. It relates to a whole range of people who might be regarded as vulnerable witnesses. All that suggests is that there is a need to have information readily available upon which one can judge whether or not the proposals are working and how they are working. That is in the interests of the administration of justice as well as in the interests of members of Parliament.

The Hon. DIANA LAIDLAW: I support the amendment moved by the Hon. Trevor Griffin. It is most important that we in this Parliament have as much information as possible about this new initiative. I am not sure—and I am certainly not as confident as the Attorney—that either the courts or the Crown Prosecutor's annual report will pay any attention to this matter, let alone attention in the form that would be sufficient for us to make a judgment about what is the practice in the court following the enactment of this Bill.

As we are going some distance forward in this matter—not as far as I would like—compared to what is happening elsewhere in Australia, it is important that Parliament does indicate to the courts that we are particularly interested in what is going on in that area following the enactment of this Bill. I am disappointed that the bureaucracy of the measure is being deemed by the Attorney as the excuse for not seeking some accountability to Parliament in this matter.

I am also very keen to see this because, as I indicated in my second reading speech in particular, my personal preference is that there need be no discretion for judges, because I have read with great interest the Law Reform Commission's report and the Children's Interest Bureau submissions to the Attorney on this matter, and I have very grave doubts that, by providing the discretion to the judges in this matter, we will not be defeating the whole purpose of this legislation.

Therefore, I believe that the accountability that the shadow Attorney is seeking is important. I suppose my only reservation about this amendment is that I would also like to see the report include a reference to the number of applications that have been sought for protection for witnesses and of that number how many were rejected by the courts. While that may not be included in the amendment, I do not believe that that undermines the validity of the amendment.

Amendment negatived.

The Hon. K.T. GRIFFIN: I did raise the possibility of video or audio taping each occasion where a child witness may be interviewed. The Attorney-General said in his reply that the Government was concerned about the number of times that some child witnesses may be interviewed. Efforts have been made to reduce the need for numerous interviews. Is the Attorney-General in a position where he can give me any more detailed information about the steps which have been taken to ensure that there is audio or video taping of such interviews of child witnesses? Are there any protocols or procedures in place to ensure that that happens, or is it still possible, for example, for the DPP to interview a child three or four times and for none of that to be recorded or for Family and Community Services or the Adelaide Children's Hospital to interview without any taping of those interviews?

The Hon. C.J. SUMNER: I know some work has been done in this area, but I cannot answer the question without notice. I will get a report to the honourable member and write to him about it.

The Hon. K.T. GRIFFIN: I raised also the question of defence counsel's sitting in on deposition taking as in the United States, and the Government said that it is committed to pursuing the options for giving evidence in the Bill; however, further refinements may be considered in the future. Are alternatives conscientiously being examined, such as the defence counsel's sitting in on deposition taking? Is any ongoing study being made of options that are available to make it more likely that defence counsel will be satisfied with the procedures which are followed, the forms of questioning and record taking relating to child witnesses?

The Hon. C.J. SUMNER: I will get a considered reply on this matter for the honourable member, but this issue has been examined, I understand, by the task force on child sexual abuse; it was also examined by the select committee; but decisions have not been taken to implement such a system.

However, I will get some further information on the topic. It is important that the number of times a child witness is interviewed is minimised, but obviously the prosecutor preparing the case sometimes is required to interview a child witness more than once because there may be issues that crop up on which they must obtain the comment of the child.

The hand-up committal process which is in place obviously does away with one point of adversarial contact that may have existed years ago, although hand-up committals for child sexual cases have been in place for some time. Nevertheless, that is another area where there is a minimisation of the adversarial conflict. All I can say is that this matter has been looked at by various inquiries, but no-one to date has taken up the suggestion put forward by the honourable member. However, I am happy to give a more considered reply to the matter.

The Hon. K.T. GRIFFIN: I would appreciate the reply on those two issues in due course. It is not so much the elimination of one step in the adversarial process; it is really relating to the interviewing process before it gets to the committal proceeding. There is some value in defence counsel being involved at an early stage, if only as an observer, in an attempt to reduce the prospect of a plea of not guilty, and also to ensure that there is less conflict over the way in which the child witness has been examined, interviewed and dealt with in the course of the investigation because, as I said at the second reading stage, the object must always be to get to the truth. One would certainly not want an innocent person to be convicted; nor would one want necessarily a guilty person to escape conviction. Anything that is directed towards minimising those risks has to be seriously considered. I would certainly appreciate some detailed responses from the Attorney-General on those two matters in due course.

Clause as amended passed.

Title passed.

Bill read a third time and passed.

ECONOMIC DEVELOPMENT BILL

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. R.I. LUCAS: Could the Attorney indicate when the Government intends the Act to come into operation?

The Hon. C.J. SUMNER: As soon as possible.

Clause passed.

Clause 3—'Objects.'

The Hon. I. GILFILLAN: I move:

Page 1, line 17—Leave out 'sustainable' and insert 'ecologically-sustainable'.

With the amendment the provision would read:

To promote internationally focused, competitive, market-driven and ecologically-sustainable economic development throughout the State.

Where one is understanding the word 'sustainable' in today's use of development it is almost inevitably wedded to or implies an ecological factor. I believe that the Government has, on many occasions, given its dedication to an environmental ecological responsibility.

It is in the quite recent past where we have found only too frequently that development, which has not taken into account the ecological cost, the ecological destruction or deterioration, has proved to be not sustainable not only environmentally but also economically. So it may be arguable that to have the phrase 'sustainable economic development' *ipso facto* embraces an ecological factor. I believe for this time, in this State, it is essential that we underline the imperative of having ecological impact, ecological sustainability as an essential part of any developmental decisions taken in this State.

If I am wrong and sustainable economic development is purely and narrowly confined to what is seen as a project which is going to provide some dollar profit line, regardless of environmental impact and consequences in eventual cost, then I believe that is a travesty of what stage the State and this Parliament has reached in the understanding of what development is and should be in this State. Too often we have found and will continue to find that we must bear the cost of cleaning up from inadequate pollution control, for hasty and improper rural practices with erosion and degradation of soil, and the erosion of seafront because what appeared to be economically attractive development has saddled the State with an on-going economic cost because of the environmental and ecological factor of having to repair and restore constantly and incessantly the mistakes in the past in development on the foreshore and the coastline. They are just a few cases. I apologise for the fact that the amendment has not been on file, but I think members can readily understand what it is designed to achieve.

The Hon. C.J. SUMNER: I am sorry the honourable member did not provide us with notice of this amendment. I am certainly not prepared to accept it on the run. I think it can be used to confuse the issue and confuse the purposes of this Economic Development Board.

Obviously there is not much point in having economic development that is not sustainable from an environmental point of view or economic development which destroys the environment or causes massive pollution, erosion, etc., and all the problems that we have seen with developments in some areas of the world over the last few years.

I do not know that it adds very much to the debate to include the word 'ecologically'. It certainly provides the capacity for more debate about exactly what we mean by ecologically to start with and then what we mean by ecologically-sustainable economic development. I think there is a fairly broad spectrum of views about exactly what that might encompass. The honourable member did not give us notice of it and I am certainly not in a position to accept the amendment.

The Hon. R.I. LUCAS: I presume the Hon. Mr Gilfillan has received the same submission that I have received at the death knell from Marcus Beresford, consultant environmentalist (as he describes himself) for the Conservation Council of South Australia. Within the last hour I received a copy of Mr Beresford's comments on the legislation and I note that his first suggested amendment is very similar to the amendment that is now being pursued by the Hon. Mr Gilfillan. However, I note that in his recommendation to us he says that the legislation be amended to include an object, 'To ensure

development is environmentally or ecologically sustainable'. I note the Hon. Mr Gilfillan has obviously shortened that particular proposition up to the one that is now before the Parliament.

I must say, not having the expertise that the Hon. Mr Gilfillan would have in the environmental area, the nuances and differences between environmentally sustainable and ecologically sustainable are difficult for me to fathom but I guess Mr Beresford clearly makes some distinction between the two. I would be interested if the Hon. Mr Gilfillan, perhaps for the edification of the Committee, might be able to explain the differences between the two words that Mr Beresford has used and why the Hon. Mr Gilfillan has chosen to pick up 'ecologically-sustainable' as opposed to environmentally sustainable. Does the Hon. Mr Gilfillan see a distinction or not?

My view would be that when one reads the term 'sustainable economic development' that implicit in that term is the notion that we are not having development at all costs. My notion of 'sustainable economic development' is that it is not development at all costs. It is not just economic development, but, by the very use of the term 'sustainable', it is something that must balance development and the economic advantages of that together with the environmental costs and the need for environmental protection. As a lay person in the environmental area, implicit in the term 'sustainable economic development' are all these notions of being ecologically sustainable or environmentally sustainable, or whatever the distinctions might be. My response would be not to support the Hon. Mr Gilfillan's amendment. However, I should be interested if he could explain the difference in the proposition that Mr Beresford put forward and the proposition that the Hon. Mr Gilfillan has put before the Committee.

The Hon. I. GILFILLAN: I cannot guarantee to explain to the Hon. Mr Lucas's satisfaction the difference between 'environmental' and 'ecological'. I do not pretend to be more than a layman who has taken an interest in this issue. 'Environment' in its understanding in the English language is that which surrounds. In its simplest interpretation I would regard 'environment' as the visual tangible surroundings. 'Ecology' has a more profound significance of a dynamic whole in which an evolutionary process is proceeding. One simple example which comes to mind is the misuse of irrigation in the River Murray where a development has shown itself to be ecologically not sustainable. Environmentally it may not have destroyed trees. As it turned out, it has spoilt the quality of the Murray water. In simple terms I would say that 'environmental' is the more superficial impact of the visual surrounding, whereas 'ecological' is the total biosphere and a whole generated life structure rotating and perpetuating.

The Hon. R.I. Lucas interjecting:

The Hon. I. GILFILLAN: I think that 'ecologically' embraces the whole lot. I am quite happy with the word 'ecological'. I am sorry if the Committee is frightened about including the word in this context. I am not persuaded by much of Mr Beresford's letter. In fact it is not his argument which has persuaded me to move this amendment. I believed that the Government felt it was complying, to put the best face on it, with the Statewide demand that we are environmentally and ecologically responsible in development by using the words 'sustainable development'. However, I have serious misgivings. I think that the phrase has been used too glibly. It is of rather dubious intent if it is left as it is in the Bill—'sustainable economic development.' That can easily be translated to being sustainable on a 'conventional economic basis'.

I have said earlier that it is spurious economics which ignore the environmental and ecological impact of development down the track, because economically it then backfires. The fact is that until now we have been plagued with developmental projects which have not been calculated on a true costing basis of the effects of ignoring the ecological impact. There was a classic case recently. Thank goodness for the decision by the Mayor to prevent Albury polluting the river through economic developments which were regarded as sustainable by pouring pollution into the Murray River. We must have a clear emphasis of the ecological consequences in any of these developments. It is not a question of depriving the State of appropriate and desirable developments; it is a question of being more specific and articulate in identifying the basic essentials of any development that we should accept into the State. I have already apologised for being late. That does not necessarily mean that the Committee should not consider the value or otherwise of the amendment. I ask the Attorney-General to hold his option open on support or otherwise for this amendment. I ask him, on behalf of the Government, to describe in some specificity what the Government means by 'sustainable economic development.'

The Hon. C.J. SUMNER: I did that when I responded to the honourable member. 'Sustainable economic development' involves an integration of economic and environmental issues. I said that the Government was not going to promote economic development which destroyed the environment in the way that I mentioned previously by massive erosion or pollution at unacceptable levels and so on.

The Hon. I. Gilfillan: Does it mean ecologically sustainable?

The Hon. C.J. SUMNER: You are the expert on the word 'ecologically'. You decided to move the amendment in that form. I am not in a position to comment on your use of the word 'ecologically'. As I said before, I think there would be some difficulty in interpreting what that meant in this context. I think that sustainable economic development, which takes into account environmental factors, is what we are after. That is what the community wants and I would expect it to be what the Parliament wants. That is not economic development at all costs; it is economic development that is sustainable within the capacity of the environment to support and deal with. It is an integration of economic and environmental factors. I do not think that anything is added by the introduction of the word 'ecologically'. I am opposed to it and to any amendment along these lines.

The Hon. I. GILFILLAN: What does the Government mean by the word 'sustainable'?

The Hon. C.J. SUMNER: I have just explained that.

The Hon. I. GILFILLAN: If that is an explanation of the Government's meaning of the word 'sustainable', I

think the public could rightly say that it is a vague and undefined term. These are questions which I think the Government should be obliged to answer. Does it mean that there is a profit level of certain proportions which must be guaranteed as far as foreseeable to any development before it fits within the parameters of this Bill? Does it mean, as the Attorney-General inferred when he dismissed my amendment so peremptorily, that environmentally the development is sustainable or that the environment is sustained by the development? Does it mean that the environment or the ecology is not damaged at all indefinitely by the development? Does it mean that a degree of environmental degradation will be tolerated by the Government, which is not spelt out because it will not answer what it means by the word 'sustainable'? Finally, is it, as I suspect, that the Government has not thought about the significance of the meaning of the word 'sustainable'?

The Hon. C.J. SUMNER: The honourable member has become agitated about the matter. I would have thought that what I said was fairly clear; that when we are talking about sustainable development we are talking about both an economic dimension and an environmental dimension. For the honourable member to accuse me of not giving definition to the word 'sustainable' or the word 'environmental' seems to me like the pot calling the kettle black, because the honourable member in response to the Leader of the Opposition hardly gave a very comprehensive or specific definition of his amendment which is the use of the word 'ecological'. I think most people who adopt a commonsense approach to this matter and who have been involved with debating the issues of economic development and the environment over recent years are aware of what it means, and obviously we are not going to be supporting economic development which is to the long term and permanent detriment to the environment.

However, that does not mean that there may not be some environmental impact from an economic development. There might well be. It is a matter of assessing what the extent of that is and what the long term effect of it is, and in this State elaborate procedures have been in place for many years to deal with the impact of developments on the environment through the environmental impact process. So, I think it is all very well for the honourable member to accuse the Government of not being able to specifically define 'sustainable' economic development but his amendment falls for exactly the same reason, and the only way out of it would be to prepare a Bill that is two or three times as long and to try to give specific definitions to these things all the way through. People who are dealing in this area, and the community, know what 'sustainable economic development' is: it is development that is sustainable economically in the long run but is also sustainable in the sense of the economic development being integrated with the environment and not being a development that has long term and significant adverse effects on the environment.

Clearly, there is a lot of economic development that has an impact on the environment. Mining exploration itself has an impact on the environment, but I assume the honourable member is not saying that therefore all mining exploration should be prohibited. It is a matter of commonsense and drawing a sensible line and I think people are aware of the sorts of environmental dangers that we have to look out for in promoting a development project. Those sorts of things are well spelt out in the environmental impact legislation and have been well spelt out in practical terms in dealing with developments that we have had proposed in this State over a number of years, and where there have had to be environmental impact statements prepared where there have been concrete examples of the sorts of environmental impacts which are unacceptable and those which are acceptable. That, I suggest, is a significantly better answer to the honourable member's question than the one that he gave to the honourable Leader of the Opposition.

The Hon. I. GILFILLAN: Mr Chairman, it shows if you squeeze a lemon hard enough you do get some juice at the end. I congratulate the Attorney. I believe he did go part along the way of understanding what is a desirable interpretation of 'sustainable' and from that point of view I think the whole exercise was worthwhile. Having heard his answer I think it is rather petty and churlish if it is the attitude of the Government that it is going to exclude the word 'ecologically' from the wording of the Bill; but of course it will be the way it is interpreted. I realise from the attitude of the Committee that I am not going to be successful with the amendment, but I do believe that there is now on the record at least a partway answer to some environmental ecological responsibility in the way the Government views 'sustainable development'.

Amendment negatived.

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

Page 2, line 2—After 'implementing' insert ',subject to the overriding responsibility of the State Government,'.

This relates to the objects, and one of the objects is to establish the Economic Development Board as the State's primary agency for determining, coordinating and implementing economic development strategies for the State. A concern that I have is that that may be regarded as, in a sense, delegating the responsibility of the State Government, whoever is in office, to the Economic Development Board when in fact ultimately the Government has to retain and exercise the overriding responsibility. So, for the purpose of ensuring that that is not the subject of any debate I am suggesting an amendment that provides that, subject to the overriding responsibility of the State Government, the responsibility of the Economic Development Board is to be the State's primary agency for undertaking those functions.

The Hon. C.J. SUMNER: The Government opposes this amendment because it does not think it is necessary. If we go through the Bill it is clear that the Government has the overriding responsibility for the economic development strategy of the State. Clause 7(1) states that the Economic Development Board is subject to the control and direction of the Minister. Clause 16(1) states that the board's functions are to be carried out in consultation with the Minister, and obviously the funding for the EDB is determined by the Government with an appropriation from the Parliament. So, I do not see that this amendment adds anything to the Bill as drafted.

The Hon. I. GILFILLAN: I believe that the Bill adequately ensures that the Economic Development Board is satisfactorily controlled or directed by the

Government and I do not intend to support the amendment.

Amendment negatived; clause passed.

Clauses 4 to 6 passed.

Clause 7—'Ministerial control.'

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

Page 3, after line 12—Insert subclause as follows:

(2A) The Minister must ensure that copies of any ministerial direction given under this section are laid before both Houses of Parliament within six sitting days after the direction is given.

As the board is subject to control and direction by the Minister I think it is important not only that any direction by the Minister be made public in the annual report of the board, but also the ministerial direction be notified to the Parliament so that the direction is laid before both Houses of Parliament within six sitting days after the direction is given.

I think that we ought to have early notice of any ministerial direction. It may be that if a direction is given in, say, July of one year the annual report is not required to be tabled until after 30 September in the following year, so it may be some 14 or 15 months before the direction becomes public.

I think that if there is to be a direction of this or any other statutory authority early notification should be given of that direction. I think it is very important in this case because, if there is a ministerial direction which might compromise the activities of the board in setting the strategies for the State in terms of economic development, it is important for us to know about that, and I think it is important for the integrity of the board also for that to be public at the earliest opportunity. I have therefore moved the amendment to ensure that that occurs.

The Hon. C.J. SUMNER: The Government opposes this amendment. We think that the best standard to adopt in this area—and this has been debated I think previously—is for a direction to be made public so that the lines of accountability are established clearly, namely, that direction is given in writing and that it is made public, but that making it public through the annual report is sufficient to fix that audit trail or those lines of accountability and to ensure that Parliament is made aware of the directions.

The problem with requiring directions to be given immediately is that they may have been given in relation to some confidential matter that is being considered by the board, and in this area that could quite clearly occur. It could certainly occur with the public trading enterprises. If there is a capacity for ministerial direction of a public trading enterprise and the issue that was being dealt with was a matter of commercial sensitivity, it could, if it was reported immediately (which is what the Hon. Mr Griffin wants effectively) undermine the operations of the authority.

So the Government's view is that the accountability requirements are met by publication of the directions in the annual report, which may be much later and which in normal circumstances would be some time after the direction and would not therefore interfere with the day-to-day operations of the board or to the detriment of it.

I also point out that no ministerial direction can be given to suppress information or recommendations from a report by the board, so it is clear that the Minister cannot stop that audit trail being followed or being publicly laid out. We think from a practical point of view that accountability is assured by reporting of the directions in the annual report and do not see the need to have virtual immediate reporting, which is what the Hon. Mr Griffin is suggesting.

The Hon. K.T. GRIFFIN: The Public Corporations Bill does require that notice of any ministerial direction be given in the annual report of a public corporation to which that Bill applies. It does allow protection against disclosure of the detail of a ministerial direction where it might constitute breach of a duty or confidence, detrimentally affect the corporation's commercial interests or prejudice an investigation of misconduct or possible misconduct. That position is not provided for in this Bill, so that ultimately the direction must be disclosed, regardless of any immediate concern which might relate to disclosure.

I appreciate the point which the Attorney-General is making, but I do not agree with it. I think that if the Minister exercises control by giving a direction to the Economic Development Board that it ought to be disclosed at the earliest opportunity because it does relate to the way in which the State is to become economically developed, and I think the public have a right to know what is happening in that context. I suppose one might raise the question whether under the Freedom of Information Act that direction would have to be disclosed, anyway, so that someone who makes a periodic inquiry might be able to gain access to the direction regardless of the consequences to which the Attorney-General refers. I want to maintain my amendment because I believe that that is appropriate for proper accountability.

The Hon. I. GILFILLAN: In the second reading debate the Hon. Mr Lucas raised this matter and said he had not discussed it in the Party room. In my second reading contribution I recognised the point he made and suggested that there could be an amendment whereby either the Minister or the board, if they felt that it was justified, could give a premature announcement of a certain direction ahead of the time of the requirement that it be included in an annual report, because the time frame between the actual direction and the publication of a report could be well over 12 months, as I understand it.

Obviously that amendment was not pursued by the Opposition and it has given this quite proscriptive requirement that it must be laid before both Houses of Parliament within six sitting days after the direction is given. I think that is too inflexible, and there may well be the circumstance where it is in no-one's best interest for that direction to be made public in that time frame. I certainly think it is reasonable that there should be some capacity for a direction to be made known ahead of purely the requirement in the annual report. It is my intention to support the amendment on the basis that I recognise that serious attention should be given to some other way in which ministerial direction should be brought to this Parliament other than in the fullness of time by the tabling of a report. I indicate that if there

were other options that could be considered I would be prepared to look at them.

The Hon. R.I. LUCAS: As the Hon. Mr Gilfillan has rightly indicated, there was some discussion in the second reading debate about this issue, first by me, and then, I concede, by the Hon. Mr Gilfillan, who raised another scheme of arrangement. In considering the Liberal Party's amendment, we consciously chose to go down the path that the Hon. Mr Griffin has now explained during the Committee stage. The dilemma I see with the proposition that the Hon. Mr Gilfillan has put is that, if you leave it to the discretion of the Minister or the board, as he puts it, in effect to decide when they would prematurely release a directive, it is my view—and perhaps I am a cynical member of Parliament—that they might choose not to release directives that might be politically sensitive, if it were, say, six months to a State election; the Minister and Government of the day might decide to direct the Economic Development Board to get a few projects up and going.

I know the Hon. Mr Gilfillan has a view in relation to clause 16(3), which gives the Economic Development Board considerable powers in relation to licences, exemptions and a whole range of other fast-tracking requirements to get industries up and going. It is possible and it is not too fanciful to think of a set of circumstances in which a Government of the day prior to State election might deem it to be politically wise from its viewpoint to use the powers under the legislation that we see before us to get a few things going. Maybe the Economic Development Board says to the Minister or the Government of the day, 'We don't think this is sensible; we reject this series of propositions that you, Minister, are putting to us.' So, the Minister might say, 'Well, thank you very much for that, but I've got a State election to fight in the next few months; I issue the following directive.' There could be a whole series of arrangements like that and, as I said, I do not think they are too fanciful when one looks at what is and is not done prior to a Federal election or a State election: the stakes are high, and these sorts of circumstances can occur. When that occurs—

The Hon. I. Gilfillan: Six days could still mean that under certain circumstances there is quite an extraordinary gap.

The Hon. R.I. LUCAS: That is an argument for making it even tighter.

The Hon. I. Gilfillan: That's right.

The Hon. R.I. LUCAS: We are trying to be reasonable. I accept the argument from the Hon. Mr Gilfillan that, even with the set of circumstances that I have outlined, six sitting days, particularly if you are not sitting during that break, may still allow the Government of the day to get away with it. What we are trying to do is be reasonable and not hog tie the Government too much and to come down to some sort of compromise.

I can see the logic of Mr Gilfillan's argument that, to meet that sort of requirement, you would want it to be even tighter to prevent those sorts of circumstances eventuating. Everything is a balance, and we took the view that there was a compromise position somewhere in the middle.

The Hon. K.T. Griffin: Maybe a notice in the *Gazette.*

The Hon. R.I. LUCAS: The Hon. Mr Griffin says, 'Maybe a notice in the *Gazette.*' But there is this compromise position that in those circumstances about which we are talking the Minister of the day will not want to have the information released publicly. The Minister of the day will be quite happy for this to be released 14 months later in the annual report after the next State election.

The Hon. I. Gilfillan: He or she might like to have published the fact that they stopped Marineland or something contentious such as that.

The Hon. R.I. LUCAS: The Hon. Mr Gilfillan raises another matter. I suspect that, in the end, the board of the day is appointed by the Government and the Minister of the day. Again, I suspect that the board will not want to buck the Minister and the Government by saying, 'We will release this directive.' On some occasions, perhaps it might. I do not want to do the board members a disservice, but I can certainly envisage circumstances where the board members and the Minister do not want to. That is the problem I see with the alternative proposition raised by the Hon. Mr Gilfillan.

The proposition the Hon. Mr Griffin has put before the Committee is a reasonable one. I acknowledge that the Hon. Mr Gilfillan has said at this stage that he is supporting it. I give those reasons why we eventually decided to come down with this fair and reasonable proposition rather than something which is perhaps too restrictive.

Amendment carried; clause as amended passed.

Clauses 8 to 11 passed.

Clause 12—'Disclosure of interest.'

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

Page 5, lines 12 and 13—Leave out subclause (2) and substitute the following subclause:

(2) It is a defence to a charge of an offence against subsection (1) to prove that, at the time of the alleged offence, the defendant was not aware, and could not, by the exercise of reasonable diligence have become aware, of the interest.

My amendment tightens up the defence to provide that not only is it a defence to prove that the defendant was not aware of his or her interest in the matter but also that they must also show that—

The Hon. C.J. Sumner: You are expanding the defence.

The Hon. K.T. GRIFFIN: No, it is tightening the defence; it is more limiting of the defence.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: Yes; do you agree?

The Hon. C.J. Sumner: It is a tougher test.

The Hon. K.T. GRIFFIN: It is a tougher test, and I think that is appropriate. You cannot just sit back and say, 'Well, I didn't know about it, but I didn't make any inquiries when my suspicions were raised.' In those circumstances, I think it is reasonable that, if you exercise reasonable diligence and you could have ascertained what was going on but you did not, the defence ought not to be available.

The Hon. C.J. SUMNER: My instructions at the moment are to oppose this amendment, which puts a very heavy onus on a board member to pursue every

possible avenue to become aware of any potential conflict of interest. The Government's view at the present time—on my instructions at least—is that it should be sufficient that a board member was not aware of the existence of a conflict when making a decision. We have had this argument before: if a board member was not aware of a conflict of interest, then presumably the existence of such a conflict of interest would not have affected his or her decision.

The Hon. I. GILFILLAN: I am inclined to oppose the amendment. I do not really see that it is a matter of great moment as far as the effectiveness of the Economic Development Board is concerned. I am persuaded that it is unnecessary.

The Hon. K.T. GRIFFIN: All I can say is that it is reasonable that the director should have a defence only in the circumstances where he or she was not aware and could not have discovered that there was a conflict by the exercise of reasonable diligence. It is a question of how seriously one views the issue of conflict of interest. There are competing points of view, and I really cannot take it much further.

Amendment negatived; clause passed.

Clause 13—'Members duties of honesty, care and diligence.'

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

Page 6, line 12—After 'board' insert 'or the State'.

This amendment takes account of Opposition concerns that a board member's improper use of information or official position could be to the detriment of the State as well as of the board.

The Hon. K.T. GRIFFIN: The Opposition supports it.

Amendment carried.

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

Page 6, line 14—After 'gain' insert 'directly or indirectly'.

This amendment takes account of Opposition concerns that a board member could benefit directly or indirectly from improper use of information acquired through his or her official position.

The Hon. K.T. GRIFFIN: We support it.

Amendment carried.

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

Page 6, line 15—After 'board' insert 'or the State.'

The same argument applies as with the first amendment.

Amendment carried; clause as amended passed.

Clause 14—'Immunity of members.'

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

Page 6, lines 21 to 23—Leave out subclauses (1) and (2) and insert:

(1) A member of the board incurs no civil liability for –

(a) an act or omission done or made in pursuance of a Ministerial direction given under this Act;

or

(b) an honest act or omission in the performance or purported performance of functions or duties under this Act.

(2) The immunity conferred by subsection (1)(b) does not extend to culpable negligence.

One of the concerns I have always had in relation to statutory authorities, where there is a power for a Minister to give a direction, is that if a member of the board conforms with the direction, the member of the board may nevertheless attract a civil liability for acting in accordance with the direction. What I am proposing is that it be specifically provided that a member of the board incurs no civil liability where he or she acts in pursuance of a ministerial direction and in the other circumstances provided in the Bill, that is, where the director acts honestly in the performance or purported performance or functions or duties under this Act.

It is interesting that that issue has been picked up in the amendments that the Attorney-General has put on file to the Public Corporations Bill, where a director of a public corporation does not commit any breach of duty under section 13 by acting in accordance with a direction or requirement of the Minister or the Treasurer under that piece of legislation. So, it is important to give board members some protection, and I submit that my amendment does that specifically in relation to ministerial directions.

The Hon. C.J. SUMNER: It is not opposed.

Amendment carried.

The Hon. K.T. GRIFFIN: I want to make one observation. There is a reference to a member of the board being culpably negligent in the performance of official functions. In those circumstances the member is guilty of an offence. There is also a provision in subclause (4) that a member is not culpably negligent for the purposes of subsection (3) unless the court is satisfied that the member's conduct fell sufficiently short of the standard required of the member to warrant the imposition of a criminal sanction. I have made the point in relation to the Public Corporations Bill that I have a concern about the vagueness of that. I make the same point in respect of this provision.

I have not had an opportunity to pursue the development of some alternative which might be clearer. It seems to me that it does leave a great deal of discretion to the court in determining whether the behaviour fell sufficiently short, with the emphasis on 'sufficiently short', of the standard required to warrant the imposition of a criminal sanction. The Attorney-General did say in relation to the Public Corporations Bill that he was of the view that that standard was well recognised by the criminal law. My researches so far suggest that it is not so clearly defined as he suggested in that Bill. I put on notice the fact that I have a concern about it. I cannot take it further at this stage but it may create some problems in the future.

Clause as amended passed.

Clause 15 passed.

Clause 16—'Functions of the board.'

The Hon. I. GILFILLAN: I move:

Page 8, line 6—Leave out 'sustainable' and insert 'ecologically sustainable'.

This clause highlights the inconsistency and vagueness of the use of the word 'sustainable', or it will actually tease out a more astute definition of it. Subclause (1)(a) provides:

The board has the following functions (which are to be carried out in consultation with the Minister):

to prepare a plan, or a series of plans, for the growth and sustainable development of the State economy and for the consolidation and growth of sustainable employment in the State;

In my mind the Government is either vague or inconsistent in its use of the word 'sustainable'. It may

well be that the best view that one can take of this is that the Government means that the growth of sustainable employment is ecologically-sustainable employment or employment with a strong environmental responsibility. I think any intelligent reader of this paragraph in this Bill would interpret the words 'sustainable employment' as being employment which is consistent and durable, continues to provide a considerable number of jobs and has no implication of environmental or ecological overtones at all.

So that the word 'sustainable' in line 1 and the word sustainable' in line 2, if the Attorney's explanation earlier is correct, have two different meanings. That therefore adds further weight to my argument that if 'sustainable development' is to be understood in its full value of an intrinsic ecological responsibility then I do not think we can afford to leave it out of a text of an Act, which is defining for all intents and purposes the full scope of what is the meaning of sustainable development.

Mr Chairman, it is important that I move that amendment to line 6 and that the provision then reads, 'to prepare a plan or a series of plans for the growth and ecologically sustainable development of the State economy'. The draft of the amendment that has been circulated actually included 'ecologically sustainable' as it regards employment. I think that is a superfluity of the word 'ecologically' and even I would not be insisting on that because I think that then does confuse the issue and I indicate that I will not be moving that.

I make my point simply and clearly that the wording in this clause shows up the confusion that there is in peoples' minds about the use of the word 'sustainable'. It supports my argument that we should be defining 'development', as in line 1, as ecologically sustainable development.

The Hon. C.J. SUMNER: I think the honourable member's problem would be solved if we deleted the word 'sustainable' before the word 'employment'. That is my proposition to resolve the Hon. Mr Gilfillan's problem on the matter and if the Opposition is happy with that then that is what we will do.

The Hon. M.J. Elliott: They support it. It is the new direction. It has been announced today.

The Hon. R.I. Lucas: I thought you put that in.

The Hon. C.J. SUMNER: He did; I am taking it out.

The Hon. R.I. Lucas: Who is running this Government? You or Lynn Arnold?

The Hon. C.J. SUMNER: Me at the moment—at least as far as this Bill is concerned at this particular moment.

The Hon. R.I. Lucas: The Premier came back from the road to Damascus in London to put sustainable employment in.

The Hon. C.J. SUMNER: The point of it was to include 'employment'. I am not going to agree to the honourable member's amendment to line 6 for the same reasons as we had before. However, the Hon. Mr Gilfillan has attempted to undermine my argument by saying that the use of 'sustainable' in two separate contexts in this clause means that the Government does not know what its talking about or alternatively means that 'sustainable' in the two places has to be interpreted differently; it has different meanings in the two places. I am attempting to resolve that conflict for the honourable member by removing the word 'sustainable' before the word 'employment'. I would have thought that that overcame the problem.

The Hon. M.J. ELLIOTT: Mr Chair, it is quite plainly obvious that this Minister has not had a close look at the Development Bill, which will soon be before us, where the term 'ecologically-sustainable development' is used. It is supposed to be part of the planning system, which I would have thought would apply to the whole State and would be consistent with other development matters that the Government is currently working on.

If the Government is to be consistent with all of their legislation then the amendment being moved by the Hon. Mr Gilfillan is entirely consistent with the Development Bill, which is coming out of the planning review process that the Government has said is such a wonderful thing and has come from much consultation. If that planning review was all for nothing and this Economic Development Board is really the powerhouse of the State, something which has grown not out of consultation, then I suppose we can ignore what the Development Bill has within it but if we are looking for consistency what the Hon. Mr Gilfillan is proposing is giving us exactly that.

The Hon. R.I. LUCAS: I can only act on instructions and due discussion in the Liberal Party party room. The Hon. Mr Elliott missed the earlier debate and I want to move on from the debate about whether or not we use the words 'ecologically-sustainable' or not. The Attorney places me in a difficult position. Should I support the Premier of this State who travelled to London and looked at questions of economic development and the operation of economic development boards, came back and said to the media and to the public that he had to make some significant amendments to the legislation and a package of the amendments was to include 'sustainable employment'?

The Hon. C.J. Sumner: Employment was the important part.

The Hon. R.I. LUCAS: No, it was not; it was 'sustainable'. I am trying to turn the *Hansard* up now as we go along.

The Hon. C.J. Sumner: Okay. These are all of Gilfillan's amendments. I am trying to be helpful.

The Hon. R.I. LUCAS: I have the Attorney saying one thing to me and I have the Premier of this State who travelled to London, saw The Queen, came back with significant amendments to the Economic Development Bill and said that these were significant amendments, and the Liberal Party supported the persuasive arguments of the Premier in relation to that.

I guess the question I put to the Attorney is that further on in this Bill we have other uses of the phrase 'sustainable employment'. I think in 16(1)(i) we have 'sustainable employment'. Is the Attorney suggesting that we remove it from 16(1)(i)?

The Hon. C.J. Sumner: It is not a problem.

The Hon. R.I. LUCAS: It is the same clause.

The Hon. C.J. Sumner: It is a different subclause.

The Hon. R.I. LUCAS: It is the same clause. The Attorney is the lawyer; I am a mere lay person. If the Attorney says that in one subclause it is inconsistent in

some way to be using 'sustainable' in two different ways, yet he argues—

The Hon. C.J. Sumner: I was not. That was his argument, not my argument.

The Hon. R.I. LUCAS: As a result of that I presume you are saying that you concede the merit of the Hon. Mr Gilfillan's argument and the proposition you put to the committee—

The Hon. C.J. Sumner: Anything for a quiet life; that is all.

The Hon. R.I. LUCAS: We had the argument about ecologically sustainable earlier and I see this argument as being the same. The Hon. Mr Gilfillan will appreciate the Liberal Party's position on that matter. Was the Attorney-General serious in the proposition that he was putting on behalf of the Government, contrary to the wishes of the Premier, in relation to the use of the words 'sustainable employment'?

The Hon. C.J. SUMNER: The answer is 'No', Mr Chairman.

Amendment negatived.

The Hon. I. GILFILLAN: Mr Chairman, there is not much point in moving the next amendment standing in my name. In fact, it does not fit in the same context as 'ecologically sustainable development'. This is 'sustainable employment.' Therefore, it was not my intention to move this amendment in any case. Mr Chairman, I apologise for confusing the Attorney-General in relation to what has now shown up as an inconsistency in the use of the word 'sustainable'. Admirably, he was scrabbling about and attempting to redeem the position by suggesting that he would move to delete the word 'sustainable' as far as employment goes. That would be very unwise, because the State desperately needs sustainable employment. It does not want flash-in-the-pan employment which is on for three months and then off for the next two years. It is a desirable goal and function for the board to seek to establish sustainable employment. I do not intend to move the amendment, but I intend to use the fact that I am indicating that I am not going to move the amendment to highlight yet again the inconsistency in the Government's use of the word 'sustainable' and the very worthy need to qualify 'sustainable' by making it 'ecologically sustainable'. I rest my case. I hope that wisdom will prevail in the fullness of time.

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

Page 9, line 14—After 'if the agreement is' insert 'consistent with the law of the State and'.

My concern about subclause (2) is that once the agreement is ratified by the Governor it is binding. I do not think it was intended that it should not be consistent with State law. My worry is that once the agreement is ratified, even if there is an inconsistency with State law, the agreement is valid and binding in every respect. I just want to put that issue beyond doubt and that is the reason for moving the amendment.

The Hon. C.J. SUMNER: I have no objection.

Amendment carried.

The Hon. K.T. GRIFFIN: In subclause (2) the agreement is ratified by the Governor; in subclause (3) it is authorised by Executive Council; and in subclause (5) it approved by the Governor in paragraphs (a) and (b). I cannot recollect seeing any reference to Executive Council in this context in much, if any, legislation. Can the Attorney-General indicate why there is the distinction between ratification by the Governor, authorisation by Executive Council and approval by the Governor, because the Governor is the Governor in Council?

The Hon. C.J. SUMNER: The honourable member is correct in what he says about the reference to Governor being the Governor in Executive Council. The reason why a resolution of Executive Council was specifically referred to in subclause (3) was that the Government was concerned to ensure that this power to grant approvals, consents, licences or exemptions was granted only after a formal procedure. That is why the provision for the resolution of Executive Council was put in. I am informed by Parliamentary Counsel that it is a matter of drafting. There would be one view that all Acts should be drafted to refer to Executive Council rather than the Governor. Historically the Governor has been referred to and, for the sake of consistency, in this instance there is no real problem about removing the words 'resolution of Executive Council' and replacing them with 'the Governor'. I move:

Page 9, line 15—Leave out 'resolution of Executive Council' and insert in lieu thereof 'the Governor'.

The Hon. I. GILFILLAN: We signalled from the beginning of the debate on this Bill that we were strenuously opposed to subclause (3). If amended as proposed it would read:

The board may, if authorised by the Governor to do so, exercise in relation to a specified proposal for expansion or development of industry a specified statutory power to grant an approval, consent, licence or exemption.

We oppose this provision, and I indicate our intention to divide on it. We believe it is an absolutely critical factor of this legislation. It carries with it the very real threat that, with the connivance of the Government and the board, the basic requirements of assessment of a development will not just be fast tracked but it will be short circuited and as a result of that the basic requirements that people have paid lip service to in relation to projects for this State will be circumvented. It is unnecessary because if indeed the Government is serious that it wants all due processes to be fulfilled, the appropriate bodies to do that in the assessing of granting the approvals, consents, licences or the potential exemptions should be the statutory bodies that have that power now. They will be the bodies which can fulfil those procedures most efficiently and which can be speeded up directly if there is a direction from the Government to that particular statutory authority.

There are two matters which are practically significant in this. If we want to speed up the process facilitating development with all due processes properly considered and with no cutting of environmental impact statements, no short circuiting, no jumping normal fair assessments and obligations, then we should improve the efficiency with which we deal with those procedures right across the board. There should be extraordinary emphasis put on that. That is part of the whole responsibility of any Government wishing to make it more attractive for developments to get up in this State and they will find no argument with the Democrats regarding efficiency, predictability and, from time to time, a priority direction from the Government so that certain projects will be

treated as a matter of urgency. That does not mean that we short cut the process or that some other quite extraneous body such as this board is given these powers *carte blanche.*

It is the most extraordinary and most reckless step that I have seen put forward, particularly in the light of the cant that the Government dishes out about how careful it is going to be in the quality and the assessment of the developments that do come into this State. It is an unnecessary clause and it is a dangerous one, because it torpedoes the confidence which people who do have concerns about the proper assessment of development projects would otherwise have in this legislation and the work of the board.

I am enthusiastic about the potential of this board to help proper development to establish in South Australia. I welcome its potential to do its job properly and I believe that it is our responsibility to ensure that as it does so it complies in conscience with what is required of proper development in this State at this time. I make it plain that there is no point in us supporting or opposing any amendment because we oppose this provision in total; so as far as that goes the amendment of the Attorney is insignificant to our overall aim, which is to wipe out this subclause completely, and that is our intention.

The Hon. C.J. SUMNER: The Government supports the retention of clause 16(3) for the reasons which I fully outlined in my second reading response and I guess it is just a matter we will have to agree to disagree on.

The Hon. R.I. LUCAS: The Liberal Party obviously gave this particular proposition serious consideration. The Party's position is to support the proposition in the Bill. The question of development and fast tracking of important projects for the State is always a delicate balancing act. The Liberal Party has to concede that in the 1990s we are an economic basket case here in South Australia. Access Economics refers to South Australia and Victoria as the rust belt States. Whatever phrase one might like to use in relation to the South Australian economy, we are in dire straits. We have almost 100 000 people officially unemployed and many thousands more under employed here in South Australia. We have a narrow industrial base. For years and years we have struggled to get developments, but for a variety of reasons they have floundered and not gone ahead.

The Hons Mr Gilfillan and Mr Elliott may have had reasons in each particular case, and on occasions the majority of the community in South Australia may well have opposed those developments as well, but the position that the Liberal Party has taken is that, in the end, sooner or later we have to make some decisions about seeking sustainable and long term employment for South Australians for the 1990s and for the next century.

Clearly, whatever it is that this Government and this community have been doing for the past 10 or 20 years it has not been working. We have not been providing jobs and have not been solving the economic crisis. We have not diversified and widened our employment base, irrespective of all the policies, plans, proposals, or fine ideas of individuals, communities or Government, leaders, Premiers, boards, committees or councils. We have tried everything for 20 years and it has not worked. There may well be some problems and concerns down the track; but the Government has put a proposition to the Parliament, and the Liberal Party, through John Olsen and Dean Brown in particular in another place, has given its support for the Government's proposition as outlined in this particular clause and in this Bill. It is for those reasons that the Liberal Party indicates its support for the proposition.

I acknowledge that it is not black and white. We concede that. There are problems and there are balances that any Government or alternative Government has to enter into, in trying to weigh up development and jobs and the problems with fast tracking major new projects. I do not intend to go through all the detail that the Premier outlined in another place, but I shall summarise it briefly. He gave examples of a number of investment opportunities. He indicated that under the current arrangements up to 10 different departments or agencies may well have to handle approvals for a particular development. To compete with some of the tiger economies of South East Asia and to attract investment and to try to solve the unemployment problem in South Australia, the Government, with its ready access to decision making operations within government and its departments, has decided to bite the bullet, and Dean Brown, John Olsen and other spokespersons on behalf of the Liberal Party have indicated that they are prepared to at least bite the bullet with the Government on this particular issue.

The Hon. M.J. ELLIOTT: I am astonished by the reaction of the Liberal Party on this issue, particularly in the light of other debates we have had on other issues. We will be debating in this place in the not too distant future a development Bill and environment protection agency legislation. One of the important reasons for the redrafting of those two pieces of legislation is to make the planning process work more quickly, efficiently and fairly. It is all about streamlining of approval and consent processes, licensing and exemptions—the very things that the Economic Development Board is seeking the power to have.

What is the point in having this wonderful, new development Bill which has been espoused for some years now under the planning review, and what is the point in having an environment protection agency if their work is to be taken away on a whim of the Economic Development Board? I agree with the Hon. Mr Lucas when he says that what the Government has been doing has not been working—but you need to ask yourself why it has not been working, why it has been failing and what the real problem is. If we address those problems, which we will be in a position to do with the other pieces of legislation, the real problems can be solved. If one wanted to look at some developments which have been attempted in this State one could find out why they failed.

The Mount Lofty development failed primarily because some idiot put a cable car into it going through the national park. If some idiot had got the message earlier that that was not a bright idea, the Mount Lofty development would have been finished years ago. The failure of the Wilpena project occurred because some idiot put it into the national park right up against Wilpena Pound. If they had put it two or three kilometres south most of the objections would have gone.

I concur with the Hon. Mr Rann, who these days is talking about eco-tourism as the preferred path. Leaving that to one side, if there was to be a resort the problem was placement. The problem was not a lack of power for the Government to do things, because at the end of the day it attempted to bully its way through, anyway. The problem was that it was not taking sufficient care and notice of what the problems were—problems that were easily rectified.

If one looks at Tandanya, one sees that the project had to be only about 400 metres to the east of the current location and it would have been out of the scrub which is now needing to be cleared for it to proceed. But, no, the bureaucrats inside the departments decided that they knew best and they were going to bully their way through.

The Hon. I. Gilfillan: And avoid an EIS.

The Hon. M.J. ELLIOTT: Yes, and avoid an EIS, etc. Each of those projects could have proceeded with a bit of commonsense but, no, the perceived problem is that the Government did not have enough power to waive all planning problems; it did not have sufficient power to give itself consent to do whatever it wanted to do. The Jubilee Point marina failed because it was on a bad location. Later when the Government set up a survey to recommend potential sites it was given almost the lowest rating. If it had carried on that sensible process from the beginning the investors would never have been frustrated; they would have gone to one of the more favoured sites.

Each of those projects, I believe, has a link with what used to be a group known as the Special Projects Unit in the Premier's Department—a think tank, a group of people who thought they knew better than everybody else. The Economic Development Board is essentially a replacement for the old Special Projects Unit. The Special Projects Unit was a dismal failure—but you have to ask yourself why it failed. It failed because it got the projects wrong: it did not fail because it did not have enough power.

So what are we doing in this Bill here? We are going to pass, in this one apparently little insubstantial clause, a subclause which gives power to the Economic Development Board to totally override the development Bill and the environment protection agency—what are supposed to be two significant moves in terms of getting proper planning and proper environmental assessment carried out in this State. I have heard many members of the Liberal Party complain bitterly about the way the Government tried to bully through Wilpena. It was not that they, any more than we, were against tourism development: it was a plainly stupid site, but the Government wanted to bully it through.

I recall when we were debating the Marine Pollution Act that the Liberal Party insisted that the E&WS Department should comply with the laws, the same as everybody else. It was saying there that the same laws should apply to everybody. After taking a stand there how can it take this inconsistent stand later? We should not be taking a move like this without cognate discussion and debate of both the development Bill, the environment protection agency legislation and a couple of other Bills which go with them. Here we are giving power to override all those without first giving them proper consideration.

We are derogating our responsibilities in this place. We are giving to an unelected development board a power to override proper instrumentalities set up under legislation in this State. That is plainly not acceptable. What we have to do is look at why projects failed in South Australia. They did not fail because the Government did not have sufficient power; they failed because the bureaucrats who were pushing them had made mistakes. That is where things went wrong. Unless we recognise that, those mistakes will continue to be made even under this proposal.

The Hon. T. CROTHERS: I have listened very carefully to the contributions that were made by both Democrats in this Council, and it concerns me no less greatly when we debate matters that are concerned with our ecology and environment that they seem, time and time again, to fall into the same trough. If we do care for our ecology and environment we cannot, at least not since 1901, take a position that if everything is well in South Australia everything is well in the rest of Australia. If we are mindful of the ecological and environmental welfare of not only South Australians but the Australian nation, it seems to me that it is absolutely an exercise in futility, if the Democrats are fair dinkum—and I believe that they are with respect to the matters that they have just put to this Council—to say that you fix the matter by having a State Parliament pass legislation.

What that does is put other States with Governments which are hell bent on attracting industry into a position of some advantage with respect to the capacity of any Government, irrespective of its political viewpoint. It puts a brake on the Government's position with respect to maintaining levels of employment, and this at a time when we have probably one of the highest global recessionary employment rates that the nation and the State has experienced.

I happen to believe that the way forward is sustainable development and sustainable agriculture so that we do not destroy that which sustains us both from the point of view of life and quality of life. I stress that it is an exercise in futility. The Democrats, just like the Liberal Party and the Labor Party, have members in the Federal Parliament, and it ought not to be made a political issue; it ought to be possible for the matter to be referred back to the national Parliament so that you can get a position which will ensure that no State, because of its legislation, is disadvantaged over any other State or Territory of Australia relative to where investment capital might wish to site developments that are to some extent employers of labour.

The Attorney is quite correct, and I even find myself agreeing with the Hon. Mr Lucas with respect to that part of his contribution concerning the fact that if you are in Government there are more things to be considered with respect to the welfare of the State's population. In my view, you cannot consider matters ecological and environmental at a State level and think that you are doing a favour to Australia with respect to the preservation of that.

I see Mr Elliott ragging away—it surprises me to some extent—and I believe I am about to be answered, and that is fair enough; I accept that in the cut and thrust of debate. But I stress again: we are all concerned with the matters that have been canvassed. The way forward for those matters so that no part of the nation is disadvantaged with respect to its capacity to attract industry (which will employ quite a number of people) is through either a meeting of State and Federal Ministers or one of the three major Parties in the Federal Parliament in whichever House they choose introducing legislation that will be standard right across the nation and will not have our having to go cap-in-hand or providing additional infrastructure which imposes extra charges on the State so that we can attract industry. I understand what the Democrats are aiming at, and the pathway they would have us going down is the wrong one. For the matters to be addressed in any meaningful way must be done at a national level.

The Hon. M.J. ELLIOTT: The Hon. Mr Crothers obviously did not listen to what I said. The matter goes back to the debate we had a little earlier about the concept of ecologically sustainable development. Some people, such as the Attorney, hear the word 'ecological' and he suspects straight away that everybody is talking about drinking chamomile tea and living in mud brick homes. That is a rather simplistic notion as to what ecologically sustainable development is all about.

The Hon. C.J. Sumner: I never said anything like that.

The Hon. M.J. ELLIOTT: Your interjections earlier were plainly along those lines.

The Hon. C.J. Sumner: They were more subtle than that.

The Hon. M.J. ELLIOTT: You're never more subtle than that.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: If the Hon. Mr Crothers had listened to what I said before, he would have heard that I said that the Wilpena development got it wrong by being probably three or four kilometres north of where it should have been. I did say I preferred other tourism models very much like that which is now being proposed by the honourable Mr Rann, who is about to spend $350 000 on an eco-tourism study which will probably give us more jobs than resort tourism, but that is another issue. I said not that we should not have Wilpena but that proper planning processes would have put it several kilometres south and it would have been built years ago. The Mount Lofty development would have been built years ago if it were not for the cable car. The Tandanya development would have been built if it were not for location. I did not say that they should not go ahead: what I said was that, having made mistakes either by way of location or form, the Government, because promises of 'Don't worry; we'll fix it' could be made within the bureaucracy, continued to go head-long along a particular path, right or wrong. That was my criticism: not that there should not be development. Ecologically sustainable development does not mean you do not have development: it means you are sensible about where you put it or in what form you have it.

In the United States, the States that are creating employment are Oregon and Washington. Those States have the toughest planning laws, but the more important thing about their planning laws is that they are consistent and predictable—and this is the argument we will have in relation to the Development Bill. The important thing is that developers know where they stand; that is what is important. They do not need a promise of 'Don't worry; we'll fix it up; we'll get it through for you.' If you know how the rules work, it is not a problem. The problem that the developers had in each of the projects I mentioned is that they kept on getting promises of 'Don't worry; we'll fix it up,' instead of being told, 'Look, if you change the form, if we do a few things, it will fit within the current planning processes.' There was nothing wrong with the planning processes of any of those developments. What went wrong was the way they were handled, and we must recognise that, because it is very important. It is not about making mud brick homes or anything else or about denying South Australians jobs. I have three young children who will be in the work force within 10 to a dozen years, and I want jobs for them. I do not want this State to go down the gurgler.

The Hon. R.I. Lucas: Then support a Liberal Government.

The Hon. M.J. ELLIOTT: Well, I'm not that stupid. So, the point that I am making is that all other people and I are asking for is certainty and planning. I have sat around the table with people as diverse as Marcus Beresford and John Chapel and had them agree that the major problem—while I disagree on what projects might be favoured by each of them—we have is lack of certainty. This is a major criticism that they have made of the Development Bill that we will see in the near future.

I do not see how giving the development board the power just to ride roughshod over any rules that we have is the right way of giving certainty, and that is exactly what the Liberal Party will support the Government doing. That is not necessary, because it allows to happen the sorts of things I have heard the Opposition criticise so often in this place, and it does not address the real problems that we have had so far.

I am gravely disappointed that the members of the Opposition have treated this matter so lightly. They will deny it, but they really should have looked at this matter with more care. We should not treat this clause before we treat the development and environment protection agency Bills. That is not away with the fairies stuff: it is just plain common sense in terms of the way we treat things in this Parliament, and we are failing in our duties not to do so.

The Hon. I. GILFILLAN: I repeat, because it is important, that I believe that what the Premier outlined as the intention of this clause is achievable by the Government directing its authorities which are currently in place to grant the approvals, consents and licences or, after due consideration, the appropriate exemptions as a top priority and at the fastest possible speed. Unless the Government does not assure the State that it does not intend to cut corners and do shady things behind closed doors—and that is what the Premier said—it has just as much capacity to speed up the process by letting the current bodies which have that authority do it. It could instruct them to do it as a No. 1 priority, and you can

avoid this devious method which must be viewed with suspicion.

The Hon. M.J. Elliott: There are virtually no rules at all.

The Hon. I. GILFILLAN: Virtually no rules at all, as my colleague interjects. That is the major concern to all of us who have serious concerns about there being virtually an avoidance of proper consideration of development. It is not a question of saying, 'Don't speed it up; don't give projects high priority.' The Democrats recognise that is important, and we back it, but the structure is in place to do it without this clause being in the Bill. The clause is unnecessary if we are to believe what the Premier tells us is the intention. It is unnecessary, it is dangerous and we will oppose it.

The Hon. C.J. SUMNER: I just want to correct one suggestion which emanated from the Hon. Mr Elliott by way of interjection and which was agreed to by the Hon. Mr Gilfillan, namely, that there are no rules at all with the inclusion of clause 16(3). That is just not true. In the granting of approvals, consents, licences or exemptions, the law, as laid down in other Acts of Parliament, has to be followed.

The CHAIRMAN: The question is that the words down to but not including 'resolution' stand part of the clause.

The Committee divided on the question:

Ayes (19)—The Hons J.C. Burdett, T. Crothers, L.H. Davis, H.P.K. Dunn, M.S. Feleppa, K.T. Griffin, J.C. Irwin, D.V. Laidlaw, J.A.W. Levy, R.I. Lucas, B.S.L. Pfitzner, C.A. Pickles, R.J. Ritson, R.R. Roberts, T.G. Roberts, J.F. Stefani, C.J. Sumner (teller), G. Weatherill, B.J. Wiese.

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

Majority of 17 for the Ayes.

Question thus carried.

Amended carried.

Progress reported; Committee to sit again.

BARLEY MARKETING BILL

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

ADJOURNMENT

At 12.8 a.m. the Council adjourned until Wednesday 24 March at 2.15 p.m.