LEGISLATIVE COUNCIL

Wednesday 16 February 1994

The PRESIDENT (Hon. Peter Dunn) took the Chair at 2.15 p.m. and read prayers.

PARLIAMENTARY DOCUMENTS

The PRESIDENT: I am now in a position to make a determination with regard to the documents relating to the Hon. I. Gilfillan's accommodation allowance as well as travel to and from Kangaroo Island. At the time that the police made their initial request for access to these documents, members will recall that there was no President who could exercise responsibility. Accordingly, the Clerk agreed to a compromise with officers of the Police Force that the documents be sealed and remain within the Clerk's custody.

In any event at that time it was difficult for these documents to be separated from the files containing records of other members because of time constraints. I have been deeply concerned about the actions of the police in a period when Parliament was in recess and without a President and their endeavouring to obtain these documents and a subsequent compromise merely to allay the situation by sealing the documents. I quote from page 163 of *House of Representatives Practice—Powers of Police in Parliament*—as follows:

> For most practical purposes, Parliament House is regarded as the only place of its kind and one in which the two Houses, through their Presiding Officers, have exclusive jurisdiction. Thus, in Parliament House the police are subject to the authority of the Speaker and President and their powers are limited by the powers and privileges of the respective Houses. Such limitations are not based on any presumed sanctity attached to the building as such, but on the principle that the Parliament should be able to conduct its business without interference or pressure from any outside concerns.
>
> Police have no power to enter Parliament House in the ordinary course of their duties without the consent of at least one of the Presiding Officers, in practice conveyed through the Sergeant-At-Arms, the Usher of the Black Rod or the Security Controller.

As advised yesterday, I am now in receipt of a Crown Law Opinion as well as other advice. I have considered this advice carefully and have decided that copies of the documents concerning the Hon. I. Gilfillan should be handed to the police to assist their investigation. The Crown Solicitor states:

> In my opinion the investigation of the allegations by the police is proper and appropriate and does not involve any breach of the privileges of the Council. . . However, before the police can obtain access to the relevant documents currently held by the Clerk sealed in a safe, the police must obtain the permission of the President.
>
> If the police were to attempt to obtain such documents without obtaining that permission (for example, by execution of a search warrant) the police would be in breach of the privileges of the Parliament.

In reaching my decision I have relied on Standing Order 31, which reads:

> The custody of all documents and papers belonging to the Council shall be in the Clerk, who shall not permit any to be removed from the offices or produced in evidence without the express leave or order of the President or Council.

Accordingly, I have ordered that the copies of the document relating to the Hon. I. Gilfillan be released to the investigating officers. I have been in contact with the Auditor-General, who informs me that it is within his audit function to examine the claims by members for allowances and other accounts of the Legislature. I understand that he will ensure in the light of public debate on this issue that there is a more detailed examination of the records and the basis for payments. If there are allegations in relation to other members, the Auditor-General is the proper person to whom they should be directed.

LEGISLATIVE REVIEW COMMITTEE

The Hon. R.D. LAWSON: I bring up the first report 1994 of the Legislative Review Committee and move:

That the report be read.

Motion carried.

The Hon. R.D. LAWSON: I bring up the second report 1994 of the Legislative Review Committee and move:

That the report be read.

Motion carried.

STATE FINANCES

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I seek leave to table a copy of the ministerial statement on State finances made today by the Treasurer in another place.

Leave granted.

QUESTION TIME

AYTON REPORT

The Hon. C.J. SUMNER: I seek leave to make a brief explanation before asking the Attorney-General a question about the Joint Parliamentary Committee on the National Crime Authority.

Leave granted.

The Hon. C.J. SUMNER: On 4 March 1993, the Attorney-General, when in Opposition, tabled in the Legislative Council a submission to the Commonwealth Joint Parliamentary Committee on the NCA which had been prepared by a Superintendent Ayton of the Western Australian Police Force. This tabling was part of the Opposition's campaign against Genting, advisers to the Adelaide Casino, and the then Labor Government. This led to an inquiry by Ms E.F. Nelson QC, which refuted the allegations made against Genting and the then Labor Government.

The Ayton submission was illegally disclosed following its presentation to the Joint Parliamentary Committee in May 1991. The Attorney-General, the Premier and Deputy Premier received the Ayton submission and used it for political purposes to pursue a campaign against the Labor Government and Genting. Superintendent Ayton has lodged a formal complaint with the Joint Parliamentary Committee on the NCA, which is now investigating the matter. The Joint Parliamentary Committee in turn has obtained an opinion from the Acting Solicitor-General of the Commonwealth, Mr Dennis Rose QC, and resolved to release that opinion. I seek leave to table a copy of that opinion.

Leave granted.

The Hon. K.T. Griffin: Where did you get that from?

The Hon. C.J. SUMNER: I have said that it was publicly released by the Joint Parliamentary Committee on its receipt from the Acting Commonwealth Solicitor-General.

Members should note that on page 7 there is a reference to the South Australian Attorney-General in 1983. This in fact should refer to a former Attorney-General, Mr Peter Duncan.

It is clear from this opinion that a criminal offence has been committed, in particular, an offence against section 13 of the Commonwealth Privileges Act regarding the illegal publication or disclosure of *in camera* evidence. This attracts a penalty of $5 000 or imprisonment for six months for a natural person or $25 000 in the case of a corporation. This matter is particularly important and serious given the sensitive material which the Joint Parliamentary Committee on the NCA may from time to time receive.

In addition to the principal offence, other offences may have been committed by those who provided the document and those who received it. There is the possible offence of conspiracy, contrary to section 86 of the Commonwealth Crimes Act. This attracts a penalty of three years' imprisonment.

The Acting Solicitor-General's opinion makes clear that State parliamentary privilege is not being questioned, and I am not doing that. I make clear, because I understand this to be the Government's stance on this matter, that this is a matter of parliamentary privilege. I make quite clear that I am not questioning parliamentary privilege, and neither is the opinion from the Commonwealth Solicitor-General. However, the opinion makes clear that the provision of the document to a member of State Parliament is an offence under section 13 of the Privileges Act, even if it was intended by both the provider and the recipient that the document be tabled and read in State Parliament.

These are serious matters. A clear breach of the law has been committed by the illegal release of the Ayton submission. It is clear that the Attorney-General, the Premier and Deputy Premier, at the very least, will have information that will assist the inquiries being conducted by the Joint Parliamentary Committee on the NCA. My question to the Attorney-General is as follows:

Will the Attorney-General, as first Law Officer of the Crown in South Australia and the person in Government with the principal responsibility for ensuring that the law is upheld, cooperate with the Federal authorities (whether the Joint Parliamentary Committee, the Federal Director of Public Prosecutions or the Federal Police) to ensure that the criminal offence which occurred in the release of the Ayton submission is fully and properly investigated?

The Hon. K.T. GRIFFIN: As I understand it, the advice that was received by the Federal parliamentary committee was provided by the in-house council of the Federal Attorney-General's department. That person was asked by the National Crime Authority Parliamentary committee to give a report on matters of privilege relating to the then Opposition's acquisition of the documents which were tabled to the committee. At the time, this officer was the acting Solicitor-General and signed the letter to the committee as such, and I understand that he has been reprimanded since then for acting as the Solicitor-General, but providing the advice to the committee in this way.

The Hon. C.J. Sumner: Why was he reprimanded?

The Hon. K.T. GRIFFIN: He was reprimanded by the committee; that is what I understand. I do not know why he was reprimanded. He was certainly reprimanded for giving the advice in that way, for some reason.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: Of course they released it. They released it obviously after I had written to the Chairman of the Joint Committee on the National Crime Authority. Mr Peter Cleland had written to me as well as to the Premier and the Deputy Premier, and I wrote back in response indicating that the documents that were referred to by the shadow Attorney-General were received by State members of Parliament in that capacity as part of, and in the course of, the discharge of parliamentary duties in the South Australian Parliament. I indicated also that I was not prepared to further discuss or disclose the circumstances of the receipt of the documents with that committee.

The Hon. C.J. Sumner: Even though an offence was being committed.

The Hon. K.T. GRIFFIN: So far as I was concerned, I was not committing an offence.

The Hon. C.J. Sumner: But you knew a criminal offence was being committed.

The Hon. K.T. GRIFFIN: I did not know that a criminal offence was committed. I indicated to Mr Cleland that to require otherwise would be to place me and other members of Parliament in breach of the privileges of this Parliament.

The Hon. C.J. Sumner: Nonsense.

The Hon. K.T. GRIFFIN: It is quite clear. My advice was that nothing in the National Crime Authority Act nor in the Parliamentary Privileges Act, as a matter of construction, abrogated the privileges, immunities and powers of the Legislative Council and House of Assembly as provided for by section 38 of the South Australian Constitution Act of 1934. It is important to recollect that some 10 years ago the Hon. Peter Duncan raised some issues in the State Parliament relating to the Hope royal commission. It was asserted at that time that he was in breach of the law as it related to the Hope royal commission by tabling documents in the South Australian Parliament. The information which was provided at the time and the advice that was given was that his tabling of those documents, in circumstances similar to the tabling of the documents last year, were the subject of privilege.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: Similar provisions.

The Hon. C.J. Sumner: This is a specific—

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: Privilege applies whether it is a royal commission or under this Act.

The Hon. C.J. Sumner interjecting:

The PRESIDENT: The Leader of the Opposition has had a fair go.

The Hon. K.T. GRIFFIN: The Federal Act does not abrogate the privileges and immunities of the Legislative Council or the House of Assembly in South Australia.

The Hon. C.J. Sumner: Even if a criminal act has been committed.

The Hon. K.T. GRIFFIN: It doesn't abrogate it.

The Hon. C.J. Sumner: Even if a criminal act has been committed.

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: You have got to know that a criminal act has been committed.

The Hon. C.J. Sumner: You didn't know.

The Hon. K.T. GRIFFIN: I didn't know there was a criminal act committed. Who knows where that came from at the time? Anyway, Mr President, I have indicated on behalf of the Government the way in which the Premier, Deputy Premier and I proposed to deal with the matter in relation to the Joint Committee on the National Crime Authority. If there is some other agency which requests information from me, I will give consideration to that request at the time it is made and in the context in which it is made.

HINDMARSH ISLAND BRIDGE

The Hon. BARBARA WIESE: I seek leave to make a brief explanation before asking the Minister for Transport a question about the Hindmarsh Island bridge.

Leave granted.

The Hon. BARBARA WIESE: In her ministerial statement yesterday the Minister indicated that if the bridge does not proceed then the Government would be liable for a payment of around $12.5 million should there be litigation. In response to questioning from this side of the Chamber we were all witness to the unedifying spectacle of the Minister being unable to make up her mind as to whether the reply was yes or no when she was specifically asked whether the possibility of such a payment was only a possibility should the Government decide not to proceed with the bridge. However, that matter aside, there are two questions that I would like to ask the Minister. First, can she indicate how she arrived at the figure of $12.5 million as the potential Government obligation for the project if litigation occurs? Secondly, has the Government actually received any indication from any party that they intend proceeding with legal action?

The Hon. DIANA LAIDLAW: The figure is not one that I made up or determined myself. It is a figure that was featured in Mr Jacobs' report, based on his discussions with all parties. As I indicated yesterday in my ministerial statement, Mr Jacobs had discussions with Westpac, Binalong, Built Environs and the local council. The figure is not mine and, as I indicated, it was Mr Jacobs' view that that cost of $12.5 million was the minimum. On top of that we could also face years of litigation. Secondly, as to whether the Government has received formal advice that litigation would occur, of course we have not because we have not taken that course of action.

The Hon. BARBARA WIESE: Mr President, I have a supplementary question. Could the Minister please indicate how Mr Jacobs arrived at his figure of $12.5 million? Can the Minister itemise more clearly the amount of money that Mr Jacobs has estimated the Government would be subject to?

The Hon. DIANA LAIDLAW: I suspect that this advice would be available to other members if they sought to speak to Westpac, Binalong and the like. We simply asked Mr Jacobs to confirm what the funding and contractual arrangements were for the Government in relation to this bridge, on the basis of—

The Hon. Barbara Wiese interjecting:

The Hon. DIANA LAIDLAW: I do not have the report with me today so it would be inappropriate—

The Hon. Barbara Wiese interjecting:

The Hon. DIANA LAIDLAW: They are matters to be negotiated if there is litigation. But in terms of Mr Jacobs and his charter from us, he was required to look at the funding and contractual arrangements in relation to the bridge, the options if the bridge did not proceed, and it was on that basis that he spoke to Westpac, Binalong, Built Environs, and the like. He also indicated—

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: Because, as I indicated as some length yesterday, it is inappropriate for the Government to release the report, and that was based on Crown Solicitor advice, and the former Attorney-General would have listened to that advice in similar circumstances where there is potential for litigation.

The Hon. C.J. Sumner: You complained about it long and loud every time it happened.

The Hon. DIANA LAIDLAW: This is a very sensitive position, as the former Attorney knows. I will seek advice on this matter. Certainly it is clear in the report in terms of the advice provided to Mr Jacobs. The minimum, as I indicated, is $12.5 million. Mr Jacobs indicated that that was the figure; it could be even more, and that we could also be subject—

The Hon. Barbara Wiese interjecting:

The Hon. DIANA LAIDLAW: That is correct, and there are many people who wish us not to proceed, as the former Minister would have again noticed in the paper today.

The Hon. Barbara Wiese interjecting:

The Hon. DIANA LAIDLAW: My office today has been inundated with calls from persons angry that they and the Government have been put in this position because of the contractual arrangements negotiated by the former Government.

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Transport a question about Hindmarsh Island bridge.

Leave granted.

The Hon. CAROLYN PICKLES: In March of last year by way of a letter from the then Premier to the then Leader of the Opposition, and in a speech to Parliament in April last year by the Hon. T. Roberts, members were made aware of an advice from the E&WS Department to the effect that the existing barrage at Goolwa has another 20 years of useful life and that to bring forward such a major project to incorporate a bridge would incur massive penalty costs compared with extracting the full useful life of these very expensive facilities.

The advice also indicated that a bridge built in conjunction with a barrage comprising the requisite moving gates and other major operating components would be very complex and very costly. Also, the span from the mainland to the island at the barrage is over twice the span at the current ferry crossing, thus ensuring that a bridge at the barrage would be far more costly. In addition, some concerns have been raised about the environmental impact on nearby sandhills of increased traffic at the barrage. My questions are as follows:

1. In the light of the fact that this information has been known publicly for almost a year, will the Minister agree that the further eight week delay she proposes to study the barrage option is a further waste of time and money?

2. If she still intends to proceed with the study, will the Minister ensure that the views of the E&WS Department are taken into account in the feasibility work now taking place, particularly the information concerning penalty costs?

3. Will the Minister ensure that the environmental issues surrounding the barrage area are taken fully into consideration?

The Hon. DIANA LAIDLAW: I thank the honourable member for her questions. I do not believe for one moment that this is a waste of time or money; otherwise neither I nor Cabinet would have reached this decision to explore this option further. As I indicated yesterday, Mr Jacobs recommended that three further options be investigated, and that was done after he had spoken with bridge engineers who indicated that it was feasible, and it is on that basis that he put this option—

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: That is what we are exploring now. On the basis of discussions with building engineers, it is deemed that it is feasible for a bridge at the barrage. There was insufficient time, nor were there consul-

tancy funds available at that time, for Mr Jacobs to explore that option in detail, nor was it part of his terms of reference. That is the reason we are now exploring this option as he recommended.

In terms of the E&WS, of course they will be involved in discussions and debate and general feasibility arrangements. In fact, I have sent a memo to the Minister for Infrastructure today requesting that the E&WS be involved in this matter. In terms of the environmental impact, there is no question that any permanent link to the island from the mainland, whether it be at Goolwa or in the area of the barrage, is an environmental impact on the island. This is one of the major concerns about this whole issue. Members would be aware that where the former Government proposes for the bridge to go ahead there is not only environmental impact there but grave concern amongst the Aborigines about the impact on their heritage and sites, at the very spot where the former Government signed the contract for this bridge. So, wherever one looks on the island, there is environmental impact, not only with the island but many would contend further into the Coorong area.

PUBLICATIONS, CLASSIFICATION

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Attorney-General a question on the subject of indecent matter.

Leave granted.

The Hon. BERNICE PFITZNER: We all recall the outcry when a magazine had on its front page the demeaning image of a woman on all fours with a leash around her neck. As a result of this incident the Bill, known as the Classification of Publications (Display of Indecent Matter) Amendment Act 1992 was initiated. The Bill passed this Council on 26 November 1992 and was passed and returned from the other place without amendment on 6 May 1993. The Governor assented to the legislation on 20 May 1993, almost a year ago. My questions to the Attorney-General are:

1. Why has this legislation taken so long to be proclaimed?

2. When will it be proclaimed?

3. When will the legislation come into effect?

The Hon. K.T. GRIFFIN: I can tell the honourable member that the legislation has now been proclaimed to come into effect and it will do so on 31 March. Notification has been given to distributors, in particular, and other groups in the community who might be affected by it, indicating that it will come into effect on that day. It was believed that there should be some reasonable lead time to enable people to make the appropriate arrangements either to include category 1 publications in an opaque sealed package or to address the issue through what are commonly called 'blinder racks'.

The previous Government did try to approach this matter on the basis of getting some agreement from other States about the way in which it should be administered and also with the major national distributors. The endeavour to obtain such an approach was an appropriate one. Looking at the various papers was the primary reason why the proclamation of the Act was delayed. It was clear that there could not be any uniform approach agreed with distributors and the other States and, therefore, having examined the file when I became Attorney-General, I took the decision that, having been passed by the Parliament and on the basis that it would in any event come into operation at the expiration of two years after the assent if it had not been proclaimed to come into operation earlier, it was appropriate to proclaim it to come into effect earlier rather than later. That is what has been done.

EGGS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about the South Australian egg industry.

Leave granted.

The Hon. M.J. ELLIOTT: South Australia's egg industry is on the verge of collapse following the latest round in the discounting war that has plagued the industry since it was deregulated in early 1992. In the previous Parliament I asked the Labor Government if it would take any action to stop the increasing financial struggle faced by many within the industry due to price wars caused by the deregulation. Even at that time producers were approaching me with grave concerns about the future of their businesses. They were dealing with plummeting prices, staring bankruptcy in the face and having to deal with farm gate prices that were far beneath the real cost of production. I never received a reply to my question.

Now, six months later, the situation has deteriorated. I have been told that producers relying solely on egg production for their livelihood—some of the State's biggest—cannot hold out much longer due to the continued undercutting from rival egg producers. In fact, several have already gone to the wall. Many fear that, when these operators go and the South Australian industry collapses, consumers will pay much more for their eggs, which will come from interstate.

Producers are eager for any sign of restored financial confidence in the industry, and in that vein are looking forward to the Liberal Government's keeping a pledge it made prior to the State election.

Liberal Leader Dean Brown gave an undertaking on 3 December last year that an assurance by the then shadow Minister of Primary Industries (Hon. Jamie Irwin) to vest the land and buildings formerly owned by the South Australian Egg Board in the SA Egg Co-operative would be honoured. Of course, this will not solve the major problem of the price war. While market forces need to function, clearly the industry—and hence the State—suffers if the price is sustained below the cost of production.

A suggestion made to me is that if a farm gate price was set, even if below the real cost of production, it would at least bring stability to the industry. My questions to the Minister are as follows:

1. Will the Minister make good the promise to vest land and buildings formerly owned by the SA Egg Board in the SA Egg Co-operative?

2. Will he take further action to help struggling producers?

3. Will the Minister consider a farm gate price, as exists in the dairy industry, even if that farm gate price was set at or below the real cost of production for efficient producers?

The Hon. K.T. GRIFFIN: I will refer those questions to my colleague the Minister for Primary Industries and bring back a reply.

GENDER BIAS

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Attorney-General a question about the inquiry into gender bias in the law.

Leave granted.

The Hon. ANNE LEVY: I am sure I do not need to remind members of the Council who were here last year of the considerable discussion about gender bias in the law following certain remarks made by a number of judges around the country. The Federal Attorney-General appointed Justice Elizabeth Evatt to conduct an inquiry into possible gender bias in the law, and the first action by Justice Evatt was to produce a discussion paper on this topic that raised questions rather than provided answers.

This paper was circulated widely throughout Australia, and then Justice Evatt undertook a strenuous program of visiting every State in more than one location in each State to hold public meetings when members of the community were able to come forward to give their views on this important matter.

In South Australia Justice Evatt certainly conducted a public meeting in Adelaide, one in Port Lincoln and one in Mount Gambier. At my invitation she also had a meeting with a wide cross section of people who were involved in the law, both from the Government and private sectors.

At that time Justice Evatt was inviting submissions from all over the country on gender bias in the law, and the then South Australian Government made a decision to present a written submission on behalf of the South Australian Government to Justice Evatt's inquiry. Work on that was proceeding when the election took place. We have heard absolutely nothing about it since then, and I understand that Justice Evatt, or the Law Reform Commission, wanted to receive submissions by the end of January. I may be mistaken, and the date may have been extended to the end of February. Certainly, there was discussion about making the end of February the date for final submissions. My questions to the Attorney-General are as follows:

1. Is it the intention of the current South Australian Government to honour the promise made by the previous Government to put in a submission to Justice Evatt's inquiry on gender bias in the law?

2. If so, has the submission been prepared yet?

3. If not, when will it be prepared, and will the Attorney-General make the official South Australian Government submission to Justice Evatt publicly available?

The Hon. K.T. GRIFFIN: I was under the impression that the deadline for making submissions had passed during the period immediately after the election.

The Hon. C.J. Sumner: I am sure they would take a late submission.

The Hon. K.T. GRIFFIN: They may do. I also understood that Justice Elizabeth Evatt was soon to come out with her report, so time may well have overtaken the presentation of a submission. However, now that the honourable member has raised the matter, I will make an inquiry and bring back the appropriate reply in relation to that issue.

AYTON REPORT

The Hon. T. CROTHERS: I seek leave to direct two questions to the Attorney-General on the subject of the tabling of the Ayton report.

Leave granted.

The Hon. T. CROTHERS: My questions are:

1. Did the Hon. Mr Griffin, the Hon. Mr Brown and the Hon. Mr Baker receive the Ayton submission directly or indirectly from a member of the Joint Parliamentary Committee on the NCA; and

2. Why did the Attorney-General table the Ayton submission, knowing it had been illegally released in contravention of section 13 of the Commonwealth Parliamentary Privileges Act?

The Hon. K.T. GRIFFIN: I indicated in my letter to the Chairman of the Joint Committee on the National Crime Authority that I and my other parliamentary colleagues did not receive the documents from the hands of members of Parliament who are past or present members.

The Hon. C.J. SUMNER: On a point of order, Mr President, I ask the honourable member to table the document from which he is reading.

The Hon. K.T. GRIFFIN: You will have to move for that, but I am not going to table it.

The Hon. C.J. SUMNER: I am making that request.

The Hon. K.T. GRIFFIN: I do not intend to table it, Mr President. I indicated to the Chairman of the Joint Committee on the National Crime Authority that—

The Hon. C.J. SUMNER: On a point of order, Mr President, pursuant to Standing Orders I am entitled to move—

The Hon. K.T. Griffin: By motion.

The Hon. C.J. SUMNER: No I'm not; I'm entitled, immediately upon calling for the tabling of the document from which the honourable member is reading, to move that the document be tabled; and I so move. The matter is then one that is to be determined by the Council.

The Hon. K.T. GRIFFIN: I am not reading from it.

The Hon. C.J. Sumner: You were reading from it; I saw you reading from it.

The PRESIDENT: I ask the Attorney-General: is the document a confidential document?

The Hon. K.T. GRIFFIN: The Standing Order provides that a document quoted from in debate if not of a confidential nature or such should more properly be obtained by address. I am not quoting from it in debate; I am answering a question. I am not quoting from it, anyway.

The Hon. C.J. Sumner: You were; you were reading from it.

The Hon. K.T. GRIFFIN: I wasn't. You know how you operate in this place: you might flick through papers—

The Hon. C.J. Sumner: You can't get out of it on that basis.

The Hon. K.T. GRIFFIN: No. You flick through papers to refresh your memory about what is in particular documents or papers. I am not quoting from it, and it is not a matter of debate.

The PRESIDENT: Order! There is no point of order. The honourable the Attorney.

The Hon. C.J. SUMNER: What is the basis for ruling that there is no point of order, Sir?

The PRESIDENT: I am ruling that the Minister was not quoting from a document that is confidential.

The Hon. C.J. SUMNER: That is an astonishing ruling, Mr President; he was reading from the thing as he was referring to it.

The Hon. K.T. GRIFFIN: So far as the questions from the Hon. Mr Crothers are concerned, I indicated to the Chairman of the joint committee in my letter that the documents were not received from past or present members

of the Federal parliamentary committee, and that is the position. As far as why I tabled them knowing them to be illegally obtained, I did not know they were illegally obtained, and I indicated that in my first answer to the Leader of the Opposition.

CHILDREN, ISOLATED

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief statement before asking a question of the Minister for Education and Children's Services regarding assistance under the Isolated Children's Scheme.

Leave granted.

The Hon. CAROLINE SCHAEFER: The isolated children's allowance which began in 1972 is a Commonwealth funded scheme set up to assist children isolated by either distance or disability to obtain either primary or secondary education. It is also available for children from itinerant families who move at least five times per year and to students living at home studying by correspondence. Until the August 1993 budget it was also available to children who had to live away from home to study a special course: first, special talent courses; secondly, certificate courses; and, thirdly, courses as a prerequisite to tertiary studies.

However, since the budget these children have been excluded from availability. As a direct consequence of this decision, rural students have been disadvantaged again. The enrolments for the certificate in agriculture at Cleve area school have fallen from 26 in 1993 to nine in 1994, and for the first time since their inception the two boarding hostels in that town have vacancies. Urrbrae Agricultural High School also has declining enrolments and in fact has one child who is due to leave next week due to financial constraints.

My constituents are concerned that at a time when isolated children more than ever before need equal access to adequate education, particularly specialist agricultural education, they have again been forgotten. Can the Minister exert pressure on the Federal Government to reverse this decision? Is the State Government able to initiate short-term assistance under the current circumstances; and what money is being wasted by these specialist schools and boarding hostels being unable to operate at full capacity?

The Hon. R.I. LUCAS: I thank the honourable member for that question. The issue has been raised by the honourable member and a number of other members and members of the community as well in relation to the unfortunate aspects or ramifications of the changes made by the Commonwealth Government at the end of last year in relation to the AIC scheme and also the corresponding Austudy secondary away from home rate scheme. As a result of those representations, on 31 January I wrote to the Commonwealth Minister (Hon. Ross Free) raising concerns particularly in relation to the Cleve Area School, without all the detail that the honourable member has been able to provide to the Chamber, over the effects of this scheme on schools like Cleve Area School and its special program in agricultural studies.

To this date we have not yet received a response from the Commonwealth Minister, and I will undertake to pursue that matter with the Commonwealth Minister on behalf of the honourable member.

In relation to the honourable member's third question about costs, I will undertake to have that investigated by the department and bring back a reply.

In relation to the second question as to what-short term assistance might be able to be provided, again I will undertake to ask the department to investigate that. However, as the honourable member would know, as a result of the dire financial circumstances this State Government is left in, the possibilities are obviously limited in relation to the State Government's being able to pick up the problems that might be created by changes in Commonwealth Labor Government policy.

RAIL STANDARDISATION

The Hon. SANDRA KANCK: My questions to the Minister for Transport concern the standardisation of the Adelaide-Melbourne railway, as follows:

1. Given the intention of the Federal Government to convert the Adelaide to Melbourne railway line to standard gauge, what is the future of the Monarto South to Apamurra, Tailem Bend to Loxton, Tailem Bend to Pinnaroo and Wolseley to Mt Gambier and Snuggery railway lines, and will these lines be retained as broad gauge, standardised or closed? If they are closed, how will the grain and timber industries and local communities serviced by these lines be affected by the closures?

2. Given that the Kennett Government in Victoria is standardising the Murtoa to Hopetoun, Dimboola to Yaapeet and Maroona to Portland lines because it is cheaper than upgrading the roads, can the Minister advise the Council if the Government has similar plans for regional rail services in South Australia?

The Hon. DIANA LAIDLAW: In respect of Victoria and the lines that the Victorian Government is standardising, I can inform the honourable member that that was part of the agreement negotiated between the Federal and Victorian Governments for the Victorian Government to gain funds for the standardisation of the line overall. There was considerable haggling over the amount of money for some period. The Victorian Government owns the lines to which the honourable member referred. They are its property and it is for that Government to decide to invest in them.

That is quite a different situation from the regional lines in South Australia. In 1975 it will be recalled that South Australia sold its regional lines to the Federal Government. They are the property of the Federal Government and they are operated by Australian National. I have been advised that Australian National has just submitted a further revised business plan to the Federal Government. I have written to the Federal Minister seeking a copy of that business plan. Off the record at this stage, in the sense that I have not seen the plan to confirm this advice, I understand that Australian National is now seeking funds for the standardisation of the Tailem Bend to Loxton, Tailem Bend to Pinnaroo and Wolseley to Mount Gambier lines.

It is of interest to me that Australian National, before all these negotiations and transfer of property and infrastructure with the National Rail Corporation, had no interest at all in such lines. The future was exceedingly uncertain. Now that Australian National's future is a little more under the cloud, I am thrilled that it is now prepared to see that there is considerable potential for investing in and maintaining these lines in South Australia.

Yesterday I met councils from the Karoonda to Riverland area with the local members for both Chaffey and Ridley. They are as anxious as the honourable member, myself and the Government to ensure that these lines are maintained,

even as broad gauge lines, but our preference is that they be standardised. I shall be writing on behalf of the Government recommending such a course of action.

At this stage I am waiting for a copy of AN's business plan from the Federal Government. I hope at that stage that all members, both here and in another place, would support AN in its goal to standardise these lines. Nevertheless, even if they remain as broad gauge lines, I understand that AN believes there is at least 10 years of life in those lines with the current equipment that it can use for broad gauge purposes, and it is continuing discussions with South Australian Cooperative Bulk Handling and others to ensure that the sidings and conversion facilities are in place on the Melbourne-Adelaide main line between Wolseley and Tailem Bend.

HINDMARSH ISLAND BRIDGE

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport a question about Hindmarsh Island.

Leave granted.

The Hon. T.G. ROBERTS: Yesterday the Minister delivered a ministerial statement on the Hindmarsh Island bridge, but the statement was silent on a key issue—the cost factor involved in providing improved access to Hindmarsh Island. Consistently the Labor Party in Government and Opposition made it clear that the best advice available to it from the Road Transport Agency, two independent consultants and Treasury was that the bridge proposal was the cheapest long-term option for taxpayers. My questions are:

1. Did the Jacobs inquiry draw conclusions different from the advice given to the former Government on this matter?

2. Will the Minister table that aspect of the report which clearly can have no effect on any legal proceedings?

3. Will the Minister be supporting the community and the CFMEU picket if it is maintained?

The Hon. DIANA LAIDLAW: Is the honourable member suggesting that, like the former member for Coles, I should offer to put myself under a bulldozer at Wilpena?

Members interjecting:

The Hon. DIANA LAIDLAW: It would make great television, but I would not be here to see it and it would not impress me or my family. The former member for Coles made that decision in respect of an issue about which she felt very strongly. In the past I have chosen other courses of action to express my personal views about this matter. As a member of the Government, I have now considered the Jacobs report, and yesterday in this place I outlined our course of action.

Mr Jacobs was not asked to compare the costs of various options; he was asked to look at the financial and contractual arrangements for the bridge proposed by the former Government and other options. He is not an economist, financier or an engineer, but he was simply asked to look at other options. He spoke briefly to engineers who indicated their preliminary views on those options. That is all he was asked to do in the terms of reference. In terms of the cost of improved access, I agree with the honourable member that this will be a key matter to be considered when the further feasibility study has been finalised.

EUROPEAN WASPS

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about European wasps.

Leave granted.

The Hon. L.H. DAVIS: Ten years ago the first reports of European wasps in South Australia became a matter of public interest. In February 1984 (exactly 10 years ago), the then Minister of Agriculture, Mr Blevins, said that the Department of Agriculture would not destroy nests as it was under no statutory obligation and numbers were small enough to be controlled by alert householders. But now many Adelaide councils have been forced to budget thousands and thousands of dollars to counter the explosion in European wasp numbers across the metropolitan area. They have moved steadily from the Hills into the inner city suburbs of Adelaide to the point where sightings are not uncommon.

The Unley council offers a free eradication program of wasp nests for ratepayers, and it has treated well over 100 nests in the last year and 56 in the first month of this year. The Eastern Metropolitan Regional Health Authority, which covers six eastern suburb councils, has treated 150 wasp nests in the last four months.

Last week I was sitting at home watching television news when I noticed an insect that looked like a bee flying vigorously around the light. I took little notice of this insect until Prime Minister Paul Keating appeared on a news report. The insect, which I later identified as a European wasp, immediately became very aggressive and agitated and made darting movements towards me.

Members interjecting:

The Hon. L.H. DAVIS: I reached for the can of a product not advertised by John Laws, which fortunately was close at hand, and brought the insect down with one long spray. I thought at the time that if European wasps became agitated if Paul Keating appeared on the television screen, what would happen if he came to a suburb infested with them! I duly bottled this insect and presented it and it was subsequently identified by the Norwood council and Eastern Metropolitan Regional Health Authority as a European wasp.

Given that part of this current problem may well be due to the cavalier attitude of the previous Labor Government, my questions to the Minister are: what is the current position with regard to the European Wasp in Adelaide and South Australia and, secondly, has any progress been made in identifying a biological control for European wasp?

The Hon. K.T. GRIFFIN: I will refer that question to the Minister for Primary Industries and bring back a reply.

ELECTORAL (POLITICAL CONTRIBUTIONS AND ELECTORAL EXPENDITURE) BILL

The Hon. C.J. SUMNER (Leader of the Opposition) obtained leave and introduced a Bill for an Act to make provision for the collection and public inspection of information relating to political contributions and electoral expenditure associated with parliamentary elections; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

This Bill is in exactly the same terms as was introduced by the former Labor Government on Wednesday 20 October 1993. Little will be achieved by repeating the second reading speech given by the Hon. Anne Levy on my behalf at that time. I refer members to *Hansard* for Wednesday 20 October 1993, at page 690, which contains the second reading explanation, including the explanation of clauses which are equally applicable to this Bill.

The Hon. DIANA LAIDLAW secured the adjournment of the debate.

CODE OF CONDUCT

The Hon. C.J. SUMNER (Leader of the Opposition): I move:

That the Legislative Review Committee be required to—

1. examine and report on proposals in Australia and elsewhere for the establishment of a code of conduct for members of Parliament; and
2. recommend to Parliament the adoption of a code appropriate to the South Australian Parliament.

On Tuesday 12 October 1993, I moved an identical motion in this Chamber, the debate on which was adjourned by the Hon. K.T. Griffin, then shadow Attorney-General. I will not repeat the speech given on that occasion, but refer honourable members to page 494 of *Hansard* for Tuesday 12 October 1993.

The only matter I wish to add is that there has been some debate recently about the accountability of public institutions. The former Labor Government had a very comprehensive program to deal with this issue which is worth repeating.

The proposals initiated either administratively or by legislation included the following:

- The Public Corporations Act 1993.
- The Whistleblowers Act 1993. (Still the only such Act to have been enacted by an Australian Parliament).
- The Members of Parliament Register of Interests Amendment Act 1993 which contained enhanced provisions for declaration of interests by members of Parliament.
- The release of guidelines for ethical conduct for public employees and a code of conduct for public employees.
- The release of a Cabinet handbook including rules relating to conflicts of interest, disclosure of gifts and declarations in relation to pecuniary and non-pecuniary benefits.
- The requirement for ministerial advisers to declare interests.
- The Statutes Amendment and Repeal (Public Offences) Act which updated offences relating to public corruption in South Australia.
- The introduction of freedom of information legislation and the enhancement of the parliamentary committee system.

The proposal for this code of conduct for members of Parliament is a further initiative which I commend to honourable members.

The Hon. A.J. REDFORD secured the adjournment of the debate.

CRIMINAL LAW CONSOLIDATION (MISCELLANEOUS) AMENDMENT BILL

The Hon. C.J. SUMNER (Leader of the Opposition) obtained leave and introduced a Bill for an Act to amend the Criminal Law Consolidation Act 1935. Read a first time.

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

That this Bill be now read a second time.

This Bill contains two substantive amendments, both of which were introduced during the last session of Parliament by the former Labor Government. The first deals with creating an offence of stalking. When this was introduced by me on 13 October 1993 it was the first such legislation introduced in an Australian State. Since then, legislation on this topic has been passed by the Queensland Parliament.

The second proposal creates a new offence of having a sexual relationship with a child and provides 'that it is not necessary to specify the dates or in any way to particularise circumstances of the alleged acts'. I do not intend to repeat the second reading explanations but refer members to *Hansard* of 13 October 1993 for the second reading explanations. As the proposals are now contained in one Bill rather than two, the detailed explanation of the clauses has been prepared again and I seek leave to have them inserted in *Hansard* without my reading them.

Clause 1—Short title

This clause is formal.

Clause 2—Commencement

This clause is formal.

Clause 3—Insertion of section 19AA

This clause provides for the insertion of the heading Stalking and proposed section 19AA after section 19 of the principal Act. Proposed section 19AA provides that a person stalks another if, on at least two separate occasions, the person—

- follows the other person; or
- loiters outside the place of residence of the other person or some other place frequented by the other person; or
- enters property of the other person; or
- keeps the other person under surveillance; or
- acts covertly in a way that could reasonably be expected to arouse the other person's apprehension or fear; and

the person intends to cause serious physical or mental harm to the other person or a third person or intends to cause serious apprehension or fear.

The penalty for a person found guilty of the offence of stalking differs according to the circumstances surrounding the commission of the offence. If the offender's conduct contravened an injunction or an order imposed by a court, or the offender was (on any occasion to which the charge relates) in possession of an offensive weapon, the penalty is imprisonment for not more than five years. In any other circumstances, the penalty is imprisonment for not more than three years.

Proposed subsection (3) provides that a person may not be charged with stalking and some other offence arising out of the same set of circumstances, and involving a physical element that is common to the charge of stalking. An exception to this rule is that a person may be charged (in the alternative) with stalking and offensive behaviour contrary to section 7 of the Summary Offences Act 1953.

Proposed subsection (4) provides that a person who has been acquitted or convicted on a charge of stalking may not be charged with another offence arising out of the same set of circumstances and involving a physical element that is common to that charge. Proposed subsection (5) provides for the reverse of the situation provided for in the previous proposed subsection.

Clause 4—Insertion of s.74

Clause 4 amends the principal Act by creating an offence of persistent sexual abuse of a child.

The offence consists of a course of conduct involving the commission of a sexual offence against a child on at least three separate occasions on at least three days. A charge under this section must specify with reasonable particularity when the course of conduct began and when it ended, must state the nature of the alleged

offences and must describe, in reasonable detail, the conduct in the course of which the sexual offences were committed. The charge need not state the dates on which the sexual offences were committed, the order in which the offences were committed, or differentiate the circumstances of each offence.

Persistent sexual abuse of a child is established if it is proved beyond reasonable doubt that the defendant committed at least as many offences as the number specified in the charge over the period specified in the charge. It is not necessary to establish the dates on which the offences were committed, the order in which they were committed or to differentiate the circumstances of commission.

If a defendant is found guilty of persistent sexual abuse of a child, the jury or court must state the nature of the sexual offences found to have been committed against the child and the defendant is liable to the same penalty as would be applicable on a conviction for the most serious of those offences.

A charge of persistent sexual abuse of a child subsumes all sexual offences committed by the same person against the same child during the period of the alleged sexual abuse. Hence, a person cannot be simultaneously charged with persistent sexual abuse of a child and a sexual offence alleged to have been committed against the same child during the period of the alleged persistent sexual abuse.

A person who has been tried and convicted or acquitted on a charge of persistent sexual abuse of a child may not be charged with a sexual offence against the same child alleged to have been committed during the period the defendant was alleged to have committed persistent sexual abuse of the child.

For the purposes of this section a child is a person under the age of sixteen.

The Hon. A.J. REDFORD secured the adjournment of the debate.

MEMBERS' ALLOWANCES

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

1. That the legislative Council notes that allegations of impropriety have been made against a former member of Parliament in relation to the claiming of living away from home allowances:

a. That it believes it appropriate that this member have an opportunity to clear his name, not just in a legal sense;

b. That as rumours are circulating in relation to other members of Parliament, present and past, they are given the opportunity to be cleared of those accusations.

The Legislative Council believes the matter is within the mandate of the Auditor-General and considers it an appropriate matter for him to examine.

The Council believes it is a matter of public interest that the Auditor-General be notified of its concerns.

2. The Legislative Council requests that the Remuneration Tribunal examine the living away from home allowance and investigate whether its rules require further clarification.

I think the reasons for this motion are fairly obvious. During the time of the last election campaign allegations were made in relation to my former colleague, the Hon. Ian Gilfillan, and his use of living away from home allowance. The allegations first emerged after the election had been called and emerged as I recall, I think in the *Australian*, in an article written by Peter Ward and on one or two television stations. The story was, to some extent, a one day wonder and went away and many would have argued that was all it deserved. However, it re-emerged about a week before the election in the *Advertiser* and then became a daily feature of the *Advertiser*, the only major change in the story really being its location and it just tended to move further forward.

The Hon. R.I. Lucas: Channel 7?

The Hon. M.J. ELLIOTT: Channel 7 would not surprise either, I suppose. It moved forward such that it struck page one on the Thursday immediately prior to the election announcing that there was now a police investigation. That article was in fact erroneous. There was no police investigation into the Hon. Ian Gilfillan at the time; a complaint had been lodged but there was no formal investigation. The Hon. Mr. Gilfillan realising that these allegations had the capacity to cause harm during the election campaign, called a press conference to make it quite plain that at that stage there was no investigation. Within a couple of hours of that the Police Commissioner took what I consider to be a fairly unusual step at that stage of issuing his own press release to announce there was now an investigation.

The next day the *Advertiser* ran a front page headline saying 'Investigation broadens'. The most you could say is that their previous day's story was now correct, but they then announced that the investigation had broadened. There is no doubt that the running of the stories and the flavour and implications from those stories did significant personal political damage to the Hon. Mr Gilfillan. There is no doubt in my mind that it did short term damage to our Party, such that there would have been one more woman in this House. Judy Smith would have been a member. We required only about 1½ per cent more and she would have been a member of the Legislative Council.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: That would have been another consequence. So, two people have had political careers significantly affected by those allegations. First, a person who had already been in Parliament for some 12 years, and another who I believe without any doubt was about to enter Parliament. As far as the Hon. Mr Gilfillan is concerned, he now faces wearing that allegation for the rest of his life, because despite what the President has announced today the most that Mr Gilfillan can hope for is that the police decide to proceed no further, which is in fact fully what I expect will happen at the end of the day, that they will find that there has been no illegality. But, the Hon. Mr Gilfillan will continue to have the allegation held against him by some people, and I believe that the non-proven or non-proceeded with aspect of it still leaves him tainted unless he is given an opportunity to clear his name.

I have not seen the paperwork associated with the matter but I believe that Ian is innocent, and I believe that he has to be given a chance to make that clear beyond any reasonable doubt and to have the opportunity for his name to be fully cleared. I could explore further matters surrounding the incident and the claims that were published in the media, etc, but I think most members are aware of the allegations and I do not think that anything further will be gained at this stage by my going through the issue in great detail.

It is also worth noting that other members have been affected indirectly by those allegations. Certainly I have had discussions with a number of members of Parliament and with members of the media who have offered opinions about what the situation may be with other members of Parliament. The fact is that those rumours are going around, and some are going around quite strongly. Clearly, these people are also having reputations affected, rightly or wrongly, and in this case having no opportunity whatsoever to clear their name because the allegations are not being made to their faces. Again, I do not think it is terribly constructive if I mention names in this place because I would be doing to those people, and in a more explicit way, exactly what has already been suffered by the Hon. Mr Gilfillan. Again, it is probably not constructive at this stage to go further into detail other than to say that most members in this place would be as aware of those rumours as I am.

It then becomes a question as to what is the appropriate forum for these matters to be investigated and what is the appropriate forum for people who at present have had their

reputations sullied to have them cleared. One option put to me was that it could be one of the standing committees of Parliament but, from a public point of view, to see members of Parliament sitting in judgment of other members of Parliament would not be satisfactory, and I think even some members of Parliament would not feel happy with that. If anyone can do it, it needs to be someone who is seen to be totally independent.

The person who came to my mind was the Auditor-General, but it needs to be noted that the Auditor-General is totally independent of Parliament and we are not in a position to instruct the Auditor-General to carry out such an inquiry. However, it is reasonable that we pass a motion in this place which expresses our concern about a matter—in this case about the claiming of living away from home allowances—and that we bring our concern to the attention of the Auditor-General. In those circumstances the Auditor-General could decide to proceed with an inquiry. As I said, I believe it is quite appropriate that it be brought to his attention and I hope that he would consider examining the matter further. Some media reports have suggested that the motion was to instruct the Auditor-General or to set up an Auditor-General's inquiry. The fact is that we cannot do that and that has simply not been understood by some members of the media; but that is neither here nor there.

The second part of the motion requests that the Remuneration Tribunal examine the living away from home allowance and investigate whether its rules require further clarification. Before I proceed with that I want to make it quite clear on the record that I do believe it is appropriate that there is a living away from home allowance. I was in receipt of it for a couple of months after my election. I lived in Renmark at the time of my election. I had commenced operation of a fruit block probably two years before my election. When I was first elected I was hoping that I could continue to run the fruit block and to travel back to Renmark regularly and maintain it.

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: I never got to pick any. Pistachios take 10 years before you get to pick; I was still eight years off those. However, my first peaches were starting to come on line, and a magnificent peach they were indeed—ripe in the first week in November and you will not get anything earlier than that. Country members of Parliament do face some significant difficulties, even more so if, as I did, they have a very young family. With Statewide responsibilities (as we have in the Upper House), based in Renmark and with the Government supplying an office in Adelaide, it is pretty close to impossible. Combining that with a young family, I believed it was impossible and after a few months my place went on the market and I shifted permanently to Adelaide and no longer claimed the allowance.

Two other members who were elected at the same time as I was were also on living away from home allowances. In fact, there were more than that. But I understand that the two members who came in at the same time as I did have both ceased to claim it as well. I think they also faced similar difficulties. I know that the Hon. Terry Roberts made a decision to move to Adelaide permanently. He probably had fairly similar considerations to mine. I am not sure but perhaps the Hon. Mr Irwin has made the same decision as well. So, it does indicate that there is huge pressure on country members in terms of trying to—

The Hon. Caroline Schaefer interjecting:

The Hon. M.J. ELLIOTT: I am not trying to depress the honourable member, but you do face difficulties. I have had private discussions with other members and part of the problem is that having your office in Adelaide and your home elsewhere makes things incredibly difficult. There are several other members in this place still trying to juggle that difficulty. The Hon. Mr Gilfillan had a double problem: not only was he a country member in the Upper House, which represents the whole State, but being the Leader of a Party one has more and more obligations in Adelaide. Lower House members with ministries or whatever face similar problems. I guess the Hon. Mr Olsen, as a Party Leader, would have found it enormously difficult travelling back to his electorate as would Mr Blevins.

There are enormous difficulties and the living away from home allowance is supposed to help in some ways. What it does at the very least is make you recognise that you are living away from home for a considerable period of time. The allowance in the first instance assumes that you will stay in a hotel room a couple of nights a week while business has you in town. The reality is that nobody will want to live out of a suitcase in a hotel room week after week, month after month and year after year.

There needs to be something better than that. I think almost all country members—I do not know of any exceptions—end up making a decision to rent or even to purchase a home in Adelaide, and they use the living away from home allowance to defray those costs. In general terms, I do not see a real difficulty with that, although I might note the one concern I do have is that the living away from home allowance, when used in relation to a house being bought, actually leads to a person building up a capital asset out of what is supposed to be an allowance just to offset costs. I believe that is probably the one inequity in the system. It is an inequity which exists in the Federal parliamentary system as well. Queensland gets around it by actually supplying live-in two bedroom units in the Parliament buildings, which are available for country members. At the end of the day, the asset continues to be owned by the Parliament and will be used in perpetuity by country members who choose to do so. So for the duration those units are at the disposal of those members. There may be other ways of getting around it.

The important point is that I believe the living away from home allowance is a perfectly justified allowance. I have some doubts about it being used to produce capital assets for members. That is the one reservation I have about it. The concern that the Remuneration Tribunal needs to address is: is there a need for more rules? How does a person establish that they are living away from home or not?

The Hon. R.R. Roberts: Ask my wife!

Members interjecting:

The Hon. M.J. ELLIOTT: As I noted, there really are no adequately clear rules about the allowance. The Remuneration Tribunal may need to look at this allowance, decide whether it needs to define the eligibility criteria a little more precisely, to again look at the size of it, and look at the way it is used, and those are matters that the tribunal can carry out.

So, there are two questions. The first, which I hope the Auditor-General will address, relates to the use of living away from home allowances up until now, and the opportunity for members whose reputations have been besmirched to clear them. The second matter is for the future, as to who should be entitled to it, what the rules are surrounding it, and that is a matter properly for the Remuneration Tribunal. I would urge all members in this place to support the motion.

The Hon. A.J. REDFORD secured the adjournment of the debate.

CRIMINAL LAW CONSOLIDATION (STALKING) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Criminal Law Consolidation Act 1935. Read a first time.

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

That this Bill be now read a second time.

It seems that the continual harassment of one person by another is becoming an unpleasant feature of Australian community life in the 1990s. This sort of behaviour is known widely by its American name—stalking—and it seems we hear of it far too frequently. Sometimes, in notorious cases, it is accompanied by serious or lethal violence. It is usually very disturbing, to say the least, to those who suffer from it.

The legal problem that arises is that the criminal law has not caught up with this behaviour and so offers little protection to victims who are being harassed by outwardly innocent behaviour—behaviour that is not innocent because it is part of a course of conduct which, taken as a whole, is threatening. It is not illegal to follow someone, to watch them, to send them letters or unwanted gifts. And it might be very difficult to get a restraining order in such cases, particularly if overt violence has yet to surface.

It is also clear that, while many of the more infamous examples have arisen out of broken domestic relationships, many do not. In the United States, there are many examples of celebrities being stalked by crazed or obsessive fans. A badly escalated neighbourhood dispute can engender such harassment—and it can also happen in the workplace, or simply at random. Thus, while this legislation forms a part of this Government's commitment to protect the victims of domestic violence, it cannot and should not be limited to cases of domestic violence.

This Bill is designed to target the worst instances of stalking behaviour. It creates a stalking offence punishable by three years imprisonment and an aggravated stalking offence punishable by a maximum of five years imprisonment. That means that both offences are indictable, indicating the seriousness with which the law should view serious threatening behaviour.

It has been held by the Supreme Court in *Stone v Ford* (1993) 59SASR 444 that following a person around in a manner that alarms them is 'offensive behaviour' within the meaning of the *Summary Offences Act*. Therefore, the Bill makes the summary offence of offensive behaviour an included offence where appropriate, thus giving a jury the option of summary conviction for offences of lesser seriousness.

The Bill now introduced differs from that introduced by the former Government in two main respects. Both have resulted from consultation on the form of the original Bill. The first is an expansion of the description of the behaviour that may trigger the offence. Stalkers vary greatly in the ways in which they may seek to intimidate or harass. The previous Bill listed following a person, loitering outside a place frequented by a person, entering property, keeping a person under surveillance and acting covertly in a way that could reasonably be expected to arouse a person's apprehension and fear. That list has been widened to include interfering with property of another person, giving or leaving offensive material to or for another person, and the word 'covertly' has been omitted from the general description of behaviour arousing fear and apprehension.

Second, the procedural aspects of the original Bill have been changed so that the offence of stalking may be charged in the same indictment as other offences committed by stalking behaviour—such as threats or assault—but the accused cannot be convicted of more than one offence arising from the same set of facts.

Some who have commented on the original Bill have expressed concern about the requirement of intention. The reasoning behind it is as follows. If one takes the view that harassment and intimidation can take a variety of forms, one begins with the idea that the offence should cover as great a variety of behaviours as possible. Indeed, one may describe the gap in the criminal law that the offence is designed to fill as consisting of a course of behaviour which is, in isolation, quite normal and innocent behaviour—such as writing a letter, walking down a street, driving a car and so on.

If that is so, then the offence requires limitation. Otherwise, the net would catch behaviour beyond its justifiable range—investigative journalists, residents picketing a demolition, private detectives investigating WorkCover fraud, and the like.

I believe that the answer lies in the thing that makes this innocent behaviour 'criminal'. That is the effect that it is designed to have. It is true that some might see the essence of the criminality in the effect that it actually has, but if that was the legislative criterion, that would be to discriminate against the strong-minded and capable victim. Hence, the requirement of intention reflects both the essential criminality of the behaviour and limits the offence to its target offenders.

I have no doubt that judges and juries will be quite ready to infer the intention in an appropriate case. In addition, I am encouraging police to consider the experience of the Threat Management Unit in Los Angeles. This unit is tasked to use stalking legislation in a crime prevention way. Upon complaint, the police seek out the person concerned, point out that the legislation exists and will apply on repetition, and inform the person about the effect of his or her behaviour. In that way, if the behaviour recurs, the inference that the intention exists will be much easier to draw. Therefore, I believe that this legislation can be used as a crime prevention tool as well as a punishment after the event.

The procedural provisions in the legislation preventing multiple convictions require a brief explanation. As I have said, the object of the Bill is to create precisely drawn offences targeting a gap in the law. The physical elements of the charge of stalking have been deliberately drafted to be as wide as possible to catch the ingenuity of the obsessed in harassment, and therefore the overlap with other offences is likely to be correspondingly wide.

If a person makes a threat, commits an assault, or does something that is against the existing criminal law, the appropriate offence can and should be employed. The problem that the Bill is designed to address is that, where that is not so, and the person concerned intimidates by mere presence on a constant basis, for example, no adequate offence exists for the protection of the public. This offence is not intended to be an additional offence to load up an indictment also charging assault, threats and so on.

This Bill fills a gap in the law, and it is a gap that has clearly caused distress in the community. This Government is committed to help the victims of domestic and other violence. The Bill should be seen as part of an ongoing commitment by this Government to do whatever is in the

power of Government to address the concerns of those who are being subjected to intimidation, harassment and violence. I commend the Bill to the House. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause is formal.

Clause 3: Insertion of section 19AA

This clause provides for the insertion of the heading *Stalking* and proposed section 19AA after section 19 of the principal Act. Proposed section 19AA provides that a person stalks another if, on at least two separate occasions, the person—

- follows the other person; or
- loiters outside the place of residence of the other person or some other place frequented by the other person; or
- enters or interferes with property in the possession of the other person; or
- keeps the other person under surveillance; or
- gives offensive material to the other person, or leaves offensive material where it will be found by, given to or brought to the attention of the other person; or
- acts in any other way that could reasonably be expected to arouse the other person's apprehension or fear; and

the person intends to cause serious physical or mental harm to the other person or a third person or intends to cause serious apprehension or fear.

The penalty for a person found guilty of the offence of stalking differs according to the circumstances surrounding the commission of the offence. If the offender's conduct contravened an injunction or an order imposed by a court, or the offender was (on any occasion to which the charge relates) in possession of an offensive weapon, the penalty is imprisonment for not more than five years. In any other circumstances, the penalty is imprisonment for not more than three years.

Proposed subsection (3) provides that a person who is charged with stalking is (subject to any exclusion in the instrument of charge) to be taken to have been charged in the alternative with offensive behaviour so that if the court is not satisfied that the charge of stalking has been established but is satisfied that the charge of offensive behaviour has been established, the court may convict the person of offensive behaviour contrary to section 7 of the *Summary Offences Act 1953*.

Proposed subsection (4) provides that a person who has been acquitted or convicted on a charge of stalking may not be convicted of another offence arising out of the same set of circumstances and involving a physical element that is common to that charge. Proposed subsection (5) provides for the reverse of the situation provided for in the previous proposed subsection.

The Hon. C.J. SUMNER secured the adjournment of the debate.

ADDRESS IN REPLY

Adjourned debate on motion for adoption.

(Continued from 15 February. Page 47.)

The Hon. T.G. ROBERTS: I support the Governor's speech, and I would also like to add my congratulations to Her Excellency, who is doing an excellent job. She fills in a lot of time in her official functions and is winning over the hearts and minds of the South Australian people. She is doing as good a job as any Governor we have had, at least in my memory, and we have had some good Governors.

In the speech with which Her Excellency opened the Parliament, she highlighted the change in Government and the fact that the Labor Party is now in Opposition. She highlighted the change in the role that I as an individual play within the process. It is now my job in Opposition to analyse the program put forward by the Government, rather than analysing the Government's program as a member of the Government team.

The overall outline of the Governor's speech in relation to the priorities being set I cannot argue with in terms of rebuilding jobs, reducing Government debt and returning standards of excellence to key community services, although I am not sure whether 'returning' is the appropriate word, because the standards in South Australia for many of our Government services have been the envy of the rest of the nation.

To some extent the Government had to cut its cloth to suit the climate which saw a reduction of all living standards throughout the nation and the world because of the deepening of the world recession, particularly during the latter part of the second half of the Government's term. The restoring of community confidence in the institutions of Government and increasing individual freedoms are part of the Government's agenda, and I will wait with interest to see whether those confidences can be restored. It is not just a matter of the Government's playing a role in the restoration of confidence by South Australians in the Government, the judiciary and the courts. It is a matter of all of us working hard to recapture the respect that communities had for Parliaments, parliamentarians, courts and all the administrative arms of Government and restore it to where it was perhaps some years ago.

I am not sure whether through all periods of history respect is automatically given to official functions of Governments or courts. As was referred to in another speech, a certain amount of healthy cynicism exists within the electorate. It may have turned to pessimism concerning the previous Government's position, but much of that was also due to the economic circumstances in which people found themselves as well as the changing nature of the economy and the participation rate of people in the work force.

A large number of issues impact on the broad based respect that communities have for their leaders and their institutions. To a large extent many people's confidence was undermined because a large number of people were not able to participate in the official economic mainstream. If we include the 12 per cent unemployed and their families, we can see that many people were not able to participate in the mainstream economy in a way which most of us here would have liked to see.

The emergence of a mainstream and sidestream economy has developed over a number of years not only in Australia but internationally, and its emergence presents members of Parliament with many challenges in coming to terms with that. I will return to that theme shortly.

In thanking Her Excellency for the presentation of her speech, I would also take this opportunity to pass on my commiserations to the families of the Hon. Jessie Cooper and the Hon. John Burdett. I worked with and knew John Burdett in this Parliament over a period of eight years, but I knew John before I came into Parliament. I met him between 1979 and 1982 as the then Minister of Community Services, and in my mind he did an excellent job. I have a lot of respect for the memory of John because in the time when I was a member of a union and an active organiser for the Metal Workers Union I was able to talk to John on a number of issues, particularly about problems associated with disabled workers entering the workforce and the discrimination that was occurring in those days, a period when market forces could have applied in terms of full employment for disabled workers.

John had a sympathetic position towards trying to change those circumstances. He also got out into the community probably much more than some of the previous Ministers associated with that portfolio, and he showed a genuine interest in those people who were not able to participate fully in society and who would be regarded as being sidestreamed or not a part of mainstream society. He had a commitment to try to put in a safety net that took care of those people in society who could not take care of themselves.

I also worked with him on the select committee on child abuse and child protection, and his inputs were valuable and, although his politics were quite conservative, as many members on the opposite side would acknowledge, in relation to social issues that applied to the family, particularly the protection of children, John's contribution in recognising the changing nature of the family structure and the family unit itself and did not allow the prejudices of some sections of the community which are weighed particularly against the single parent family to influence his decisions when recommending outcomes.

It is quite difficult sometimes for members of Parliament to move ahead of the prejudices that some people have in the community to make recommendations that in leadership positions you need to make to remove prejudice from those who do find themselves in circumstances which might not necessarily be their choosing if economic circumstances were different. So, I must say that John allowed his position to be open and fair, and he applied himself diligently to the outcomes for the whole community.

I also offer to the new President my congratulations on his election. He has served diligently the two full sitting days we have had, although I notice that he is not able to concentrate on two things at once. He certainly applied himself diligently as a member of the Opposition; he carried out his work on the Environment, Resources and Development Committee when I worked with him; and I am sure he will be able to discharge his functions and duties as the President in a fair, open and honest manner. I think at the moment the score board is 1:1 (and I am counting), so it is an even-handed approach: we have won one and lost one. That is not a reflection on the Chair, but an observation that I think Peter will apply himself in a fair and honest way. I think that is why his colleagues recognised that and elected him to the position.

I would also like to say that, as there were a number of members in the past Parliament with whom I worked and who could ably have done the job as well as the President, I must congratulate him on riding above the rest in assuming the position.

The contributions made by the new members were quite heartening. Both honourable members' maiden speeches reflected the new political climate that exists, where the political difference between the two major Parties is now not as clear as it was to the electorate, say, a decade ago. I think there is a merging of the Liberal Party's philosophical position with sections of the Labor Party's philosophical position, and the only differences that the electorate can pick up is style and performance in some cases. To a large degree the differences are either magnified or papered over by media presentation of either the Labor Party's policies when presenting them through Government or through Opposition; and similarly with the Liberal Party's policies when they are presenting them either through Government or Opposition. The differences to a large extent and in a lot of areas are purely perception.

The criticism that has been levelled at the Labor Party over the past half decade at least is that the traditional support base for that Party is weakening on the basis that people cannot tell any difference between a large section of the Labor Party's membership, candidates and policies from a large section of the Liberal Party's membership, candidates and policies. If we look at the broad base from which the Liberal Party drew its last round of candidates, we see that a wide cross-section of the community was represented by a wide cross-section of candidates.

I think a decade ago we would not have seen the backgrounds of many of the candidates who lined up to present themselves for the Liberal Party in the 1993 election. Again, this is indicative not only of the opening up and the changing nature of the Liberal Party in the 1990s but also that the policies, the presentation of the policies and of the individuals' positions within the community has commanded that respect. It is as much a positive gain for the Liberal Party in that election in cementing that position out in the community as it was a negative loss for the Labor Party and its inability to capture the imagination of the people for another term.

Whether the Liberal Party can hold it all together is yet to be determined, but I suspect that if the flexibility that is required to hold all the varying views together in a Coalition is not being provided for within the forums of the Party then the bubbles of dissent will appear and there will be a strong move towards factional positions similar to those for which the Liberal Party has always criticised the Labor Party in this Chamber, although perhaps they will not be as formalised as those of the Labor Party.

However, I can guarantee the organisers within the Liberal Party that those factions will emerge if the variance of views is not accommodated and, if a wide cross-section of policy development is not supported, I can see there could be problems down the track.

I think there are a number of people representing quite a few of what I regard as traditional Labor electorates, so they have a responsibility to pick up a lot of our policies to present them in Parliament; otherwise, they will be there for only one term. They will return back to the Labor Party, and I hope that the members in those electorates recognise that. So, I will be interested to hear the debates and contributions from the other side. I think they will range from conservative Tory down to progressive Liberal views. It will be interesting to see who wins the debates inside the Party rooms and how the numbers fall on a range of major issues.

The Hon. J.C. Irwin: Very moderate.

The Hon. T.G. ROBERTS: 'Very moderate', says the Hon. Jamie Irwin. I found him to be a very moderate person in this Chamber. I think that there will be a move by some members to try to capture some of the ground that Jeff Kennett explored in Victoria. Certainly the imagination of Charles Court will hold some in awe. I cast my casual eye across many of the successful candidates and it indicates that there are a lot of progressive liberals there. I hope that the policies of Jeff Kennett and Charles Court are not pursued in this State and that the moderates like the Hon. Jamie Irwin and others in this place will adopt such a position that the confrontation that may be expected from a Kennett or Court-style Government does not raise its spectre in South Australia.

Traditionally, South Australia does not support governments of either radical form of the Left or the Right. My own Party does not support radicals from the Left although it does

from the Right. I think that is a changing phenomenon as well. I think that South Australia, in relation to its immediate future in the next four years, which is the time that the Government will serve, faces a very difficult time in an uncertain climate. It may emerge that all the indicators that we are seeing now will flatten out and become positives, but there is much speculative material around to say that many of the positives which are starting to appear may end up being negatives.

I refer specifically to GATT. Many people are selling GATT as a saviour for the Australian rural industries and to some extent some of the secondary industries. That is yet to be seen. Some people are serving notice that GATT may not have the benefits that many people are advocating and that it might lead to a large degree of centralisation and control of the economy through the finance and manufacturing sectors and to a degree undermine the ability of governments and to challenge their own sovereignty. Some of the GATT arrangements, through many of the trade blocs, could directly affect our ability as a State and nation to further determine our direction and place in the world.

The other immediate threat is the looming trade war between Japan and the United States. The United States is waving the big stick at Japan. Over the past 20 years or so Japan has put together an economy second to none in the history of the world. It rearranged its war-torn economy into an economy based on consumerism. It directed all of its resources into international trade and brought the benefits back into its own economy. The Japanese diligently applied the application of technology to consumer products. Compared with what the Americans did after the Second World War, we can easily understand why Japan rose to its ascendant position.

The Americans tended to apply most of their technological advances to the arms industry and their foreign policy basically dominated their domestic policy. We now see the United States wanting to become the international policemen to fix the problems caused by imbalances of trade and the inability of third-world countries to get their products either up and running or into world markets. Most of the technological advances that the United States has made through its space program, silicon valley and all of its wonderful inventiveness and entrepreneurial movements were put into the arms industry and billions of dollars were wasted because nobody gets any benefits. World international living standards do not rise and the consumer economy does not benefit to any degree. While it operated, the arms industry was selective about what and where it built. We have all seen the trauma of the United States trying to dismantle its cold war economy, dislocating the lives of millions of people.

Japan has increased its international trade stakes. While it was blocked out of trade in the United States by imports, it was able to plant its own manufacturing bases in the heart of the United States industrial belt and into the south. Quotas and other restrictive mechanisms for slowing down trade were not able to be used. As Japanese manufacturers and owners already had footholds and bases from which to operate, the mechanisms usually used by nations against each other to prevent their goods and services from reaching their domestic market were unable to be implemented. We now have the farce of the United States threatening Japan with all sorts of mechanisms to prevent its goods and services from reaching the American domestic economy because Japan will not open its doors to US trade.

Although I have congratulated the Japanese on their innovative application of technology, I cannot say the same for them opening up their economy to the United States or any other world traders. Australia suffers from the fact that it cannot get its primary produce into the Japanese market. We have to respect the wishes of the Japanese Government in being able to protect some of its primary producers, but international traders have to be consistent about how they argue their case in the international arena. They cannot have rules for one and no rules for themselves. Australia has restructured its economy in a difficult time using international rules which have frustrated many of its own people. To that extent, that is one area where Federal policies have impacted on the ability of States to restructure their economies.

We are told internationally that we have to free up our economies while the big players have kept their doors closed and are very selective about how they accept and receive our products. The good news is that the new trading bloc within Asia, excluding Japan which still has those restrictive trade practices, has opened up to a point where our reliance on our old traditional major trading partners of Europe, America and Japan has not become so important. Although they still remain important, they are not critical. The increasing growth in the tigers, as they are called, in the new economies emerging in Asia, allowed for a lot of growth from Australia and we were able to maintain some of our domestic profits for our primary and secondary industries.

We now face an uncertain future. While America and Japan are locked into disputation, we can only sit back as an observer and watch and hope that our domestic economies are not interfered with too much.

According to the *Australian* today the positions of Australian businesses on the sanctions were many and varied. This may sound like a statement that goes over the top, but it is the worst case scenario being presented by Alan Wood, the economics editor, under the heading 'Washington's stupidity threatens prospects for world growth', as follows:

> The aggressive exercise of stupidity in international affairs leads ultimately to world depressions and wars. It would be silly to suggest that the present trade conflict between the United States and Japan, serious though it is, has yet taken on these dimensions. But the U.S. is certainly behaving very stupidly. Already the confrontation has the potential to do a great deal of damage, with yesterdays double whammy of U.S. import restrictions on Japanese goods combined with the sharp rise in the Yen/U.S. dollar exchange rate. If the U.S. extends its import restrictions and the yen remains high, this is likely to neuter President Hosokawa's attempts at fiscal stimulus and prolong recession in Japan through a vicious squeeze on Japan's export industries.

It goes on to make a few other observations but it is quite clear that Australia's economy, and subsequently South Australia's economy, will depend a lot on how the big boys slug it out in the international field and how we adjust if there is any fallout from the changes or variations in the trading patterns between Japan and America. It is quite clear that America wants to challenge some of our traditional markets and there may be some impact. There could also be some opportunities. It is an open question at the moment as to whether there will be positive benefits or some downsides to the current struggle.

Whichever way the struggle goes, South Australia's economy has to fit into the national economy. I hope that the Government does not look at labour market reform as the only way in which the reform process within the economy can be effected so as to differentiate between South Australia's economy and the economies of the Eastern States.

If that is the case, then we will have a mass exodus. The indications in this nation are that there will be some economic hot spots in the economy over the next four years. Sydney is already looming—with the Olympic games plus its own booming economy—as being a leader in the growth stakes. From my last visit to Queensland and the observations I made there, I do not think it had a recession. I may be a little blase about that, but certainly the number of cranes on the skyline in Brisbane and along the Gold Coast certainly did not show those areas to be very active. I think there was some orderly growth in most levels of activities up there and that growth will continue. I also think that the areas north right through to Cairns will continue to be hot spots in the national economy.

I think South Australia has a specific problem in that, although I expect an increase in returns to primary producers and hopefully some growth in our markets internationally, our manufacturing sector is very reliant on the motor industry. There has been some good news in that area but, unless we broaden our economic base, we could find ourselves in a difficult situation in training and providing education services for the Eastern States drift. I do not know whether the Government is open to advice. If I were in Government and had any influence through a wide range of Ministries, I would be pulling in people from a cross-section of the community—the manufacturing sector, the primary production sector and the trade unions—and working out a suitable solution that fits the economic times that we face. I did a little softening up earlier about the Government's position in relation to its cross-section of membership, and being broadminded enough to overcome a lot of its prejudices. If it represents a broad range of interests within the community, it should pull those decision-makers together and put forward a consensus to the South Australian community that indicates that people are prepared to work together and not to work against each other. They should put together an economic package that offers South Australia to the rest of the nation, and internationally, as a place to set up business, with a standard of living that is equal to the rest of the nation. We should not be discriminated against in wage conditions, Workcover, and all those standards that have been uniform throughout Australia over a long period of time. South Australian wage and salary earners should not be in some sort of third world league where the microeconomic reforms are only aimed at labour reforms. I think most of the experts at the moment are indicating that productivity can be raised by all sorts of methods other than costs of labour inputs.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: I have heard arguments before that the Feds are afraid of moving into labour market reform because there is too much of an allegiance between labour and the Government. I think if you have a look at the current dispute on the waterfront you will find that much of the change that has taken place has been achieved by negotiation, with productivity gains through the area, although there was some hammering of heads in the early stages and a lot of confrontation. I think most people now realise the need to maintain an economic climate where inflation is kept at manageable levels and wage gains are kept in uniformity with the nation's proposals for that mix. There has been a maturity over a long number of years to achieve that. You cannot expect wage and salary earners to be the only sacrificial lambs in making those sacrifices to the national economic gain.

In the 1980s a lot of the mistakes were made by the financial sector, the sector not directly associated with wage and salary earners. It was the speculators who actually set Australia back. We have good economic indicators at the moment. As Ralph Willis is saying, they are the best economic indicators for 30 years. Australia now has the opportunity to spring forward and have a uniform lift in standards of living. The wages and the profit share are at an equilibrium or a reasonable level. I would say that the problem with profits at the moment is that they are not going into the areas in which our manufacturing sector would like to get our balance of trade programs in proper perspective. To take Workcover as an example, I sat on the Workcover select committee and I heard the arguments being put forward by the three parties around the table.

I have not seen a draft of the legislation yet, but I suspect there are experts sitting around trying to work out how to minimise claims in relation to work related injuries, and to make it as difficult as possible for injured workers to receive what I would regard as adequate compensation and protection. In relation to the removal of common law.

The Hon. A.J. Redford: The last Government set the trend on that one, didn't they?

The Hon. T.G. ROBERTS: I have to agree with that. I was one of the people who argued against the removal of common law as a trade for other benefits in relation to returns to injured workers. I must congratulate the previous Government on moving the workers compensation emphasis from injury compensation to rehabilitation, but I was always a bit cynical about the commitment you would get from employers, particularly smaller employers, who in many cases did not have the wherewithal to cope with rehabilitation; in getting a broad cross-section of the application of the principles, where, for instance, an injured worker in GMH would receive the same treatment, the same rehabilitation and the same compensation as an injured worker on a pastoral lease at Marla.

All things are just not equal. All the services provided for under the Act tend to be in the metropolitan area. Many of the rehabilitation programs are in the metropolitan area; much of the information supply and the organisational strength is in the metropolitan area. For an isolated worker, a pastoral worker, or perhaps an AWU member at Marla, to receive the same service provisions as, say, a metal worker at GMH was going to be very difficult to achieve. Consequently, for most of us who have contacts in the country areas, the application of the principles of the Act certainly is not equal.

That is a minor criticism of the application of the Act and the fact that we have a large State based around one city mostly. But that is no reason to throw the whole of the Act out. In fact, on that principle I would be arguing to strengthen it and for a more uniform application of the principles across the State. But it is no reason to throw out the whole of the Act. Without having seen the Act—I have only seen the releases in the *Advertiser*, on an almost weekly basis—I suspect that the Act will be watered down to a point where we have a New South Wales type Act, but I can only speculate on that.

One of the issues that has been promoted in the media as being removed is journey accidents. I do not think journey accidents exist in the New South Wales Act, but it is one of those areas that has been in the South Australian Act since 1972. It has been in the Act for a long time and it is a right that has applied to South Australian workers going to and from their workplace. It appears that that is going to be

removed. Also, I would say that there will be many other benefits or rights under the Act that will be challenged. There will be a weakening or an attack on many of the other wages and conditions. I would hope not, and I make that appeal again, as there are many people who voted for the Liberal Party who are not expecting an attack on their living standards. In fact, they were almost buoyed by the expectations of their living standards being raised by an incoming Liberal Party, through some of the promises made in the lead up to the election.

The Hon. A.J. Redford: We never said anything about lump sums.

The Hon. T.G. ROBERTS: Lump sums were a part of the old Act and have started to move their way through into the new Act.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: I think in some cases lump sums are applicable to the circumstance. There are other cases where lump sums should not be encouraged. I would not take the traditional argument that the honourable member might expect me to take but there are some cases where injured workers are at a stage in their life where both the employer and the employee would benefit from a lump sum. There are other cases when lump sums would militate against rehabilitation and should not be used as an incentive to put a person out of the work force early in deference to any sort of rehabilitation program.

I would certainly not be encouraging any Act that uses the 'bag of gold', as it used to be called in the union movement, to try to encourage workers not to pursue their rights, particularly rehabilitation. I would not be encouraging workers to chase lump sums in circumstances where rehabilitation could be applied to their benefit, not only for their health but to maintain them as viable workers and active, fit, healthy members of the community, to allow them to enjoy their quality of life, whether it is playing golf, playing football for Kalangadoo, or whatever other leisurely pursuits they have. But if there are instances were employers—or in some case lawyers, heaven forbid—encourage people to chase bags of gold, I would hope that that is not a practice that works against the injured worker, because it is the injured worker who should be the key and the paramount concern for any rehabilitation Act.

The fact that lump sums have crept into servicing the Act comes more from the economic circumstances in which people in the work force find themselves. Certainly, if employers are not keen to rehabilitate people and to work them into the work force as active members then those employees feel isolated from the process and subsequently feel insecure. It has always been my argument that not only should the employer keep in contact with the injured worker but health service workers should provide counselling as they go along, to ensure that the employee feels wanted.

If all the stages or steps are maintained, the necessity for lump sum payments becomes minimal. With adequate treatment by the medical profession, early intervention by the employer to make sure the employee is capable of some form of work—whether it is their original job or a job associated with their employment in some form—and with members of the work force being looked after by the medical profession, their WorkCover counsellors, or by their treating physician, psychiatrist, or whoever is associated with the treatment, in conjunction with their employer, then we will find that the necessity for lump sums should diminish.

The Hon. A.J. Redford: Sometimes workers know better than WorkCover staff members what is good for them.

The Hon. T.G. ROBERTS: It is very difficult to tell each worker in each circumstance what is good for them. It depends where the advice is coming from. In some cases they will listen to their union officials, they will listen to relatives or they will listen to employers, and in other cases they will listen to lawyers—they will go to the unnecessary step of engaging lawyers. I was being a little bit flippant there. In some cases where lawyers have been engaged by injured workers and where lawyers are able to provide service and assistance I have no objection to that.

The Act was changed basically to make sure that the provision of payment to injured workers went to injured workers and that it was not soaked up by the medical or law professions, which was the case with the old Act. It was becoming a huge burden on employers. Labour costs were starting to skyrocket and the Act was not servicing the needs and requirements of injured workers.

So, after having been drawn into the discussion on WorkCover and its benefits and effects, the point I was making is that I hope the Government does not get into the position of microeconomic reform aimed at discriminating against workers in this nation as opposed to working together in a cooperative way to put forward a program that tries to overcome some of the disadvantages that this State has geographically. We certainly do not have many of the benefits that Queensland has. We have no tropical islands or paradises to promote for tourism. We certainly do not have the benefits of the large populations that New South Wales and Victoria have, plus the benefits that those States have in many of their natural environs. So South Australia has to work harder than most other States to maintain its standard of living for its residents.

As I said, the opportunities lost in the 1980s were basically entrepreneurial led. The fact that people in the finance and manufacturing sectors who provided employment and jobs in the mining and rural industries were left out of the speculative chase for the accumulation of wealth without anything to show for it showed that there were divisions within the community that legislation certainly did not have the ability to change, and the culture of rewarding speculative capital over working capital I think set South Australia back probably more than any other State. We just could not afford the speculative losses that we accumulated in the 1980s and the damage that was done to Beneficial Finance Corporation and the State Bank and our small economy certainly showed that, and the people of South Australia certainly showed us that they did not care too much for it, either.

I will say that that the National Securities Commission, or the NCSC as it was known, was understaffed. It did not have the resources required to investigate many of the scams going on through the 1980s. During that period there were people being put up as the paragons of influence and power that we should have been emulating. We had the Bonds, the Skases and the rest of the speculators being held up almost as a 'kitchen cabinet'. I can remember one program on the ABC and other commercial stations where people were urged to ring up and say who they would like as their next Prime Minister, somebody who was not in Parliament. These things go in fads, and there was an encouragement by the then Hawke Government to pick up a 'kitchen cabinet' made by all these successful entrepreneurs out there doing the right thing, as they were seeing it, for the country, building large

edifices to themselves, setting themselves up as national folk heroes. Well, we all know what happened to them.

The Hon. A.J. Redford: Thank God Keating recognised it straight up, too!

The Hon. T.G. ROBERTS: I am certain that when changes to the NSC Act occurred there was a recognition that something needed to be done, although I do not discount the work done by the National Securities Commission in its previous form. The only criticism I have is that it was understaffed. It did not have the resources.

The Hon. T. Crothers: Was John Elliott under investigation?

The Hon. T.G. ROBERTS: Another paragon of power being promoted was John Elliott, but unfortunately South Australia was hit hard by the speculative developers. I think John Bannon, to be fair, did his best to try to keep the speculative capital down, although encouraging South Australia to be a finance sector of Australia, probably against some very stiff competition from Sydney and Melbourne. We were never able to achieve that status. I think the Chartered Bank and one or two other banks came to town, had a look around and left. South Australia was trying to promote itself in a non-traditional way. I guess that is something that always has to be tried, but the entrepreneurs and charlatans certainly held sway in that period. I would hope that the Government, in the 90s, with the confidence that it has in itself and in its ability to rehabilitate the State's fortunes, is able to put together a package that gives working capital a better run than other State Governments did with speculative capital in the 1980s.

The other position that the State needs to look at is the relationship between the States and the Federal Government and the changing nature of attracting Federal funding while the Government is of one persuasion at the Federal level and of another at State level. If Mabo is to serve as an example of State-Federal cooperation between individual States in achieving what would be regarded as a national objective, it is not a very good one. One of the things that set the nation back as a trading nation is our inability to present ourselves as a nation instead of warring States.

In the near Asian region in particular, people would like to recognise us as one single nation rather than competing States. Unfortunately we now have an almost 'back to the future' position. It is almost a John Howard relationship between the Federal Government and the States in that we have a Federal Government of a Labor persuasion and we now have five States of a Liberal persuasion. There has been a transfer of power particularly over the past decade from the States to the Federal Government, and that is in line with my earlier theme of international trading programs.

There are now attempts by some of the States to try to reinforce the attitudes of the 30s and 40s of States' rights versus national interest. If the States start to play power games against the Commonwealth, certainly it makes good reading and good copy for the print and electronic media, but in terms of our displaying any sort of unity as a nation State if that continues it leaves us open for ridicule in the international arena, particularly in the near Asian arena. So, I would make another appeal to the Government to make sure that the States' interests are maintained but without jeopardising the national interest and that the States' interests can be complemented to a national direction—

The Hon. J.C. Irwin interjecting:

The Hon. T.G. ROBERTS: I said earlier in my speech that we have twin economies. We have a mainstream economy which is becoming more and more elitist and a sidestream economy which is growing larger in numbers. It is less likely for people in the sidestream economy to get into the mainstream economy.

I appeal to the new Government to adopt its policy development in a reasonable manner so that there is not a large amount of dislocation in the State and the wage and salary earners of South Australia are not victimised and become poor relations in the nation. I hope that the State's interests can be built into the national direction and that South Australia can play an enlarged role in the redevelopment of Australia as we move into what I hope will be an interesting period of growth that allows South Australia to take its rightful position in the development of the nation.

I would like to pay a tribute to two members of the arts community who have passed away since the last session. First, I refer to Mr Ken Hall, who was a large figure in the film and arts industry and who put together what can be regarded as an early part of Australia's history in film and then in television. Ken Hall was the driving force behind many Australian classics, including *On Our Selection* and *Dad and Dave*. Such films look a bit strange when we see then replayed on television as they do not hold a candle to some of the action movies put together by Arnie Schwarzeneger and others, but Australia's pilot film industry was internationally competitive. Australia was up there with many of the pioneer nations in film. We led from the front in those early days of film. In television we lagged behind, but that was not Ken Hall's fault.

He certainly put together the goods during that period. It was an interesting period setting the Anglo-Celtic base for our culture and history, and it was a reflection of the pioneer spirit being shown in those years. Certainly, it does not bear any resemblance to the new Australia, the dynamic Australia and the Australia moving towards a republic. Basically, film then was based on the history of the time but, as the creator of an art form and a market leader, Ken Hall certainly brought Australia into that international arena. We could have been the centre of a Hollywood style industry if the financial support and confidence had been placed in the film industry at the time, rather than the lack of confidence and derision in some cases that was shown to the industry in its early fledgling days.

The other individual to whom I would like to pay tribute is Frank Hardy, who was a good Australian author, although not perhaps along the lines of Dostoyevsky, Tolstoy or Dickens. Frank Hardy wrote for ordinary Australians so that they could understand what his message was. In a serious and sometimes comical way he was able to cover serious issues such as the interrelationship of those involved in politics, covering the relationship between the Labor movement, its politicians and representatives.

Because he was a member of the Communist Party for many years he was able to explain the interlocking relationships between the Communist Party, the Labor Party and the various groups within society, showing how their representatives were formed and elected, and he drew those webs together by putting together very credible stories. *Power Without Glory* was based on some facts and a lot of fiction, and it is up to each individual to determine whether there was more fact or fiction in that book. I suspect that *But the Dead are Many* was based on some facts as well and, although a depressing expose of industrial/political life of that period, it was a fairly accurate description.

The Hon. R.D. Lawson: Don't you read Phillip Adams?

The Hon. T.G. ROBERTS: No, I did not read Phillip Adams. That book was an accurate description of the industrial/political life and the role that industrial leaders played in those days in trying to benefit wage and salary earners at the time who were fighting a particularly hard brand of capitalism.

The last point I would make in my Address in Reply contribution is the fact that the Labor Party did so badly at the polls this time round, which indicates to me the changing nature of politics and how people transpose their responsibility from themselves to their elected representatives and whom they want to represent them in Parliament. I believe a new stage is developing, and most people out there are sick of the antagonism that is shown between the two Parties in Parliament. I think they are sick of the confrontation that occurs in decision making processes. Certainly, that is not the case in this Council—-I would certainly not make those accusations about the Legislative Council in South Australia—-but people would like to see more of a consensus style of government across the board without acrimony. People want us to look at the problems as they appear, draw out solutions to those problems and implement the solutions while maintaining some sort of contact with them to explain just what the Government and the Opposition are agreeing to.

It would be a good lesson learnt by both the Government and the Opposition if they listened to the people out there. Unemployment is the key issue. Most of the other social issues stem from the problems associated with unemployment. Domestic violence, child abuse and many law and order issues associated with people coming before the courts now stem from the disease of unemployment. I cannot remember such large sections of the political movement, particularly to the left of the political spectrum, not speaking out as heavily as they should have about unemployment and trying to get solutions to this problem.

In the 1960s, when unemployment hit 2 per cent or 2.5 per cent, the then Menzies Government almost lost power on the basis that unemployment was rising through the roof. We are now in a position where somehow or other we tolerate levels of unemployment over 10 per cent. As I have just praised the new Government for not being conservative and having moved to act progressively, I cannot use that point, but the Liberal Governments cannot put together solutions in this international climate that bring unemployment down any further while maintaining those economic indicators to allow for growth.

However, I am sure that more can be done to alleviate the problems associated with unemployment through initiatives and some lateral thinking towards the application of the huge waste of human resources that we have through unemployment.

It is incumbent on the Government and the Opposition to work together to try to overcome the scourges of unemployment. I do not mean by 'working together to cut unemployment' that the Government again cut wages and concentrate only on micro-economic reform targeted at wage and salary earners. A much more sophisticated approach is required to overcome unemployment and to alleviate for communities what is emerging as subcultures and anarchy. If the Government does not do that, there will be a price to pay. There will be isolation for those people who are in the mainstream. They will be forced to put up with a certain degree of isolation and antagonism from larger and larger sections of the community.

It is no wonder that anarchy moves through those subcultures, because in the main they see themselves as left out of the mainstream of society and not able to participate. The social security system is the only one that they know, and it is very depressing for them. Again, it is incumbent on all of us to work together to try to overcome these problems, and we need to work closely with all those young people who are training in tertiary and training institutions with the expectations of finding employment in order to give them some hope.

We need to take into account the emerging changes in society to make sure that those older people who have been displaced out of industry early, who had expectations of working until 60 and beyond and who are being displaced at 45 and younger do not become part of the cynical, almost anarchistic structure that is starting to formulate now.

So, I hope that the optimism that most South Australians have for the new Government's ability, based on its promises before the last election and the signals that were sent out in the early stages of the Government's life that there will be a consensus approach to the decision making process and that it will not adopt the Kennett or Court style of confrontation are fulfilled. I think that the Greiner approach is more applicable to the new emerging nation status—

The Hon. R.I. Lucas interjecting:

The Hon. T.G. ROBERTS: Certainly. The honourable member says that I attacked Greiner's approach to Government in the first stages. I must say that I did change my opinion after he was able to put his thumb print on the renegade backbenchers who forced him into an extremely dry approach to overcoming the State's difficulties during the time that he was Premier. I must also say that the Greiner style emerged later as being publicly acceptable, and he was able to build up a consensus approach within the community. Unfortunately, he was a victim of an internal committee that he had set up on corruption within government, and his time came too early. I would certainly have liked to see him being defeated at the next election by an incoming Carr Labor Government but that was not possible.

Since Mr Greiner's retirement his personal politics have been able to emerge, and he has come out as being a fair, reasonable individual who could possibly become editor of *Ita* or some other progressive magazine at some stage. I would hope that those lessons will be learnt, and I look forward to working with and seeing the results of some good progressive policy from the Government. However, if I detect any move to the conservative position that I hope will not emerge, particularly in Government service labour relations and any tax on wages and salary earners, members opposite must expect me to be on my feet pointing out their hypocrisy in the lead-up to the election.

The Hon. T. CROTHERS secured the adjournment of the debate.

ADJOURNMENT

At 5 p.m. the Council adjourned until Thursday 17 February at 2.15 p.m.