LEGISLATIVE COUNCIL

Wednesday 4 May 1994

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

ASSENT TO BILLS

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

Guardianship and Administration (Approved Treatment Centres) Amendment,

Mental Health (Transitional Provision) Amendment,

Wills (Miscellaneous) Amendment.

LEGISLATIVE REVIEW COMMITTEE

The Hon. M.S. FELEPPA: On behalf of my colleague, the Presiding Member of the committee (Hon. Ron Roberts), I bring up the thirteenth report 1994 of the committee and move:

That the report be read.

Motion carried.

The Hon. M.S. FELEPPA: On behalf of the Hon. Robert Lawson, I bring up the fourteenth report 1994 of the Legislative Review Committee and the minutes of evidence on the Corporation of Tea Tree Gully by-law nos 1 to 9.

SOCIAL DEVELOPMENT COMMITTEE

The Hon. BERNICE PFITZNER: I bring up the interim report of the Social Development Committee on rural poverty in South Australia and move:

That the report be printed.

Motion carried.

RURAL DEBT AUDIT REPORT

The Hon. R.I. LUCAS: I seek leave to table a copy of a ministerial statement made in another place today by the Premier about the South Australian Rural Debt Audit Report.

Leave granted.

QUESTION TIME

PUBLIC SECTOR SUPERANNUATION

The Hon. C.J. SUMNER: I seek leave to make a brief explanation before asking the Leader of the Government a question about the Audit Commission and unfunded superannuation liability.

Leave granted.

The Hon. C.J. SUMNER: Yesterday in Question Time I asserted that the allegations of a $10 billion black hole in South Australian finances was constructed to provide an excuse by the Liberal Party to break its pre-election promises. The last 24 hours has merely confirmed that. The claims of a $10 billion black hole are simply a fraud. The only black hole is one dug by the Premier to bury the Liberal Party election promises. Yesterday, questions relating to the unfunded superannuation liabilities were raised. In answer to a question asked on the Audit Commission, the Leader said:

> Quite clearly, the extent of the hidden unfunded liabilities was never revealed by the Leader of the Opposition when he was in Government. I challenge the Leader of the Opposition to bring to this Chamber the detail of the extent about the problems in relation to superannuation.

The Hon. A.J. Redford interjecting:

The Hon. C.J. SUMNER: That's what he said, 'I challenge the Leader of the Opposition.' The assertion that the figures in relation to unfunded superannuation liabilities were not made public by the previous Government is simply not true. This is the second time that the Leader has mislead the House in relation to matters in or relating to his portfolio. I concede that it is the second time that he has done it unwittingly, but nevertheless it has been done in relation to the teacher numbers issue and now in relation to unfunded superannuation liabilities, which must reflect on the member's capacity to be on top of the issues, even if the misleading has been unwitting. The reality—and members should note this—is that the 1993-94 State budget fully disclosed the level of the State's unfunded superannuation liability.

The total liability of the public sector superannuation schemes was estimated at $5.9 billion at June 1993, and the unfunded proportion of this liability was $4.3 billion. (for the honourable member's benefit, financial paper No. 1, page 713, table 710.) Further, the State's unfunded superannuation commitments were included as a liability in the balance sheet of the State's assets in the 1993-94 budget, again in the financial papers. The Audit Commission reports the level of the State's unfunded superannuation liability at about $4.4 billion—almost identical to the figure reported in the budget papers. The Audit Commission acknowledged that information on superannuation was included in the State's budget papers. The Audit Commission appointed an independent actuary to assess the figures in the budget papers on superannuation liabilities. The commission states:

> The actuary advised that both the methodology and the assumptions for calculating the liabilities were appropriate. The actuary also advised that the approach used to estimate the public sector liability for long service leave was also acceptable.

All States, apart from Queensland, have significant unfunded superannuation liabilities and have commenced an ongoing process of funding those liabilities over time. The former Government had included in its forward estimates funding for superannuation of $331 million in 1994-95, $371 million in 1995-96 and $420 million in 1996-97. The Audit Commission, of course, recommends increasing this to $444 million per annum from 1994-95 and maintaining this in real terms.

In addition to the financial papers tabled with the budget last year, the Auditor-General's Report also makes abundantly clear the extent of the unfunded superannuation liability. For the Leader's information, pages 33 to 35 of the Auditor-General's Report of last year clearly set out the facts that I have outlined and, furthermore, indicate that in the past three years some amounts were set aside towards the funding of the superannuation liability. In the light of that information and those facts, my questions are:

1. Will the Minister now agree that the extent of unfunded liabilities in relation to superannuation was fully disclosed in the 1993-94 budget papers and in the Auditor-General's Report?

2. Why did he mislead the House yesterday when he said that these matters had not been revealed by the former Government?

The Hon. R.I. LUCAS: Certainly not. The Leader of the Opposition is one of the members of the Cabinet who sat on his or her hands last year and for the past 10 years and did nothing about the appalling financial mismanagement that they were presiding over here in South Australia. What we saw revealed yesterday in relation to unfunded liabilities (and I refer again to the Premier's ministerial statement) was a $10 billion black hole in State finances as a result of the mismanagement of the Leader of the Opposition and of the other Cabinet Ministers who sat around that table for the past 10 years and did absolutely nothing in relation to the warnings. Perhaps later in Question Time we may well be in a position to provide some further information as to the true extent of the warnings that were given to those Cabinet Ministers over the period of their last term in government, between 1989 and 1993, in relation to the unfunded nature of the superannuation liabilities. What we have is a $10 billion—

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: And I say it again today. The former Attorney, the Leader of the Opposition, may well be a slow learner, but I will say it again today: there is a $10 billion black hole in the financial statements that were made by the former Attorney-General and other members of the Labor Cabinet over recent years as revealed yesterday by the Commission of Audit. Let me refresh the memory of the Leader of the Opposition with the precise nature of the findings of the Commission of Audit, as follows:

> Total public sector assets identified by the Audit Commission have a value of just under $21.8 billion, $5.6 billion less than the former Government's estimate. Liabilities exceed the former Government's estimate by almost $4.3 billion. The commission has also identified contingent liabilities of about $10 billion.

Members interjecting:

The Hon. R.I. LUCAS: Exactly! That was the limp-wristed excuse that the then Premier (Hon. Lynn Arnold) used during the election campaign when asked to explain a further blow-out of $600 million in the State's financial position. The limp-wristed response from the then Premier was, 'Well, someone changed the accounting measures during the election period.' Of course, that statement was subsequently revealed not to be accurate or true in any respect. So, I do not resile—

The Hon. Anne Levy: Do you say that the accounting methods hadn't been changed?

The Hon. R.I. LUCAS: No, they had not been changed during the election period. Many months before you had been advised as a Cabinet by Treasury and by the appropriate Government agencies of that change in accounting procedure, but you had chosen not to report accurately the State's financial position, and you were equally culpable as members sitting around that Cabinet for the deception in which you engaged during that election campaign. We see it again, revealed for all by the Commission of Audit yesterday—a $10 billion black hole.

The Hon. C.J. Sumner: That is not the unfunded liabilities.

The Hon. R.I. LUCAS: It does talk about unfunded liabilities. A balance sheet has liabilities on one side and assets on the other. I know the Leader of the Opposition's grasp of matters economic is not strong but that is what a balance sheet is: you have assets on one side and you have liabilities on the other. The Leader of the Opposition—

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: Again, the ignorance of the Leader of the Opposition is exposed for all to see. He is now saying that the liabilities of the State do not in any way refer to the unfunded superannuation liabilities. That is just—

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: That is what you just said. It is economic nonsense, Mr President, for the Leader of the Opposition, who purports to lead his Party in this Chamber, to interject to indicate that the liabilities of the State do not include the superannuation liabilities that the State confronts. The Commission of Audit quite clearly and quite explicitly has reported that the liabilities do include the superannuation liabilities of the State.

As I said, Mr President, stay tuned because we may well be in a position towards the end of Question Time to reveal the true nature and extent of the advice and warnings that have been provided to the Leader of the Opposition when in government about this particular issue.

The other issue that the Leader of the Opposition conveniently chooses to ignore in relation to superannuation is the black hole or the financial time bomb that was being reported by the Commission of Audit in relation to the growing nature of the unfunded liability on superannuation. So, that the figure of $4 billion for this year would grow over coming years to some $7 billion if it was left unchecked by Government. I cannot turn up the figure, but I think it was increasing by something like $200 million; it was certainly growing by a very significant rate from $4 billion to $7 billion. Clearly that was the position in which the previous Labor Government had left the State, where it was unwilling and unprepared to tackle the particular issue of the growing nature of the unfunded superannuation liability.

The Hon. C.J. Sumner: When are you going to answer the question?

The Hon. R.I. LUCAS: I have answered the question. Looking at the figures, we see that in the year 2021 taxpayers will be having to meet a daily bill of almost $2 million for public sector superannuation. A number of other figures were given in the Premier's statement yesterday.

I do not resile in any way from the statements that the Premier made yesterday and that I made yesterday and, as I said, stay tuned because perhaps towards the end of Question Time we may well be in a position to provide some further information on the extent of the deceit by this Party when in government prior to the last election.

RAIL SERVICES

The Hon. BARBARA WIESE: My questions are directed to the Minister for Transport and are about rail services. Can the Minister confirm, as implied in the Audit Commission report, that the Department of Premier and Cabinet has recommended that night train services be replaced by bus services to achieve a cost saving of $8 million per annum? Does the Minister believe that such a measure is consistent with her pre-election promise to improve public transport services for the community? Is it her intention to act on this recommendation to withdraw night time train services and, if so, when?

The Hon. K.T. Griffin interjecting:

The Hon. DIANA LAIDLAW: Yes, I was going to incorporate those references in my reply. I noted the same reference to which the honourable member has referred in the Commission of Audit. I have not seen the recommendation from the Department of Premier and Cabinet. Certainly, there have been no such recommendations from or discussions with Treasury, and it is Treasury that I have been dealing with in

terms of the forward estimates. So, I have made no suggestion, the STA has made no suggestion and the Treasurer has made no suggestion in respect of those night services. I have sought further information from the Department of Premier and Cabinet, but as far as I am concerned it has no status in the system in respect of the suggestion that services in the evenings on trains be cut and replaced by buses.

It appears that that recommendation arose from the fact that the net cost per passenger journey on rail is $6.44 compared to buses at $2.09. So, there is nearly a $4.40 additional cost to taxpayers for every journey on rail compared to buses. It may well have been that fact that prompted the Department of Premier and Cabinet to make the suggestion. As I said, it is no more than a suggestion; it has no status in terms of the current services that are being proposed by the STA or in discussions about forward estimates with Treasury.

The Hon. C.J. Sumner: So you're not going to do it?

The Hon. DIANA LAIDLAW: As I said, it has no status. It is a suggestion that has come from Premier and Cabinet, apparently. It is not one that I was familiar with; it is not one that has been discussed with me or with the STA in respect of—

The Hon. C.J. Sumner: So you're not going to do it?

The Hon. DIANA LAIDLAW: It has got no status at all. It is not on my agenda, no.

NATIONAL PARKS

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister representing the Minister for the Environment and Natural Resources a question about the value of national parks.

Leave granted.

The Hon. CAROLYN PICKLES: The report of the Audit Commission (volume one, page 79) states under the section headed 'Assets not included in the statement of financial position':

> Among the assets excluded are:
> · land controlled by the Aboriginal Lands Trust;
> · land which lies beyond local government boundaries and which is described as being 'outside of hundreds'. The Department of Environment and Natural Resources controls substantial amounts of land that is not valued since it is outside of hundreds. The majority of this land is reserved under the National Parks and Wildlife Act and is set aside for conservation purposes. Approximately 17 per cent of the State's land area is in reserves outside of hundreds.
> · Heritage listed buildings such as Kingston House at Marino, Mintaro Hall at Clare, the works of art held by the Art Gallery of South Australia. That collection alone has been estimated to have a value of $300 million.

This excludes 17 per cent of the State's land from having any value, on the basis that it has no alternative feasible use or, if there were such a use, the community may not countenance it. However, the report into the management of the National Parks and Wildlife Act released by the Minister recently clearly recognises the asset value of this land. The report makes recommendations on the management of areas with mining and grazing on reserves and goes so far as to recommend the sale of some areas to raise funds. Recommendation No. 8 of the report states:

> . . . reserve areas of minimal biological, cultural and recreational value be identified through the application of strict criteria developed under the Park Audit and removed from the reserve system and sold. This land should only be solid if the sale involves acquisition of land that would enhance existing reserve areas or provide a natural corridor. Surplus funds generated from these arrangements should be directed towards reserve management.

One might say that that could be an asset. Will the Minister explain why the Audit Commission has excluded the majority of land reserved under the National Parks and Wildlife Act as assets of the State when the review into the management of the National Parks and Wildlife Act clearly recognises the value of this land?

The Hon. DIANA LAIDLAW: I will refer the honourable member's question to the Minister and bring back a reply.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order! Does the Leader of the Opposition want a spell?

ADELAIDE REMAND CENTRE

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Correctional Services, a question about accommodation arrangements for remandees at the Adelaide Remand Centre.

Leave granted.

The Hon. SANDRA KANCK: My office has been informed by a relative of a remandee that the Adelaide Remand Centre is preparing to accommodate an increase in the population of detainees from about 180 to about 270, and possibly more. She has been told that two units of detainees are being combined to make a large unit of 46 detainees and that another unit has been created, which will result in a substantial increase in the number of detainees. I also understand that the department has no plans to put on extra prison guards to accommodate the increase. I am very concerned for the safety of prison officers and detainees under these circumstances. I am told that there is only one telephone for each unit and that last weekend up to 15 detainees were sleeping on the floor, with some having to be secured early, at 4 p.m. and 7 p.m., instead of at least 10.30 p.m., because of already strained staff resources. I have also been told that the Police City Watchhouse has 60 beds and was empty for most of the weekend. My questions to the Minister are:

1. Is it true that the City Watchhouse had 60 empty beds last weekend? Does the Minister have plans to accommodate detainees at the watchhouse to relieve overcrowding at the remand centre?

2. What are the implications of the changes for the safety of guards and detainees? Will the Minister say whether each detainee will be screened for communicable diseases before being placed in a cell with another detainee, and whether smoker detainees will be placed in the same cells as non-smoker detainees?

3. What can the Minister say about rumours of disturbances in prisons and the remand centre in the light of the Government's changes to correctional services? Will the Minister guarantee that current levels of personal safety of guards, prisoners and detainees (who, of course, have not been convicted of an offence) will be maintained in the light of the changes and, if not, why not?

The Hon. K.T. GRIFFIN: I will refer that question to my colleague the Minister for Correctional Services and bring back a reply.

JOB CREATION

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Leader of the Government in the Council, representing the Premier, a question about monitoring the job creation package.

Leave granted.

The Hon. ANNE LEVY: Late in January the Government announced a $28 million package for, it said, creating jobs. This $28 million was to be disbursed to the private sector under certain conditions, with the aim of the private sector creating new jobs with that $28 million. That $28 million was to be expended between January and the end of June, so I presume it will not yet have all been expended. I am sure that the Government will be closely monitoring and evaluating the expenditure of this money and that it will be keen to ensure accountability to both the taxpayer, who has provided this money, and on the part of the people who receive it. For the sake of the taxpayers one would hope that monitoring and evaluation of the expenditure of this $28 million is proceeding.

One matter which concerns me is not only the monitoring of the number of jobs that are created with this $28 million but the sex distribution of those jobs, as it so often happens that programs which are presumed to be gender neutral in their effect are far from gender neutral and can have much stronger effects in one sex compared to the other. My questions are:

1. Is the Government monitoring and evaluating the $28 million job creation package?

2. If so, will the evaluation include a breakdown by gender of the number of jobs that are created?

3. Will the Government make those results available at the earliest opportunity; and, if not, why not?

The Hon. R.I. LUCAS: The Government is obviously monitoring the implementation of the package, but as regards specific details I will refer the remaining questions to the Premier and bring back a reply.

PUBLIC SECTOR SUPERANNUATION

The Hon. A.J. REDFORD: Will the Leader of the Government reveal what advice was available to the previous Labor Government on the growing cost of public sector superannuation?

The Hon. R.I. LUCAS: I am delighted to receive that question as I indicated earlier that we might be in a position later during Question Time to indicate to the Leader of the Opposition and his loyal band of followers the true extent of the advice—

An honourable member interjecting:

The Hon. R.I. LUCAS: Well, that is true, followers, at least at the moment—regarding public sector superannuation that was received by the Leader of the Opposition and his Cabinet colleagues prior to the last election. I want to refer to a number of documents and to indicate that the former Government received advice from Treasury in March 1992. That was at a time, of course, when the escalating losses of the State Bank were being fully recognised, and that led to the second and third bail-outs later in 1992. In a memorandum dated 3 March 1992, the former Treasurer—

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: No, it was not in the report. Just stay tuned.

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: I assure the Leader that this was not in the Auditor-General's Report. In a memorandum dated 3 March 1992, the former Treasurer was advised that a major statement should be made to Parliament about Government superannuation. The first reason given for this advice was as follows:

> First, superannuation is a major item of Government expenditure and, given the crisis situation in our State's public finances, a fresh look at this area of expenditure with a view to minimising costs would be warranted.

As a result of this advice, Treasury prepared a Cabinet submission for the former Government which stated, in part:

> Treasury believes that because of the poor financial state of our budget for the next few years, the Government should consider announcing the closure of the lump sum scheme established in 1988 to new entrants. Closure of the scheme will assist in minimising the future accruing costs of superannuation.

The Hon. Diana Laidlaw: When did they get this advice?

The Hon. R.I. LUCAS: In 1992. It states further:

> On the basis of the 1988 scheme remaining open to new entrants and the attraction of the contributory scheme remaining constant—that is, 2 000 employees continuing to join each year—there would be an additional cost to the Government over the next 10 years of about $240 million.

The submission states further:

> Treasury therefore recommends that the proposed statement on State superannuation should include an announcement that as from midnight on the day of the announcement the 1988 contributory lump sum scheme will be closed to new entrants.

What arrant hypocrisy from the Leader of the Opposition and his Cabinet colleagues to stand in this place today and yesterday and indicate that they had been frank and honest with the people of South Australia about the superannuation situation for the public sector. The Leader of the Opposition tried to claim today that they had been honest and that everything was on the public record.

I ask the Leader of the Opposition why he did not refer to these secret Treasury documents, of which he was clearly aware, when he stood in this Council today and tried to claim that I, as Leader of the Government, had misled the Council in relation to superannuation. The Leader of the Opposition, as a member of the Labor Government, knew full well the parlous state, the crisis nature, of public sector superannuation. He or his Government and his Treasurer were aware of the warnings that had been given by the Treasurer and Treasury officers in relation to public sector superannuation, but they were not prepared to take the hard decisions in relation to public sector superannuation. They wanted to leave it for another day, for future generations to have to continue to pick up the debt which resulted from the decisions they were not prepared to take when they were in Government. I think those Treasury documents and that advice that has been made available to the Government reveals the arrant hypocrisy of the Leader of the Opposition and, indeed, all other members of the former Labor Government.

EDUCATION POLICY

The Hon. T.G. ROBERTS: I seek leave to ask the Minister for Education and Children's Services a question about the Audit Commission report.

Leave granted.

The Hon. T.G. ROBERTS: Yesterday, in a statement the Minister made quite a few references to the position in which the Education Department finds itself in relation to—

An honourable member interjecting:

The Hon. T.G. ROBERTS: Unfortunately, I have not been able to speak to my wife. I was here until late in the evening, and she leaves early in the morning to attend to her duties.

The Hon. R.I. Lucas: I could put in a good word for you.

The Hon. T.G. ROBERTS: I can't put in a good word; you might be able to. The references drew parallels between the South Australian education system and, to some extent, the systems of some of the other States in relation to pay rates, conditions and staff sizes. It is quite well known that the Government is willing to accept a devolutionary role for teachers, although that has not been spelt out as yet. The report states (page 154, 12.4):

> Immediate action should be taken to determine:
> - functions and responsibilities to be devolved;
> - costs and savings which would occur;
> - time line for implementation;
> - training and development needed for staff;
> - the basis on which an equitable allocation of funds could be made to schools;
> - any necessary changes to the Education Act, regulations or administrative guidelines;
> - industrial relations ramifications.

Table 1.7 (volume 1, page 58), which indicates percentage differences in average weekly ordinary time earnings between the South Australian and the national average in the 12 months to August 1993, shows that the South Australian difference from the national average is 7 per cent. A lot was made of those differences in the statement presented by the Minister yesterday and in subsequent statements made by the Premier in public arenas. It appears that there is a move to undermine the teachers' organisation, because there were statements indicating that the teachers' organisation was interested only in the pays, salaries and conditions of teachers rather than education itself, which I think throws a blanket over teachers that should not be worn. My questions are:

1. In the opinion of the Minister, what responsibilities and liabilities would be passed to school councils by the recommendation of the Audit Commission to implement a self-managing school model?

2. Will the responsibilities include the devolved schools being classified as enterprise units in a new industrial relations system?

3. Will that mean that school councils will have to balance school teacher numbers with staff wage cuts of about 7 per cent, as indicated in the report, to manage devolved school budgets, as also indicated in the report?

The Hon. R.I. LUCAS: In response to the first question in relation to salary costs, it is important that members and the community interpret sensibly and sensitively the comments the Commission of Audit has made in relation to average teacher salary costs. On page 140 it is stated that average salary and associated costs for teachers is 10 per cent higher than the Australian average. Further, it is stated that the real salary cost differential is therefore approximately 15 per cent. There has been some misunderstanding of that by some members of the media, who have put the point of view that our teachers are paid 10 per cent more than teachers in other States and, indeed, a recommendation has been made that there should be a reduction of teacher salaries by some 15 per cent. I must say it is easy to misunderstand or misinterpret this section of the Commission of Audit report. What the Commission of Audit report is summarising is that the average teacher salary costs are some 10 per cent higher than the Australian average. The way it has made the calculation of average teacher salary costs is that it has included all teachers in all promotion positions, for example, deputy principals, coordinators, key teachers and principals, together and divided that total salary by that number. Because in South Australia some 29 per cent of all our teachers are in promotional level positions—and that is much higher than most other States and territories—it therefore means that our average salary cost when calculated that way is much higher than that of other States and territories.

The second factor which increases that salary cost average is the fact that we have many more older teachers within our schools. That in part is as a result of the fact that some 96 per cent of our work force are permanent teachers, and only 4 per cent are contract teachers. In other States there is an average of about 10 per cent contract teachers and, as contract teachers generally are a little younger and are therefore paid a little less than permanent teachers, that is another reason why the average salary costs for our State are much higher than those of the other States. It is not correct to say that the individual teacher at level 12, the top of the salary range, is paid 10 per cent more than the individual teacher in another State or territory at the top of the incremental teacher salary range, because broadly they are all paid about $38 000 to $39 000, or salaries of that order. It is important to bear that in mind. Some have misinterpreted—in the media, in particular—this aspect of the Commission of Audit report. Certainly, in nothing I am saying around the place, either inside or outside the Council, am I seeking to attack the teachers in our schools.

I will go on the public record as saying and have been on the public record for sometime as saying that the vast majority of our teachers are hard working teachers. As with any profession—politicians included—you have your good teachers and your good politicians, you also have your bad teachers and your bad politicians, and you have a whole range of people in between. Certainly, as Minister for Education and Children's Services—and I know the Premier shares my view as well—I will not be on the public record attacking the vast majority of our teachers who are working very hard within our schools. We believe that media and the community should fairly interpret this aspect of the Commission of Audit report.

The second part of the question was in relation to devolution. Let me say that we are a much more moderate Government than the previous Labor Government in many areas; indeed, this is one area. As the member would know, under the previous Labor Government, the Government Agency Review Group (GARG) proposals, there was a quite revolutionary scheme being pushed by the previous Labor Minister and Labor Government to devolve virtually all responsibilities back onto schools. Certainly, in the policy document that we released prior to the election, we indicated that we would be much more moderate in our approach than the previous Labor Government had been then in relation to devolution. We saw, sensibly, a number of responsibilities being shared with schools, but we certainly did not have the policy position, and certainly do not as of now, that our schools or school councils should be hiring and firing teachers within our Government school system. We are a Government school system. We have a responsibility to provide a quality education, in the city, the country and across the whole State. Therefore, the needs of the system are important. We did not have a policy prior to the election, and we do not have a policy now, of allowing school councils the sole power to hire and fire teachers in their schools.

SPEED CAMERAS

In reply to **Hon. T. CROTHERS** (24 March).

The Hon. DIANA LAIDLAW: The Minister for Tourism has provided the following information:

The South Australian Tourism Commission already produces two promotional publications which relate to this matter. Page 3 of the *South Australian Touring Guide* (under Motoring Hints) includes information on the speed zones, random breath testing laws and fruit/plant restrictions which apply in this State; and the *South Australian Touring Map* also includes information on speed laws.

The commission makes these publications available to tourists throughout Australia via a number of national distribution networks including the commission's travel centres, local tourist information centres, travel agents, car hire companies, passenger terminal operators, automobile associations and accommodation houses.

The matter of informing tourists about the use of speed cameras within this State will be addressed by the commission in future editions of the Touring Guide.

HEALTH SERVICES

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking the Minister representing the Minister for Health a question about future health care and services in South Australia.

Leave granted.

The Hon. T. CROTHERS: Recent statements made locally by senior officials in important positions of some authority on the South Australian health scene have raised the spectre, because of their fear of future funding cuts, of a decline in the functioning of South Australia's excellent health services. I direct the following questions to the Minister:

1. Does the Minister believe that future funding cuts by this Government to the present health programs will lead to a serious decline in health care in this State?

2. Is there any truth in the local media comments that the present Government intends to cut back present funding in relation to health care?

3. If the Minister's answer to the second question is in the affirmative, how and why does he justify his actions?

The Hon. DIANA LAIDLAW: I will refer those questions to my colleague in another place and bring back a reply, but I suspect that as part of that reply the Minister will be suggesting to the honourable member that either he seek a briefing or that a briefing be provided in respect of case mix.

ALBERTON PRIMARY SCHOOL

The Hon. C.J. SUMNER: My questions are directed to the Minister for Education and Children's Services, as follows:

1. Prior to the decision to make a regulation that had the effect of replacing the Alberton Primary School council, did the Minister and/or the Education Department (or any other person) have police checks made on the criminal records of some members of the council?

2. If so, (a) on what authority was this request made; (b) did the request comply with the Government guidelines relating to access to criminal records; and (c) does the obtaining of such information contravene the Government's privacy principles?

The Hon. R.I. LUCAS: I certainly did not but, in relation to whether anyone else did, I will make some inquiries and bring back a response for the honourable member.

YAKKA CLEARANCE

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister representing the Minister for the Environment and Natural Resources a question about illegal yakka clearance.

Leave granted.

The Hon. M.J. ELLIOTT: The Kangaroo Island Eco-Action Group has raised concerns about the impact of the dramatic increase in the price paid for native yakka gum. It says that five new licences have been issued to Kangaroo Islanders allowing the export of the gum or resin. The group is concerned that this appears to have encouraged considerable illegal clearance of the tree. It is currently only legal to take standing yakkas from cleared pasture but not from uncleared bush, roadsides or parks. The yakka (or *xanthorrhoea*) is a native plant, and the Conservation Council of South Australia has informed me that the Kangaroo Island subspecies is endemic only to South Australia.

Members interjecting:

The Hon. M.J. ELLIOTT: Several hundred years. It is an important part of the ecology and an important food source for a wide variety of native bird species, including honeyeaters. It also plays an important part in the natural surroundings of the island, which create the unique tourist appeal. I am aware that interest has been shown in planting the yakka on a commercial basis to enable the harvesting of its gum. I believe that the Government should be promoting such innovative industry. I ask the following questions:

1. Is the Minister aware of the extent of the illegal clearance of yakka gum from the island?

2. What measures are in place to prevent such illegal clearance?

3. Will the Minister explore options that would aid in the development of commercial yakka gum production which includes the planting of yakka plants?

The Hon. DIANA LAIDLAW: I will refer those questions to my colleague in another place and bring back a reply. I, too, would be interested to learn more about yakka farming, because from my knowledge of yakkas they are very, very slow growing—

Members interjecting:

The Hon. DIANA LAIDLAW: Yes. It would be interesting to see what return one would receive from such an initiative.

CHILD-CARE

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about child-care centre regulations.

Leave granted.

The Hon. CAROLYN PICKLES: In March 1993 the former Government circulated a green paper that reviewed the child-care centre regulations of 1985. This green paper examined the scope and operation of this legislation and put forward for consideration matters that relate to the current and future needs of families of South Australia, licensees of child-care centres and whether the present regulations adequately fulfil these needs. The paper also considered the role and relationship of the national standards to State legislation. This paper was widely disseminated.

In September 1993 a white paper was circulated following widespread consultation. This paper put forward recommen-

dations to change the regulations, and a further consultation process took place. I understand that consultations on this matter have taken place with the Minister.

I have been contacted by some organisations connected with child-care in this State who would like to know the status of this review under the present Government, so my questions to the Minister are:

1. When will the regulations be brought in?

2. Will the Minister table a copy of the proposed regulations?

3. Do the regulations reflect the national standards?

The Hon. R.I. LUCAS: The Child-Care Centre Regulation Review has a long history. I remember writing the policy for the Party back in 1985 and indicating that if elected to government (as indeed we were) we would finish the review of the regulations. When I wrote the 1989 policy I wrote the same thing, and when I wrote the 1993 policy I wrote the same thing: it was one of those constants within our policy document. I am advised in various forms that this review of regulations has been going on for almost a decade, and it clearly has to be resolved.

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: Yes, exactly; generations. Now that we are in government we are considering our position. I understand that one of the complaints (and I would need to check this) has been that, whilst the green paper was circulated last year, as the honourable member indicated, some in the industry believed that the white paper had never been circulated. There may have been a limited circulation but, certainly, some of the lobby groups that spoke to me were asking me for a copy of the white paper; that is, they were not provided with a copy of the white paper by the former Government.

Since coming to government we have been conducting consultations with the various interest groups. I met with a couple of the lobby groups in late March and early April. They were given a period of time to put further submissions to me some time during last month, and if and when we get out of this Parliament I will be in a position to look at their submissions and will be making a decision sooner rather than later in relation to our attitude as a Government to the child-care centre regulations.

WRITERS CENTRE

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister for the Arts a question about the Writers Centre.

Leave granted.

The Hon. ANNE LEVY: I do not need to remind the Minister that the Writers Centre now has less than two months before it must leave its current premises and still does not have accommodation to which to go. I know that the Minister and her officers have had a thorough search of all possible Government owned property to see whether there is anything suitable but, regretfully, have had to say that there is nothing suitable in Government property to which the Writers Centre could have access. The Minister is saying that, whilst she is very sympathetic, the centre just has to keep looking.

As I understand it, one of the great problems is not that the Writers Centre is not looking hard enough or that it is not able to find suitable places but that it is a question of the rent. It currently pays $5 000 a year in rent and $3 000 in cleaning costs, making a total of $8 000, and this has been taken into account in its funding. Anything else vaguely suitable that it can find costs a minimum of $25 000 in rent.

With its current finances, the centre is just not able to afford such annual rental. It has made repeated requests to the Minister for a promise that its annual grant will be increased so that it can afford a rise in its rental of $20 000 a year, but as yet the centre has had no indication whether it will receive an extra $20 000 for rental. Obviously, if the Minister would indicate that the Writers Centre could receive $20 000 extra to its grant it would have no difficulty in finding suitable premises because it would then be able to afford the rentals required. I ask the Minister: will she commit an extra $20 000 to the Writers Centre so that it will be able to afford rental for premises which it needs to find very urgently?

The Hon. DIANA LAIDLAW: I am aware of the needs of the Writers Centre, and it has written to me on a couple of occasions since the honourable member asked a question on this same matter a few weeks ago. It is clear from correspondence that the Writers Centre is now seeking an annual rent subsidy of $25 000 plus relocation expenses of $10 000, which certainly adds up to much more than the $20 000 that the honourable member—

The Hon. Anne Levy: $20 000 extra.

The Hon. DIANA LAIDLAW: Yes, $20 000 extra, and it is also seeking a guarantee of funding to fulfil a three to five year lease. My latest advice is that Barbara McFadyen from the centre undertook to provide to the department a range of sites with various rentals and that senior officers in the department were going to visit those sites this week. I am not prepared to commit any funding until we have seen that a suitable site is available, either within the city centre or in a neighbouring near city suburb—

The Hon. Anne Levy: You will commit the money if it does find a place?

The PRESIDENT: Order! I remind the Minister of the time. If she is winding up I will not bother. Does she wish to continue?

The Hon. DIANA LAIDLAW: No, that is all right. I have said all I want to.

The Hon. Anne Levy: She doesn't want to answer.

The Hon. DIANA LAIDLAW: I have answered it.

Members interjecting:

The PRESIDENT: Order!

LAWSON, Hon. R.D., LEAVE

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

That two weeks leave of absence be granted to the Hon. R.D. Lawson on account of absence overseas on Commonwealth Parliamentary Association business.

Motion carried.

HINDMARSH ISLAND (VARIATION OF PLANNING CONSENT) BILL

The Hon. M.J. ELLIOTT obtained leave and introduced a Bill for an Act to vary a planning consent relating to the development on Hindmarsh Island known as 'the Marina Goolwa'. Read a first time.

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

That this Bill be now read a second time.

This Bill does not necessitate an argument about whether the bridge at Hindmarsh Island is a good or a bad thing, although I clearly have a view in relation to that. The significance of this Bill is that it offers an option to the Government in terms of solving the problems that have occurred over a long period of time in relation to the construction of a bridge to Hindmarsh Island at Goolwa, and it could override difficulties that might in fact continue for quite some time to come.

The Bill in simple terms strikes out the requirement that the developer (or any person for the time being having benefit of the consent) cannot make application under the Real Property Act to deposit a plan of division for stage 2 until February 1994 or any subsequent stage until a bridge providing access between Goolwa and Hindmarsh Island has been constructed to the point of substantial commencement. When planning permission was being sought in relation to Marina Goolwa the latter stages of development were not allowed to go ahead unless the bridge was built. It was deemed that access to the island was inadequate, so a condition was placed upon it, and this legislation seeks to waive that condition.

As a consequence of that requirement an approach was made to the previous Government whereby the developers were having some difficulty and could not get further assistance in the construction of the marina unless the bridge was guaranteed to be built. So the Government agreed to underwrite the construction of the bridge, although the costs of the bridge were meant to be recovered.

It was at that point that the major legal obligations were created in terms of the Government, and they were carried over to the present Government because an agreement was signed between the developers, the Government and local government, and an exchange of letters also took place between the Government and Westpac. At that stage a whole series of legal obligations were set up whereby if the bridge was not built the Government could have been subjected to significant litigation.

I believe that the vast majority of South Australians do not believe that the bridge should be built but, as I said, that is irrelevant as to whether or not this piece of legislation should be passed. The concerns that have been expressed relate to the environment and heritage—and when I say 'heritage' I am talking about built, European and also Aboriginal heritage. In recent days the State Minister responsible for Aboriginal heritage has overruled an Aboriginal heritage claim in this area.

I am now told that that is likely to be challenged in the courts, and there is also a very real prospect that there may be intervention at a Federal level as well. My view is that there should be intervention. The Minister, even in allowing destruction, acknowledges it to be an Aboriginal site. The important point is that the dispute may well be protracted, and that will be to no-one's benefit. It certainly will not benefit the developers, Westpac or the people who are meant to be building the bridge, and it leaves a great deal of uncertainty within the community itself.

This legislation is intended to be part of a larger package which the Government may care to put together and which may potentially by negotiation release it from a number of its legal obligations. There is not a great deal we can do about any claims that might be made about delays up to the present date. But we could seek to negotiate with the interested parties around any further costs that might be created if there is further delay.

The proposal that I put forward in essence is, first, that the need for bridge to be constructed be waived, and this legislation provides for that. It allows the developers to proceed with the later stages of the development immediately. I also believe that the Government should be giving some undertaking that there will be no further significant development on the island. There are at least three further marinas proposed there. If the Government makes such an undertaking it will be of benefit to those developing the current marina on the island because obviously it will be the only one there. So there will be a net benefit to them. I also say again that I believe that the vast majority of the community would support such a move. I believe that both Westpac and the developers—in this case now the receivers—can see that their development can proceed, that in fact its value might be enhanced and that that should be attractive to them.

The other major players are the people who are meant to build the bridge itself. About two weeks ago the *Advertiser* ran a story which suggested that a bridge could be built at Berri—not only could, but should. I say that as a person who lived in the Riverland for some eight years, at Renmark. A bridge is long overdue up there. The economic justification of a bridge between Berri and Loxton is far larger than any economic justification for a bridge between Goolwa and at this stage an island with not a particularly large population. The amount of economic traffic, not just human traffic, over the Berri ferry is enormous.

In any event, if a bridge is constructed there, I understand that that bridge can be constructed for the cost of operating the two current ferries, which means that there is no net cost to the Government. It becomes attractive to the bridge builders because they could be offered the construction of a bridge of a similar type to the one being built to Hindmarsh Island. It would be slightly larger but of a similar type. It would be something they could get on to almost immediately. There would be no net cost to the Government and it would also release the two ferries. One does not have to be a wizard to work out that those two ferries would be fairly handy between Goolwa and Hindmarsh Island. If those two ferries were taken there it would make a lie of the sorts of costs that were suggested before about how much it costs to put in ferries versus building a bridge, because the ferries already exist. There is one ferry down there and there are two more large ferries which would then be released and which could go to that site as well.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: So the two ferries are available to go down to Hindmarsh Island.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: At the time of the construction of the bridge at Berri.

The Hon. K.T. Griffin: After it is finished?

The Hon. M.J. ELLIOTT: That is right, which will take a little over a year.

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: That is right. I put forward this proposal some seven months ago; it is not new. It just takes a while for some things to sink in. The two ferries going down there, of course, means that the cost of carrying traffic from Hindmarsh Island to Goolwa is far less than the suggested costings before, which already were grossly inflated in the view of people such as the former member for Chaffey. He of course lived in the Riverland and knew a great deal about ferry operations, because there is a large number in his electorate. It was certainly a view shared, I believe, by

the majority of the Environment, Resources and Development Committee, which, by the way, recommended that a two-ferry proposal was preferable. In fact, that was a unanimous recommendation of the ERD Committee at the time.

So, in that fairly brief summary of the proposal members can see that the key players, Westpac and the receivers for the development, can have an assurance that the development can proceed immediately, that the value of the development can in fact be enhanced, and that access to the island will be improved. Already residents on the island have priority use of those ferries in any case. However, two large ferries of the sort that are currently up at Berri will cope with significant traffic flows and will quite easily cope with the traffic flow to Hindmarsh Island.

The other major player, the bridge builder, is offered an alternative contract for a slightly larger bridge. That bridge will go to a place where it really is needed, where it is long overdue and where it will be useful for that community. Might I add, one of the reasons that a bridge has not been built at Berri for a long time is because the Department of Transport, for reasons I do not understand, has always insisted that the causeway be lifted by a significant extent. No-one in the Riverland ever wants the causeway lifted and the causeway costs as much as building the bridge. It is absolute stupidity. The fact is that even the 1956 floods did not breach the current causeway and yet the Department of Transport keeps on insisting that it cannot build a bridge up there because it has to put in a high causeway.

The Hon. T.G. Roberts interjecting:

The Hon. M.J. ELLIOTT: It is an absurdity. The fact is that a bridge can go in at Berri at no cost to the Government—essentially cost neutral, and there is a tumble-through effect. I would also like to put on the record that I have spoken with all of the major players off the record—that is, I will not say who said what—and not one of them has rejected the possibility of following this particular pathway. In fact, I can report that one of the players—

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: The major players I referred to earlier; had the honourable member been attentive he would know whom I am talking about.

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: I can report that one of the major players was enthusiastic. The least positive response I had was that they would like the bridge to be built but if there looked like being any further holdups they would like to give it further consideration. That was the least positive response that I had. None of them rejected it out of hand, and I make that quite plain. The importance of this legislation—and I hope that the Minister is taking this on board—is not that the Minister has to say, 'I am accepting the proposal.' However, if this dispute continues in the courts, if there is any involvement at a Federal level, this has the potential to go on for a significant period of time. This legislation gives the Minister an alternative which creates no pain for any of the major players—those to whom the Government currently has legal obligations. The Parliament is not going to sit for another 2½ or three months and basically the Minister—and it would be the Minister for Planning and not the Minister of Transport—can put this in his kitbag and if, as I suggest, things continue to be difficult, they can take it out of the kitbag and use it as a negotiating tool to find an alternative to the current dilemma.

As I said, neither the Minister in this place nor the Opposition has to express a view on whether or not the bridge is good or bad in deciding whether or not this legislation is worth passing. The legislation offers an alternative if the problems continue in the longer term. I do not think that anyone here would argue that we are doing the developers or Westpac a major favour by saying, 'Look, we will continue fighting this out and eventually we will get you a bridge.' The fact is that they are stymied and have been for quite some time. The Minister should see this at the very least as a tool that she may want to use at a latter stage, even if at this stage she would prefer not to do so.

Importantly, this does not take away anyone's rights: it gives the Minister the power to allow a development to proceed which currently cannot because of the requirement for the bridge to be constructed. It is in itself not removing anyone's rights in any way whatsoever. I have never at any stage in the debates that I have been involved in, both today and at other times, suggested that any legal rights need be overridden to achieve a positive result.

I will not take this any further. There are many other things that I would like to put on the record and I will at a later stage in relation to Hindmarsh Island. There are many things that the public do not know that they deserve to know, but I will do that on another occasion. I hope that both the Government and the Opposition will see this Bill as an opportunity and not as something to attack simply because somebody who has been opposed to the bridge is putting it forward. I urge members to support the Bill.

The Hon. DIANA LAIDLAW (Minister for Transport): I would like to make a few general comments on this Bill before seeking leave to conclude and I will make a more considered response next week. The Government has made no secret of the fact that this bridge is not our preferred option and in the public statements I have made both in this place and in statements I have released to the media I have made no secret of the fact that I feel bitter about the decision that I have had to announce in terms of this bridge proceeding. I would not have put myself or the Government in such a position unless I had exhausted all options available to us to get out of this matter. I would not want the honourable member to fool himself or to deceive anyone else that it is the first time the ideas he has come up with in this Bill have been considered, because that is not the case. They have certainly been considered by the Government in terms of the decision I had to announce some weeks ago that the bridge will proceed.

I indicate also that this Bill, notwithstanding the honourable member's remarks, is not doing us much of a favour at all. It is nothing new in the sense that it does not address the real problem. The real problem is the tripartite agreement entered into by the former Government, Binalong and the council. As the Hon. Ms Wiese has said from time to time in this place in questions to me, it is a legally binding document, and that document is not addressed in this Bill. At this stage I will say no more until I have had this matter considered by others. But I just indicate that matters canvassed by the honourable member are nothing new and do not address the key problem. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

RURAL POVERTY

The Hon. BERNICE PFITZNER: I move:

That the interim report of the Social Development Committee on Rural Poverty in South Australia be noted.

In so moving I ask the Council to note the interim report from the Social Development Committee on Rural Poverty in South Australia. Further, I would like to raise the awareness of my colleagues that this interim report, so as to comply with the member for Ridley's motion from another place, taking into account that we were not sitting last week, was completed in only six weeks. Although done in such a short space of time, this report does have some substance and I thank not only committee members for their concentration on the issue but also our two committee staff, namely, the committee secretary (Ms Vicki Evans) and the committee research officer (Mr John Wright) without whose help we would not have completed the report with such speed.

As the Council knows, this reference was referred to the Social Development Committee by the member for Ridley, Mr Peter Lewis, and the aim of the inquiry was to investigate the severity of rural poverty in South Australia, to investigate the social and economic impact of poverty on rural communities and to investigate changes that would contribute to a reduction in poverty in rural South Australia. To date, evidence has been taken from 12 witnesses, being community representatives from the Murray-Mallee area, State rural counsellors and academics specialising in the study of poverty. The committee found that defining poverty was not such an easy matter. It is usually the perception that poverty might equate solely to financial or monetary needs. However, it is more complex as one also has to take into account the existence of the social network in the community. If defining poverty is difficult, then it is just as difficult measuring poverty. So it was with some difficulty that the committee tried to identify which of the rural areas should be chosen as the most severely affected.

We decided to use the ABS indices and we chose the rural index of relative social economic advantage. This takes into account the factors of income, occupation and education attainment, ranked in order of disadvantage. The first five were severely affected rural areas, according to statistical subdivision, and ranked from the most disadvantaged to the least disadvantaged were:

1. The Murray-Mallee (which pertains to the council areas of Karoonda, Peake, Mannum, Coonalpyn Downs and Meningie).

2. The Pirie area (which includes the council areas of Peterborough, Jamestown, Hallett, Crystal Brook and Redhill).

3. The Upper South-East area (which includes the council areas of Lucindale and Tatiara).

4. The Yorke area (which includes the council areas of Bute and Central Yorke Peninsula).

5. The Lower North area (which includes the council areas of Spalding and Burra).

The committee therefore chose the first two most disadvantaged areas, these being the Murray-Mallee area and Pirie areas and their relevant council areas. The committee plans to hold public meetings in these two areas and it is hoped that the rural community will come out and give full and comprehensive evidence. The preliminary findings as related to the committee have been disturbing. For example, the committee has been told that with regard to the effect on young people, some children from farming families blame themselves for their family's financial difficulties and had approached school counsellors to find out how they could be adopted or fostered out. As a person involved mainly with children during my medical career, I was most disturbed at this perception, that a child would feel that he or she was a burden on his or her parents. Further it was reported—

The Hon. Carolyn Pickles interjecting:

The Hon. BERNICE PFITZNER: That's right. Further, it was reported that the rural crisis was placing a severe psychological strain on children and that a number had attempted to commit suicide. Again, owing to reduced income, farmers could not afford to employ labour and were becoming increasingly reliant on their children doing farm work. In some cases, children were required to work excessively long hours—for example, 200 or 300 hours during the seeding session driving a tractor—to generate enough income from their work to pay their own way. At the same time, parents were telling their children that there was no future in farming and that they needed to do well at school so that they could get a job off the farm or go on to further studies. A further consequence of the rural recession was the migration of young people out of rural areas because they could see no future in remaining in the local area. The committee was told further that the young people who stayed in rural areas faced a bleak future as there were few job opportunities for those who did not have a family farm to employ them. However, even those who could find work on a family farm faced considerable hardship because often they worked for negligible wages.

I now turn to the impact on farmers. Owing to poverty and debt repayment pressures, some farmers were using non-sustainable land management practices. It was stated that these practices were detrimental to the long-term viability of the land and included: cropping paddocks more often than recommended; reduced rates of fertiliser application; and neglecting soil conservation and weed and pest control programs. It was reported that many farmers were having to use old, dangerous and inefficient farm machinery, that fencing and other capital works were having to be postponed indefinitely and that many farm houses were in urgent need of repair. Some farmers faced with cash crises were selling assets such as machinery often at prices well below their true value because banks were unwilling to lend them any more money and they were reluctant to go further into debt.

I note that the rural debt report has been tabled today by the Minister for Primary Industries. I wish briefly to comment on it. Initially, there appears to be some discrepancy in the ranking of disadvantaged areas, as areas of rural debt, which they call problem areas, are the Eyre Peninsula, the Murray-Mallee, Kangaroo Island and the Riverland, whereas, as I have said, using our ABS indicators we have identified the Murray-Mallee first, which is similar, with the second being the Pirie area. This apparent discrepancy is because we use different methods of measurement and because, as I have said, 'poverty' is a difficult term to define. The rural debt report measures debt only in financial terms and only on farms, whereas our ranking of rural poverty areas takes into account not only finance but also occupations and the educational attainments of the community in those areas.

The rural debt report's comments on the Murray-Mallee area indicate that this area has the lowest percentage of category A loans, which are loans to borrowers who are considered to have viable farms under most circumstances. Further, it should be noted that the Murray-Mallee area recorded the highest percentage of category B loans, which are for borrowers experiencing debt servicing difficulties. Although the rural debt report is helpful to some extent in our inquiries into rural poverty, it does not run along similar lines.

We also looked at social isolation, which was identified by witnesses. It was reported that a further effect of the rural recession was increasing social isolation, particularly as a result of the regionalisation of services which had increased the cost and time taken to get to and from these services. The committee was told that rural women were particularly vulnerable to social isolation as they encountered pressures from their husbands to stay at home and not to use the telephone.

In conclusion, although these preliminary findings are only anecdotal, after further discussion with my rural colleagues who have a long relationship with their rural communities and electorates it seems that perhaps there is some substance to these claims. However, we will be able to collect further more substantial evidence as we go out into the rural community and as we receive further submissions both written and oral from a wider rural area. This interim report on rural poverty gives me concern as, although anecdotal, it paints a disturbing picture of rural deprivation if only in a limited fashion. I commend the report to the Council.

The Hon. SANDRA KANCK: This interim report, as we have heard, is based mostly on anecdotal evidence, which the committee has gathered from a number of witnesses. As the witnesses have spoken, one thing that stood out for me was the undervaluing of the role of women in rural areas. On a number of occasions we heard the term 'farmer's wife' which clearly spelt out to me a message that only a man can be a farmer and that the husband and wife who operate a farm clearly are not equals. One witness when speaking about the children of farmers who are moving to the cities posed the question of who would take over the running of the farm if the sons moved out. It did not seem to have registered that there were a number of daughters still in the area who would be quite capable of running a farm.

The Hon. Carolyn Pickles: Whom do they leave their farms to?

The Hon. SANDRA KANCK: That was another question that was raised. Clearly, it is the sons. I suspect that many rural women would be quite offended to find out in this day and age that their contribution is not being acknowledged in any way, shape or form.

Aside from that, I wish to thank the other members of the committee for the hard work that has gone into putting together the interim report, particularly our secretary and researcher for the highly effective and supportive roles they have played. I look forward to moving on from the anecdotal evidence, which has been quite disturbing, to the more quantitative data that we hope to obtain in the next stage of the inquiry.

The Hon. CAROLYN PICKLES: I support the motion. In doing so, I would also like to thank the committee members and the staff of the committee, Mr John Wright and Ms Vicki Evans. As other members have mentioned, this is an interim report. The committee had very little time to get it together, and it is a credit to our staff and to committee members that we have managed to get together this report in such a short time, carrying on the very good record of this committee, which other members in this Chamber used to be on. The committee notes in its report that 'so far it has received largely anecdotal evidence about rural poverty in South Australia. Although interesting, the committee believes that it does not necessarily provide a true measure of the dimensions of the problem and that it needs to be assessed against more rigorous quantitative data.' It goes on to note that useful and informative evidence has been provided. In the next stage of its inquiry, the committee will take evidence from witnesses who can provide more in-depth information.

In this report, from evidence received we have tried to define what is poverty. Of course, that is a vexing question in today's society. Some of the witnesses noted that the Henderson definition of 'poverty' is no longer considered relevant. There is a description in the report on what is poverty which members might be interested to note. One of the witnesses described poverty by way of an analogy, as follows:

> I have heard poverty described as the whole community standing in various levels of water, with some people being up to their waist. The poor tend to be the ones up to their neck in the water. If anything goes wrong, it could be something external, or it could be through mismanagement. They are in trouble; they go under. Those of us who are affluent, if you like, are up to our ankles in water. We can make all sorts of mistakes in life and life goes on. One of the features of poverty...is that there is no room for error or folly of any kind.

Of course, comments were made to the committee on the differences between what might be rural poverty and what might be considered metropolitan poverty. It was noted by a witness that it was regarded that people who were in second generation unemployment, who had no assets at all, who had been retrenched, who had no job and who lived on social security benefits, were probably at a worse level of poverty than people who owned the farm as a family asset, because they had nothing to turn to and nothing to sell.

When one compares poverty in Australia to poverty in other countries, one assumes that people who are considered to be in poverty in this country, compared to another country, are not as badly off. So, therefore, comparisons are odious. With its evidence, the committee has tried to define what poverty might mean in Australia, and we have a topic of measuring poverty, which I think members might find interesting. Page 8 of the report describes the concept of the Commission of Inquiry into Poverty of 1975. Of course, that is quite an old definition. It states:

> The commission conceded that the difficulties of comparing the extent of poverty among farm families relative to non-farm families was sufficient to prevent the development of an accurate measuring device applying the traditional income-based model. The commission made a number of observations about the barriers to estimating the extent and severity of poverty among the farming community, such as 'the income of the farming enterprise...is a poor guide to the disposable income of the farm family' and 'low income among people who own and operate businesses is not a good indication of poverty'.

It is very difficult to make some kind of analysis. The committee heard evidence that was, as we noted, anecdotal and only from two witnesses that indicated that there were obviously adverse effects from poverty, which is nothing unusual. It might be that because of the small population that these effects are felt more keenly. That is probably very true. The people in a small country town usually know everybody else's business, and they would be very well aware of people who have perhaps made attempts on their own life or who have children who are disturbed by their parents' state of finances.

I know that in recent times there have been some reports in the media about farming communities where people have taken drastic action, either against authority or against members of their own family when they have been feeling quite desperate. The way that the media portrays this is that it is almost some kind of an excuse, that when you have financial difficulties it is okay to go out and beat your wife.

Certainly, the committee has heard evidence about this, and committee members would all be fairly appalled, as indeed would members, that some people might find that their financial situation is an excuse for violence in any form.

It is interesting that today, the day that we table this document, the Hon. Dean Brown has tabled a ministerial statement on the South Australian Rural Debt Audit Report. In his ministerial statement, he notes that 'the two consultants who conducted the examination of rural debt, Robert Kidman and Lindsay Durham, have found that 77 per cent of all farm businesses are viable at present.' It goes on to note some other statistics that are valid, and the committee will be seeking evidence from the Government in relation to its Rural Debt Audit Report.

With these few remarks, I am pleased to support the motion. I hasten to add that it is very much a preliminary report. We have received very little evidence at this stage and, although parts of the evidence that we have received would on the surface appear to be very disturbing—and I am not saying that we will not receive more of that kind of evidence—it would be presumptuous to make any kind of conclusion at this stage about the effect on any community. While it is obvious that many people in rural areas are experiencing financial hardship, the committee obviously has to receive evidence in more depth and with more weight behind it so we can make an assessment as to what kind of recommendations we might make to Government to hopefully alleviate the distress that some of these people are experiencing.

The Hon. M.S. FELEPPA secured the adjournment of the debate.

NON-ECONOMIC LOSS

The Hon. R.R. ROBERTS: I move:

That the regulations under the Workers Rehabilitation and Compensation Act 1986 concerning assessment of non-economic loss, made on 13 March 1994 and laid on the table of this Council on 22 March 1994, be disallowed.

This matter has been covered somewhat in discussions on clauses in another Bill. At that point I made some reference to the fact that these things were taking place. This was also covered by the Hon. Mr Elliott in his contribution in respect of his motion, and I point out that it is also covered by a motion moved by the Hon. R.D. Lawson. However, I wish to take this opportunity to place some things on the record. The regulation is grossly unfair to injured workers, in particular the most severely injured workers. The regulation seeks to impose the use of severely discredited assessment tables from the American Medical Association. This guideline for the assessment of permanent impairment is not widely used in Australia and has been severely criticised by the legal profession in the United States, where it originated.

It simply seeks to devalue the extent of the injury by artificially reducing the percentage by a formula that is in no way equitable. I could give many examples of what this regulation seeks to do, but none would be clearer than the example of a worker who is unfortunate enough to lose both his thumbs. Prior to this regulation that has sneakily been introduced by the Government in breach of an election promise, that worker would have been entitled to 70 per cent of the prescribed sum in the year of the injury. Under this assessment it would be reduced to approximately 39 per cent. That is grossly unfair. There is no mandate for it, and there is no purpose for it, except in a mean minded way to cut benefits to injured workers.

What is more offensive about it is, as I noted earlier, that those with the severest of injuries, that is, multiple injuries arising out of the same trauma, will be punished the greatest. It is a ridiculous amendment and, in my submission, the Government ought to be ashamed. For those reasons I ask the House to support my motion.

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

HEARING LOSS

The Hon. R.R. ROBERTS: I move:

That the regulations under the Workers Rehabilitation and Compensation Act 1986 concerning hearing loss, made on 17 March 1994 and laid on the table of this Council on 22 March 1994, be disallowed.

This is another area that was touched on in debate in another place. However, I would like to make the following observations in support of my motion. This regulation proposes to introduce a new set of tables which, I am advised, will result in the reduction of entitlements to workers who suffer noise induced hearing loss. The regulation achieves this reduction in two ways. First, I am assured that calculations have been undertaken utilising the current tables and the proposed tables.

The proposed tables, when utilised, provide an outcome in the majority of cases in terms of loss of hearing less than the outcomes provided by the current tables. While this outcome varies between .1 per cent and approximately 3 per cent, it is simply a further example of the Government's chipping away at the injured workers' entitlements, when Liberal Party policy prior to the election clearly stated that there would not be a reduction in workers' entitlements to deliver a competitive workers compensation system.

Secondly, the proposed regulation introduces further discounting to be taken into consideration dependent upon the gender and the age of the individual worker, while medical evidence is somewhat scarce and contradictory as to the existence of concrete evidence that all human beings, workers or otherwise, are guaranteed at certain ages in life to suffer a reduction in their hearing.

This regulation proposes to assume that all workers who suffer a work related disability in the form of hearing loss will suffer a reduction on the presumption that there is an element of loss of hearing as a result of the ageing process but, further, the regulation flies in the face of the equal opportunity legislation in existence in this State and federally by legislating or regulating the presumption that males and females will definitely suffer an age related hearing loss at different times in their life, dependent upon their gender.

Further, the regulation also changes references to the Chairman of the South Australian Health Commission and substitutes 'the corporation'. The Chairman of the Health Commission was independent of the workers compensation authorities in this State. In the current regulation the Chairman of the South Australian Health Commission has the responsibility to approve the persons responsible for carrying out the tests.

If the corporation in its responsibilities as a compensatory authority is the only body with the responsibility to approve (and therefore not to approve) such persons as audiometrists, then it provides the corporation with the ultimate whip hand

to approve only those persons who appear to provide report and testing levels that are acceptable to the commission.

There are frequently differing outcomes in the testing procedures and methodologies provided by such persons. There is, in fact, continued disputation between one testing person who almost predominantly is utilised by the corporation and many of the other testing persons within that industry. For all those reasons, I think the regulation must be disallowed. I believe the Government has insufficiently researched the effect of and necessity for such proposed regulations. I therefore request the Council to disallow this regulation.

In conclusion I point out, as I did in another debate in this Chamber, that most of the hysteria about this proposal on hearing loss is to avoid something that may or may not happen over the period of the changes that have been proposed in WorkCover and occupational health and safety measures in this State and refer to the experience in Victoria. For all those reasons and the reasons expounded in the other debate, I ask the Council to support my motion.

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

WRITTEN DETERMINATIONS

The Hon. R.R. ROBERTS: I move:

That the regulations under the Workers Rehabilitation and Compensation Act 1986 concerning written determinations, made on 31 March 1994 and laid on the table of this Council on 12 April 1994, be disallowed.

It is ridiculous to remove a requirement for reasons for a decision to be given in a formal notice to workers. The result can be that people will be left in limbo as to why a claim was rejected or as to why payments are to cease or to be reduced. Obviously, this could lead to unnecessary litigation, as people have no file notices for review, even to find out the reason for the action that has been taken by the insurer. It is a silly amendment.

It may be that the current provisions are too strict and too onerous on insurers, but that is something that should be properly brought before the Parliament and debated or something that could be put before the advisory committee that the Government has proposed to be set up. I imagine that this would be one of the areas in which the Minister should be looking for advice and guidance. For those reasons, the Opposition opposes these regulations. We do not say that there could not be some improvements in the area of notices, but this should not be done in the slipshod way that this Government seeks to ram through these regulations. For those reasons I ask the Council to support my motion.

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

VICTIMS OF CRIME

Adjourned debate on motion of Hon. M. J. Elliott:

That the Legislative Review Committee be required to examine and report on the following matters:

1. The effect of the introduction on 12 August 1993 of the amendments to the Criminal Injuries Compensation Act.
2. The adequacy of compensation being provided to victims of crime.
3. Whether the required burden of proof be changed from 'beyond reasonable doubt' to 'upon the balance of probabilities'.
4. Whether the award of damages be indexed to inflation.
5. The manner in which the Attorney-General has been exercising his discretion to make an *ex gratia* payment.
6. Other related matters.

(Continued from 20 April. Page 528.)

The Hon. C.J. SUMNER (Leader of the Opposition): The Opposition and I support this motion. I will not delay the Council by reiterating the various measures, both legislative and administrative, that have been taken in the State to enhance the rights of victims of crime. They have been placed on the record on previous occasions, and I think there is a general consensus that South Australia over the last decade has led the way in Australia and indeed has achieved some international recognition for its approach to promoting the rights of victims of crime in the criminal justice system and in developing a compensation regime which I believe is equal to the best in Australia.

It might interest members to know, if I can be permitted an aside and a small amount of publicity, that the next symposium for the World Society of Victimology will be held in Adelaide in the week commencing 22 August. I believe it will be a distinguished national and international gathering of people with expertise in dealing not only with the issue of victims of conventional crime but also victims of other situations, including human rights abuses. So, if members are interested I would commend the program of that symposium to them. The list of speakers should be available very shortly.

The initiatives taken in South Australia include the preparation of a declaration of principles governing victims of crime and their contact with Government agencies in the criminal justice system in particular, and that was put in place in South Australia very shortly after the United Nations approved a declaration of rights for victims of crime and abuse of power in December 1985.

Following that we became the only State, and may still be the only State, to have victim impact statements as part of the sentencing process in our courts. The police are obliged to provide information to victims when they investigate crime, and a pamphlet was prepared for that purpose. The Police Department has victim liaison officers operating within its service and, as members know, it has also given considerable attention to dealing with victims of domestic violence and child abuse. They were just a few of the initiatives, as well as a good number more, that were set in place in the last decade.

This motion deals specifically with the issue of criminal injuries compensation, which is one aspect of the services that are available to victims. As I said, I believe that the compensation scheme operating in South Australia is equal to the best in Australia, and the Hon. Mr Elliott's speech in moving this motion outlined the history of criminal injuries compensation, which began here in 1969 when the maximum award was only $1 000. The current maximum award is $50 000, and the reason for that is that criminal injuries compensation is a compensation scheme of last resort; that is, it is compensation paid by the Government on behalf of taxpayers to victims of crime when those victims of crime do not receive compensation from any other source, that is, they do not receive workers compensation or compensation from private insurance or whatever.

In those circumstances, where no compensation or reimbursement from Medicare or whatever is available, the taxpayer, through the Government, picks up the bill for

compensation. That is the reason why a cap has always been placed on the maximum amount of compensation that can be awarded. In other words, no universal insurance scheme exists to cover victims of crime such as there is, for instance, for road accident victims who are injured by the negligence of another. I think that the nature of criminal injuries compensation has to be spoken about in this context because it has never been a completely open-ended scheme.

I note that the Hon. Mr Elliott refers to concerns that have been expressed to him by members of the community about the current Attorney-General's exercising of his discretion under the Criminal Injuries Compensation Act. The Act contains discretions that the Attorney-General can exercise in order to fill in the gaps that might exist in the formal legislation and in order to overcome areas of hardship that might occur in the operation of the legislation. The suggestion has been made to Mr Elliott and also to me that the current Attorney's policy in exercising his discretion is different to that which I exercised, and that is no doubt a matter that the Legislative Review Committee can examine if this motion is carried.

I point out to the Council that the former Government introduced legislation to increase the amount of money going into the Criminal Injuries Compensation Fund by increasing the levy which is imposed for breaches of the law in serious criminal activity and also traffic offences. One of the unique features—unique in Australia at least—of the South Australian scheme is that criminal injuries compensation is to a considerable extent funded by people who have been found to have breached the law by either committing serious criminal offences or traffic offences. That at least has meant that the burden on the general taxpayer has been less than it otherwise might have been, and the former Government always argued that it was a fairer, more equitable system for people who had breached the law as a class to pay criminal injuries compensation rather than have the general taxpayers pay it.

The Australian Democrats and the Liberal Party when in Opposition did not agree with that philosophy. At least they did not agree with it on the last occasion that a Bill was introduced by the former Government to increase the levy. The proposal introduced by me on behalf of the Government was rejected and a much smaller increase in the levy than was proposed by us was eventually agreed to.

The effect of that has been that the drain on the taxpayer for criminal injuries compensation has increased, and no longer are those who have committed criminal offences, traffic offences and the like covering the same proportion of criminal injuries compensation as they were previously. I have no doubt that the Attorney-General now understands that there is pressure on the fund. I point out to him that that pressure would have been relieved significantly had he had the good sense at the time to support the proposition put forward by the former Government.

However, he did not, and for reasons which the Democrats and the Liberals found to be legitimate. But I make the point that I have no doubt that that has meant that the general taxpayers are now contributing much more to criminal injuries compensation than previously and more than they would have been had our legislation passed. A number of specific issues in the terms of reference have been raised. There may be others that members want to look at. I have no problem and, in fact, I support looking at the exercise of the Attorneys-General's discretion before and after the election, looking generally at the status of the legislation—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Just a minute, I will get to that. I support looking at the effect of the amendments in 1993 which modified the method of calculation of damages. One of the allegations made by the Hon. Mr Elliott is that since that change in the method of calculation of the compensation the amount of money payable has been reduced to about one-fifth of the previous entitlements. I do not accept that and I doubt whether the Attorney-General would accept that as his department has to pay it out. My guess is, just looking at the amount of payments occurring in this area, that a reduction to about one-fifth of the previous entitlements is not true. That may have happened in some cases, depending on the nature of the case, but my guess is that that is not the case across the board. One of the issues that can be looked at is the effect on compensation payouts of the 1993 amendments, and I have no problem with that and no problem with a general check of the status of the legislation. The Attorney-General interjected and asked how one could inquire into the exercise of a discretion. I think you can.

The Hon. K.T. Griffin: You refused to identify the criteria upon which you exercised discretion because you believed it could not be properly crystallised.

The Hon. C.J. SUMNER: But you can look at the sort of cases where approvals were being given at one period of time and at the sort of cases where approvals were being given at another period of time.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: I think you can conduct that inquiry and there may be sufficient cases to indicate that there has been a change of approach. I am not making any allegation about it or any suggestion; I do not have the information in front of me to do that. However, I do make this statement—which is the one the Hon. Mr Elliott has made—and that is that I have received representations to the effect that the current Attorney-General is exercising his discretion in a stricter way than that which I used.

The Hon. K.T. Griffin: I have received the same representations from the same legal practitioners.

The Hon. C.J. SUMNER: That is probably right; so we have all received them. We are all in the know; we all know what the representations have been and the Hon. Mr Elliott has taken it to the extent of suggesting that the Legislative Review Committee should look at it. I am happy for that to occur. If the committee finds that it is not a task it can carry out or that it is too difficult then no doubt it can report to that effect. With modern research techniques, if you have enough cases, you can decide whether there has been a change in approach from one period of time to another period of time. Whether the committee will want to engage in that level of research, I do not know. However, I do think it should be referred to the committee. It is an important area. It is an area where South Australia has something to proud of, not just in the area of criminal compensation but in victims' rights generally. It would be a pity if we lost our leading edge in this area. I support the motion.

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

CANCER

Adjourned debate on motion of Hon. Bernice Pfitzner:

1. That recognising the importance of screening for cancer of the cervix, and noting the Rome report's recommendation on:

- PAP smear taking and reporting;
- Laboratory quality assurance;
- Notification of results, follow-up and management of abnormalities;
- Cervical cytology registries;
- Medico-legal issues in relation to aspects of cancer of the cervix prevention practices,

this Parliament calls on the Federal Government to make the implementation of the report a matter of priority.

2. That this motion be communicated to the Prime Minister as a matter of urgency.

(Continued from 30 March. Page 352.)

The Hon. CAROLYN PICKLES: I support the motion. I agree with the honourable member that this is an issue of utmost importance not just to women but to everyone in the community. Men do not have a cervix but they do have mothers, sisters, partners and daughters who do. Thanks to the efforts of the Federal Labor Government and the former State Labor Government in this arena there is a growing awareness in the community of the need for regular screening. Recent campaigns, including television and print advertisements featuring respected journalist and broadcaster Geraldine Doogue, have served to increase awareness about this service, especially among older women.

It is especially important to raise awareness in this age group because many believe that after their child-rearing years are over or after menopause, or if they are no longer in a sexual relationship, a Pap smear is unnecessary. Unfortunately, many do not realise that older women are more at risk of cervical cancer and that a Pap smear can detect very early cell changes which can then be treated long before the cancer has the chance to development to a sinister stage. Figures suggest that nearly half of all cancers of the cervix in South Australian women occur in those between 50 and 70 years old.

The Federal Labor Government and the former State Labor Government have a proud record of achievement in this area. The national approach was developed because of some frightening evidence about the risks of this particular form of cancer. Evidence shows that more than 90 per cent of cervical cancer is preventable with two-yearly screening, but estimates from the late 1990s suggest that only 50 per cent of potential cases of cervical cancer were actually prevented in Australia.

I would like to draw members' attention to the document 'Screening to prevent cancer of the cervix', which was released in 1991 by the Department of Health, Housing, Local Government and Community Services. This report clearly indicates that the Federal Labor Government was making moves in this area as far back as 1988, when the Australian Health Ministers' Advisory Council established a Cervical Cancer Screening Evaluation Steering Committee.

A number of specific problems were identified by the committee. No screening policy was uniformly promoted and supported. Not enough women were being screened. Fewer than 50 per cent of Australian women aged 20 to 69 had regular Pap smears every two years; 14 per cent of women have never been screened. Screening was poor in women over 50—those at highest risk of invasive cervical cancer. The quality of Pap smear specimens was sometimes poor. The standard of cytology within the pathology laboratories was sometimes low. There was no consensus on the best management of Pap smear abnormalities.

To address these issues, the committee recommended an organised approach to screening, which would give women better protection against cervical cancer. Australian Health Ministers agreed to implement the necessary changes in the Australian health care system and that work has been progressively undertaken in cooperation with many medical and health agencies. The national policy on screening for the prevention of cervical cancer is a result of that collaboration. Indeed, the report to which I referred, 'Screening to prevent cancer of the cervix', released in 1991, was another result of that policy being put in place. The national policy sets out guidelines on which women need screening and how often Pap smears should be taken. It states:

> Routine screening with Pap smears should be carried out every two years for women who have no symptoms of history suggestive of cervical pathology.
>
> All women who have ever been sexually active should commence having Pap smears between the ages of 18-20 years, or one or two years after first sexual intercourse, whichever is later.
>
> In some cases it may be appropriate to start screening before 18 years of age.
>
> Pap smears may cease at the age of 70 years for women who have had two normal Pap smears within the last five years. Women over 70 years who have never had a Pap smear, or who request a Pap smear, should be screened.

So, the evidence is there that we have come a long way in developing a national, coordinated approach to this very serious issue. This organised approach involves both State and Federal Governments.

I draw members' attention to the *Hansard* of 17 September 1993 and the hearings of the Estimates Committee. It includes details of South Australia's commitment to this national approach to the prevention and management of cervical cancer. In 1992, the then Health Minister, Dr Don Hopgood, committed South Australia to take part in a national cervical cancer screening program. Its aim was to reduce the incidence of invasive cancer of the cervix among South Australian women. The program encourages women aged between 18 and 70 years to screen regularly and it has been specifically targeting Aboriginal women, women living in remote and rural areas, women from non-English speaking backgrounds and older women who are currently under-screened.

It involves specific recruitment strategies aimed at increasing the level of regular screening; promoting reminder and recall systems; putting mechanisms in place to improve the reliability of Pap smears; and to promote guidelines on the treatment of abnormalities. The program is based on existing service providers—general practitioners, community health services and laboratories. Commonwealth and State funds of $1.7 million were made available for the program, which is funded until June 1995.

A State Program Advisory Committee, with wide representation from professional groups, women's organisations and laboratories, was established to provide expert advice for establishing and monitoring the program. One of the major planks of this program was the establishment of a back-up record system, which will consist of screening, information provided by pathology laboratories. It will be used as a back-up to the individual laboratories for case management and to assist with quality assurance.

When fully operational, the system will be used as a back-up to ensure women are reminded to screen regularly. It will also provide data for monitoring and evaluation of the program. I understand the record system is well on the way to being implemented and will significantly improve quality assurance for all steps of the cancer cervix prevention pathway. There is evidence of the growing awareness of the

need for regular Pap smears, especially amongst the medical profession. In my own experience, it is only in recent years, when I have had a new doctor, that he has adopted a process of advising me by mail that my Pap smear is due. While much can be done at the broader level, it is vitally important that the health professionals who have that direct contact with their patients encourage them to be regularly screened.

The honourable member's motion mentions the Rome report. This is the report of the Steering Group on Quality Assurance in Screening for the Prevention of Cancer of the Cervix. It was released in March 1993 and made recommendations for the improvement in quality assurance requirements for what it calls the cancer of the cervix prevention pathway; in other words, the steps which can be taken to prevent this type of cancer. The poor performance of one function will result in overall poorer screening at the end of the pathway. The recommendations examined quality assurance requirements for the component steps of this pathway, commencing at the Pap smear.

A reference to *Hansard* will indicate to the honourable member that many of the recommendations made in the Rome report were actually being put in place in 1993. If the honourable member feels things are moving so slowly, I suggest she talks to her colleague the Health Minister in another place because many of the issues she raises in her motion are State responsibilities. The States are to ensure that an adequate referral and monitoring system exists which includes a link between the woman, the GP and laboratory which ensures informed decision making; laboratory and clinical facility for diagnosis of an abnormal screening test; management of abnormalities; and back-up safety net systems which supplement the usual recall facilities.

It is a State responsibility to establish cytology registries or put in place other measures to monitor the status of screened women, and to liaise with State and private cytology laboratories. While the Commonwealth will develop quality assurance measures, the States have to facilitate quality assurance standards for taking, testing and reporting Pap smears by service providers and laboratories. So, I suggest to the Hon. Dr Pfitzner that she also raises her concerns with the State Health Minister, Dr Armitage, and urge him to ensure things progress at a much faster rate than they have been. For myself, I am quite satisfied that my colleague in the Federal Parliament, Dr Carmen Lawrence, will be pursuing this vigorously. I support the motion.

The Hon. SANDRA KANCK: The significance of this motion is that the Rome report is not the first report that has been done on Pap smears. The first one in 1991 has been effectively ignored and the second one, the Rome report, which we are discussing, was presented more than 12 months ago but is still languishing. As the Hon. Bernice Pfitzner has said, the recent interstate case of a woman who was dying of cervical cancer, despite having been given an all-clear from her Pap smear test, reminds us of the need to do these tests properly.

Despite Pap smears having been around for 30 years, their value is still not properly recognised or understood, not least of all among the medical profession. I personally have received conflicting advice from doctors about how often I should have a smear test. At one stage I was having them every year. I then moved to another town where the doctor told me that I did not need them as frequently, perhaps once every two or three years, and in yet another town I found a GP who actually refused to do them—a male might I say—and I quickly transferred my patronage to a different medical practice.

The Hon. Carolyn Pickles: Did you report him?

The Hon. SANDRA KANCK: No, I was too young and naive then. A Pap smear test may not be able to prevent cervical cancer but regular smears will allow the detection of abnormalities and the tendency to develop cancer or to detect the cancer in very early stages so that it can be arrested. In this way unnecessary deaths can be prevented and cost savings made along the way as a result. Therefore it is important that Governments take seriously the recommendations of the Rome report.

In reading the Rome report I was particularly pleased to see some of the recommendations, which I single out:

2.3	That all medical schools should incorporate specific training in gynaecological examination, including Pap smear taking.
2.5	That additional resources be provided to Family Planning Australia and other relevant tertiary institutions to train nurses and Aboriginal health workers in the taking of Pap smears.
3.5	That the Royal College of Pathologists re-examine and define poor performance and acceptable standard in relation to quality assurance of laboratories.
3.6.2	Once poor performance has been confirmed by the quality assurance program, the laboratory be advised and told to clean up its act.
3.6.3	Withdrawal of registration if they do not improve.
5.1	The setting up of a national register.

The Democrats believe that this is an important issue for women and it is time that Governments responded accordingly. The Democrats have pleasure in supporting the motion.

The Hon. BERNICE PFITZNER: I thank my colleagues for their contribution and for their support of this most important motion on screening of cancer of the cervix. I note that the Hon. Ms Kanck mentioned that the general practitioner should not do the smear. Perhaps that might be a good thing, because one of the recommendations is that the taking and reporting of a Pap smear should be done expertly and with experience. If it is not done in that way sometimes it is better left because a false negative report might eventuate from such a source.

Regarding the response from the Hon. Ms Pickles as to who should be responsible for implementing the Rome report, I believe that with such an important issue one should not nitpick as to whether it is the responsibility of the State or the Commonwealth, that both areas of Government should work together to try to implement the report. The main points in the report indicate that the Pap smear should be done properly, that laboratories should have senior personnel to read the smears (quality assurance in the lab), and that notification of results should be managed properly, especially abnormalities, as that is a sensitive and difficult area to communicate to a person.

The most difficult part involves medico-legal issues. If a false negative report is obtained and if you tell a person there is nothing wrong, but something eventuates, that is a serious problem. I gather there are many false positive reports also, and if you tell a person that a cancer is present but that turns out not to be so, causing numerous hours, days, weeks and months of heartache, what is the medico-legal position? I urge both State and Federal Governments to consider the Rome report and to implement it as a matter of priority. I urge the Council to support this motion.

Motion carried.

INDUSTRIAL RELATIONS (OUTWORKERS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 20 April. Page 536.)

The Hon. SANDRA KANCK: I am aware that this Bill, even if it passes here, probably will not pass in the other place. Despite that, I have given it a lot of attention and done a lot of soul searching. It would be a lot easier if it could be handled as a straight out ideological matter, as it appears to be for the Government and Opposition. I have gone back to the *Hansard* of November 1992, when this issue arose, to attempt to clarify the arguments. I have had some personal experience as an outworker. Perhaps that is the wrong term, but for a while when I was unemployed I tried letterbox delivery. I decided after one go that the wages per hour were worse than baby sitting. Yet, I know some people who do it with alacrity at present because they see it as a good way to be paid while they exercise.

It has been a time honoured tradition in many communities that children or young people deliver newspapers as a way of supplementing their pocket money and to establish within them the work ethic. Indeed, even in the union dominated town of Broken Hill where I grew up this was entirely acceptable. This Bill seems to raise questions about that acceptability. The definition of 'outworker', as I read it, seemed to raise questions about some of my own activities. When I have written and faxed media releases from my home on behalf of the Australian Democrats for no pay I wonder whether under this legislation I would have been classed as an outworker. When I have written leaflets for my Party during an election, would that also have made me an outworker? I am not clear on this. However, I have no doubt at all that women, in particular, are being exploited in respect of some of the work they do in their home, and that this needs to be addressed. However, the question is how, and whether this legislation will resolve the problem.

The other matter that concerns me is from the point of view of the employer as the legislation seems to be creating an employer-employee relationship. What we have now with outworkers amounts to a jobs blackmarket because of the amount of pay that some people receive. If this Bill is passed and enacted I gather that such workers would be able to go to the Industrial Commission about their job and their pay. If they did so, such action would likely result in the achievement of better pay and conditions. However, the question that arises for me is: if this were to occur, would that work continue to be available?

I know from my own experience of employing someone the annoyance caused by the paperwork alone. I have had to apply to be a group employer and make consequent tax payments and I have had to fill out appropriate forms for my employee. I have had to take out superannuation coverage and register my employee with WorkCover. In the sort of instance we are talking about superannuation would probably not be payable as most of these people would not be likely to earn more than $450 per month. Knowing the frustration I have experienced in getting this sorted out, I wonder whether some of the people who farm out this low paid work would continue to operate in a forced employer-employee relationship. I think it is possible that these jobs under those circumstances might be discontinued.

So, it is a vexed question. Is any job worth having if it brings in an income of some sort for a worker or do we take the high moral ground and insist there be good pay for some people but effectively put others out of a job? The Government has said that its industrial relations Bill will achieve all that this outworkers Bill sets out to achieve and make it even better and simpler. Of course, that remains to be seen. Presumably though, the Government recognises that there are people in the work force who are being exploited in this way. Presumably also it believes that there is some degree of injustice that needs to be righted. I repeat my recognition that people are being paid poorly and working in awful conditions in some cases, but I do not know whether this legislation is the way to achieve a better position. I will support the second reading to allow continued discussion on the matter.

The Hon. R.I. LUCAS secured the adjournment of the debate.

ELECTORAL (POLITICAL CONTRIBUTIONS AND ELECTORAL EXPENDITURE) BILL

Adjourned debate on second reading.
(Continued from 16 February. Page 56.)

The Hon. K.T. GRIFFIN (Attorney-General): This Bill was introduced by the Leader of the Opposition when he was Attorney-General. It is designed to provide for a system in South Australia for the disclosure of political contributions and electoral expenditure to complement the system which is in place at the Federal level. Of course, what this does not do is to address the related issue of public funding, which was part of the package introduced at the Federal level, political contributions and electoral expenditure being discloseable on the basis that there would be public funding. The Government certainly does not support public funding of elections in South Australia, even if we had the money to do so. Some important philosophical issues are related to public funding and, whilst the argument may well be that it promotes equity in the political process, nevertheless it would certainly be frowned upon, if not scorned, by the majority of population that politicians are being fed from the public purse in terms of their election and re-election processes.

So, this Bill comes as only part of what was the package at the Federal level, and to some extent I would suggest that that is an argument against accepting this legislation because, whilst there is public funding at the Federal level, one can justify an obligation upon political Parties to disclose political contributions and electoral expenditure, although without the complimentary public funding provisions it is much more difficult, I would suggest, to justify electoral political contributions and electoral expenditure disclosure. In any event, one seriously does have to question, even in the context of Federal legislation, what benefits have come from that. I suppose a lot of the benefits have accrued to the Labor Party in the sense that corporations which may previously have preferred to donate to one have adopted what might be described as a more even-handed approach in the sense that they have sought to have a bob each way with donations to both the major political Parties and sometimes to the minor Parties.

So to that extent it has evened out the donations from the corporate sector, although it has not had the same effect at the trade union level, because of course the affiliation of the trade union movement is with the Australian Labor Party and, even though members of the trade union movement are frequently supporters of the Liberal Party, the Australian Democrats or

other groups within the political process, a proportion of their subscriptions to the trade union movement always go to the Labor Party and not to the Party of his or her choice. So in respect of the corporate sector the disclosure legislation at the Federal level has meant that companies have—

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: Maybe they don't. That was, of course, something that the Hon. Peter Duncan, when he was Attorney-General, tried to have addressed in amendments to the companies law back in the late 1970s, but it was not successful. Probably, the Hon. Mr Elliott's Party misses out as much as any, notwithstanding the existence of the disclosure legislation. However, regardless of one's view about the desirability of public disclosure of contributions and expenditure, there is a major issue which the Hon. Mr Sumner has not specifically addressed, that is, at the Federal level the two major Parties federally have agreed to a review of the Commonwealth legislation.

I understand that the joint standing committee on electoral matters is to conduct an inquiry. I understand that that is to commence about the end of May. Whilst there is some suggestion it will not take a great deal of time, there is no indication as to whether that will be two or six months, or some other period of time. What that may result in is changes from the present Commonwealth Act which, if this State legislation were ultimately to be passed, would mean inconsistencies between the two. Certainly, the Federal Act is burdensome upon the administration arm of political Parties. In fact, I would be rather surprised if the administration or organisational wing of the Labor Party was actually in support of this proposition that is before us now.

There are significant burdens, because it requires disclosure right through the organisation of political Parties. I am sure that the Hon. Mr Sumner would know—if he does not he should know—that even branches are required to fill out returns and, because they work at a voluntary level, the burden upon them is much heavier than if professional persons were involved in those branches collecting and collating information and providing the returns, particularly at the end of each financial year and after an election. So, it is a burdensome piece of legislation.

Apart from the reference I made to the donations from the corporate sector, it is very hard to know exactly what the advantage of the disclosure legislation may be. The principle upon which it was originally enacted, or which people believed was relevant at the time, was that this would somehow make politics more open and there would be less opportunity for subversion or malpractice—

The Hon. C.J. Sumner: Corruption.

The Hon. K.T. GRIFFIN: —or corruption, but there has certainly been no indication that it has had any effect at all in that respect.

The Hon. C.J. Sumner: It was all disclosed.

The Hon. K.T. GRIFFIN: Some of it was disclosed. If you look at what has happened in Western Australia, you see that, even though that did not have a disclosure regime, there were still the payments to the Labor Party in that State, some of which went to the Federal election campaign.

The Hon. C.J. Sumner: It has all been disclosed.

The Hon. K.T. GRIFFIN: It wasn't disclosed, as I understand it.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: No, but the Federal legislation was, at the time of the WA Inc.

The Hon. C.J. Sumner: No.

The Hon. K.T. GRIFFIN: Well, yes, I'm sure it was, because this has been in operation federally for seven or eight years, during the Hawke leadership period. Anyway, so be it; it is very difficult to perceive exactly what benefits have come to the political process from this disclosure. The Government is not supportive of this Bill at the State level for the reasons that I have indicated. Apart from that, I draw to the attention of the Leader of the Opposition the fact that at the Federal level this is currently to be reviewed by arrangement between the two major Parties.

The Hon. SANDRA KANCK secured the adjournment of the debate.

CODE OF CONDUCT

Adjourned debate on motion of Hon. C.J. Sumner:

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.

(Continued from 16 February. Page 56.)

The Hon. K.T. GRIFFIN (Attorney-General): The Government proposes to support paragraph 1 of the motion to enable the Legislative Review Committee to be given a reference to examine a report on proposals in Australia and elsewhere for the establishment of a code of conduct for members of Parliament but does not propose to support the second paragraph, which is to require the Legislative Review Committee to recommend to Parliament the adoption of a code appropriate to the South Australian Parliament. We do not intend to support the second paragraph because it tends to pre-empt the examination of the issue by the Legislative Review Committee.

If one looks at it carefully, one sees that it requires the committee to make a recommendation for the adoption of a code even if, after examination of the issues, the Legislative Review Committee concludes that such a recommendation should not be made. So, I will be proposing an amendment at the appropriate time to remove paragraph 2. Certainly, it will not preclude the committee from considering the issue and making recommendations, whether or not they be recommendations for a code.

It is interesting to see what has been happening in other States in relation to codes of conduct for members of Parliament. The New South Wales Parliamentary Joint Committee on the Independent Commission Against Corruption is currently working on a reference that includes an examination of the need for a code of ethics or conduct for members of Parliament. That committee has taken evidence on this matter and has been informed that the matter is extremely complex and not a simple matter of just forming a code of conduct. The committee has produced an issues paper, of which I have obtained a summary, and there is also a discussion paper.

Before I deal with that, I will refer briefly to what has been happening in Western Australia, Queensland and New South Wales as that may be helpful to the Council. In Western Australia the report of the Royal Commission into the Commercial Activities of Government and Other Matters made a recommendation that the Commission on Government, which was a body that the WA Inc. royal commission recommended should be established, have an ongoing

responsibility to look at matters affecting Government arising from its recommendations. It recommended that that Commission on Government review the standards of conduct expected of all public officials for the purposes of (a) their formulation in codes of conduct and (b) determining what associated measures should be taken to facilitate adherence to those standards.

The commission took the view that the criminal law provides no more than a base level below which officials must not fall, but it does not address the standards to which they should aspire. A general code of conduct does no more than raise a number of specific issues that should be addressed by the Commission on Government. These more specific issues are conflict of interest; receipt of gifts; the use and disclosure of information obtained in office, spare time employment, the movement from public office to private employment and due process obligations. I should merely refer in passing to the fact that, at least in relation to Ministers, there is a specific code in place: a code in the previous Government and a varied code in the present Government dealing with a number of those issues. However, one must question whether those who are not members of a Government should be bound by the same sorts of principles reflected in a code. One could probably suggest that there ought to be a stricter obligation upon members of a Government Party, even though not Ministers, because of their potential for a greater level of influence than for members of Opposition Parties.

The Western Australian commission made a number of comments. It observed that there was no system of standards that could ensure official integrity. It said that this depended on the commitment of officials themselves and their commitment to the public trust that they discharge. The aim, through education, should be to create an environment in Government in which ethical behaviour is the accepted order. I pause there to say that I am not sure that education alone will be the basis for ethical behaviour. Certainly, education does help in identifying the issues, but ethics, I suggest, has a more basic origin than education.

The WA Inc. royal commission said that it was imperative that all public officials have available a statement or code that addresses these matters; that all public officials should be bound by a code, and that this should expressly include members of Parliament and Ministers; and that a comprehensive code of conduct for Ministers is a necessity, because they have the greatest power and the greatest responsibility. There must be necessary adjuncts to any formal statement of standards to avoid integrity concerns, most commonly directed at the avoidance of conflicts of interest. In accepting a public office a person must accept that there are certain activities and relationships that may have to be avoided, but curtailment of the enjoyment of the rights that ordinary citizens have should be no greater than necessary.

I understand that in Western Australia no progress has been made on such a code of conduct, although I saw from a press report in the past few days that there was some debate in Parliament about parliamentary privilege, which I think to some extent would impinge on this issue.

In Queensland the Electoral and Administrative Review Commission recommended that there should be a code of conduct for elected representatives. The commission recommended that the proposed code of conduct for elected representatives include specific provisions governing the ethical obligations of Ministers acting in their roles as Ministers of the Crown. These provisions are in addition to the ethical obligations of other members.

The commission also recommended that the rules governing the administrative and procedural aspects of the role and functions of a Minister and their rights and entitlements not be included in a proposed code of conduct for elected representatives but be the subject of a separate procedural document to be developed and issued by the Government of the day. The Parliamentary Committee for Electoral and Administrative Review endorsed this recommendation of the commission and recommended that a code of conduct for members of both Houses be prepared, and that breaches of the code of conduct for elected representatives of the Legislative Assembly should be dealt with by resolution of the House or, where appropriate, under the criminal code for the Criminal Justice Act.

In New South Wales the Parliamentary Joint Committee on the Independent Commission against Corruption has taken evidence on the need for a code of conduct for members of Parliament, and that evidence indicated that the process was a lot more complicated than it appeared on the surface. As I indicated earlier, the committee has produced an issues paper which notes that the process of developing a code of ethics is just as important as the end result of the code produced. The summary raises various issues for consideration, including whether a general or specific code is needed, what categories of action the code should cover and what sanctions should apply for a breach of code.

The paper does raise many difficulties with the drafting of such a code, including issues such as to whom a member of Parliament is responsible, the conflict between duty and interest and the risk of subversion of the code for Party political purposes.

I think it is important in the context of consideration of this motion that I refer briefly to some of the references made in the discussion paper by the New South Wales Parliamentary Committee on the Independent Commission against Corruption. In paragraph 10.1.7 the report states:

> The ICAC recognised that a member of Parliament is subjected to a number of differing and competing duties: a responsibility to Parliament, a responsibility to his or her own constituents and a responsibility to the people of New South Wales more generally.

So, it was in that context that one looked at the responsibilities of members and the need for a code. In paragraph 10.1.9 the committee states as follows:

> The committee realises that the task of formulating a code of ethics that aims to resolve these conflicts is no simple matter. The committee obviously recognises the complex nature of politics. As the Chairman of the committee, Malcolm Kerr, put it:
>
> > Democracy, in its implementation, sets up a series of paradoxes. On the one hand our system rightly invites our suspicion and probing of those who govern us for the time being. On the other hand it seeks to establish community respect for the institution. Parliamentary debates involve a vigorous battle of words and ideas. Majority rule creates intense partisanship resulting in lively probing of individuals and arguments. That sometimes presents an image which is not wholly conducive to dignity.

In relation to the enforcement of sanctions and the risk of subversion for Party political purposes, the committee made the following references in its discussion paper. Paragraph 10.2.1 states:

> A further problem arose during the course of the committee's public hearings: the politicisation of a code. Members of the committee raised the issue that a code could become an instrument of the dominant Parties in the Parliament and it may be used against

independent members. The major Parties could seek to restrict the actions or independence of such members.

Paragraph 10.2.2 states:

> The Hon. Stephen Mutch MLC of the committee put it this way:
>
> Is this code an assault upon democracy? It is all very well to put people into Parliament but if you are going to tell them exactly how they should behave under a detailed code of conduct you are basically stifling their democratic right to act in the way they feel is in the interests of the people they represent.

In paragraph 10.2.3 again the committee says:

> Mr Mutch continued highlighting the particular affronts to democracy that could occur:
>
> One can see the political Parties jockeying with each other to try and find that someone else has breached the code so they can get that person out of Parliament—particularly in the hung Parliament situation.

In paragraph 10.2.4 the committee says:

> Dr Jackson added:
>
> This is an important point. Those of us who have participated in the ethics movement for a number of years have cause for worry. I will now refer to the American experience and say that a lot of things about the ethics codes in the United States have become part of the political process, used to secure partisan advantage. That is not the best outcome of the situation. I think that is one thing that anybody who is thinking about an ethics code must consider: that there are incentives for this to occur and it will occur.

Under the heading 'Need to ensure diversity of representation' in paragraph 10.3.1 the committee observes as follows:

> A similar issue that arose in the course of the committee's hearings was: can a code determine what sort of conduct a member may involve him or herself in? For instance, one suggested provision of a code was given by the Speaker Kevin Rozzoli as 'A member should always act in a manner which upholds the dignity of public office.' This provision could seek to constrain a member from deviating from the conduct of the majority. What if a member were to participate in a rally advocating a cause supported only by a minority of people, and he or she was arrested? If that member had followed their conscience, would not a Parliament, under the auspices of the code say, 'being arrested lowers the dignity of Parliament.' Then the Parliament may seek to take action against that member.

The Hon. C.J. Sumner: It doesn't have to be the result of the code.

The Hon. K.T. GRIFFIN: But it may be, and this is the discussion paper and the issues that have to be addressed. Paragraph 10.3.2 states:

> As the Hon. Stephen Mutch MLC put it:
>
> Are you really constraining the conduct of members of Parliament? If you are a radical fringe politician who espouses all sorts of weird causes and you are elected to Parliament, are you basically saying that person should be made to conform with some common denominator that is set down by the major Parties?

A number of other references are made in the discussion paper to that potential conflict between the desire to ensure that the Parliament and its members act with dignity, decorum and with propriety. On the other hand, if they do act in a way which does not conform to the code but which might nevertheless be in the interests of a constituent or constituents, a conflict immediately arises.

If one looks at some of the provisions which have been suggested in the Queensland Electoral and Administrative Review Commission Report on the Review of the Codes of Conduct for Public Officials one can see what sorts of principles are likely to be enshrined: respect for the law and the system of government, respect for persons, integrity, diligence, economy and efficiency. The crystallising of some of those principles into a code of conduct immediately means that lawyers, bush lawyers and others seek strictly to interpret the application of such principles reduced to writing according to behaviour which may not be in accordance with the standard of a particular member but which may be in accordance with the standards of others.

So, there are inherent problems in a code, and I am certainly not convinced, nor is the Government, that a code is a foregone conclusion and ought to be enacted. There are the questions of sanctions and whether those sanctions, even if imposed by the Parliament, infringe upon the issue of privilege and the freedom which members presently have to represent the interests of their constituents in a way which they believe is in the best interests not only of their constituents but also on many occasions of the institution of the Parliament.

So, Mr President, whilst there are misgivings about a code, nevertheless we, as a Government, are prepared to acknowledge that it is an issue that has been raised in three other States and is under review at least in New South Wales by a parliamentary committee and ought to be the subject of consideration by the Legislative Review Committee. However, we are certainly not committed to a final resolution of this by the formal enactment of a code of conduct.

As I said at the beginning of my speech on this motion, the second paragraph tends to presume what the committee should find and at least adopts by way of principle the necessity for a code, and I suggest to members that that is inappropriate. I suggest to members that that is inappropriate. Therefore, on that basis I move:

> Leave out the words 'and—II. recommend to Parliament the adoption of a code appropriate to the South Australian Parliament.'

The Hon. M.J. ELLIOTT: The Democrats support the motion, and I note the fact that the substantial part of the motion is supported by the Government as well. I do not support the amendment to delete part II.

The Hon. K.T. Griffin: You did not even listen to the debate. You were not even here.

The Hon. M.J. ELLIOTT: How did I walk in on cue? It was because I was listening to it on a speaker outside.

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: Don't give me that. I listened to every word; in fact, I hung on every word, and although they were eloquent they were not persuasive.

The Hon. Carolyn Pickles interjecting:

The Hon. M.J. ELLIOTT: Perhaps I should say, 'sufficiently persuasive', to be as generous as I can be. I do not believe it is unreasonable that there should be a recommendation to this Parliament in relation to the adoption of a code. I do not believe that it is impossible if, at the end of the day, the committee decides that its recommendation in relation to adoption is that there shall not be one. I still believe that that is open to it, but in the first instance an invitation to the committee to present a possible code is reasonable. I therefore support the motion as it stands and not as the amendment proposes.

The Hon. C.J. SUMNER (Leader of the Opposition): In closing the debate I thank members for their varying degrees of support for the motion. I endorse the remarks of the Hon. Mr Elliott in relation to the amendment moved by the Hon. Mr Griffin. I am pleased to see that he will not support it. I think that if the Hon. Mr Griffin's amendment were passed there would be the possibility that the reference could drift off to the Legislative Review Committee and end up nowhere.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Okay, we are requiring a code to be produced. As the Hon. Mr Elliott says, no doubt if the committee decided that codes were no good then it could report back to that effect. I thank the Hon. Mr Griffin for his contribution in the sense that he outlined the situation with some of the inquiries in the other States. He also drew attention to an important issue; that is, the use that could be made of a code of conduct. I am sure that we would not want a code to restrict the normal flow of debate that is necessary for Parliament and for our democracy.

However, having said that, there is no doubt that there have been instances where the conduct of members of Parliament has fallen short of the standards that the community expects. It is not just members of Parliament who are concerned with the development of these codes, other professional groups are involved, whether it be lawyers, doctors or, indeed, in the corporate sector as well. As I have mentioned, there are codes of conduct for trading enterprises and so on. The move towards getting some basic standards for the conduct of affairs in various professions and trades is gaining momentum, and I believe it is important that we consider it here in Parliament.

The royal commissions in Western Australia and Queensland were sufficiently horrified by the activities of our colleagues in those States, on both sides of the political fence, to recommend the development of a code of conduct. I do not think we have had the same trouble in this State, in those arenas at least. Certainly, despite all the difficulties that the former Government had with its financial institutions, there was never any suggestion of corrupt or improper behaviour such as was identified in Western Australia and Queensland.

Those royal commissions have suggested a code. I think it is incumbent upon us to look at the issue. It is true that, while there has not been corruption or abuse of the kind that was found to exist in Western Australia and Queensland in this State, there certainly have been some significant abuses of privilege over the past decade, which, of course, have left individuals in significantly disadvantaged positions because of that abuse. I think that there is an issue about privilege which has to be looked at by Parliament. If Parliament continues to abuse its privilege in the way that has happened in this Council and in this Parliament then we will get the questioning of privilege by the public.

We are already seeing that movement develop. We are seeing the courts—in the *Lewis vs Wright* case—restrict privilege to some extent beyond what I think most members of Parliament assumed it involved. That is happening and we are getting media criticism of privilege and the use of coward's castle because members of Parliament do abuse privilege, and we have had over the past decade some examples in this Council—

The Hon. K.T. Griffin: Very rarely.

The Hon. C.J. SUMNER: Enough that I am aware of, because I was subject to it for a fair bit of time—and in another place, and the reality is that there are abuses. I am just telling the Council that unless people deal with the abuse of privilege then there will be movement to restrict the use of privilege in our Parliaments, and that is not something that I support. But I think a code which perhaps develops some ideas and standards as to the manner in which matters could be raised in Parliament, the sorts of things you should look at before you decide to use the privilege of Parliament, would not be a bad thing. However, I accept that we do not want a situation where the major Parties put members of Parliament into a straitjacket. That would be quite wrong.

Personally I am not sure that there should be sanctions, that is, formal legal sanctions, attached to the code. I am not necessarily advocating a code which is enshrined in legislation and which has attached to it sanctions such as loss of a seat or a fine, or anything like that. In fact, my present view is that that would be inappropriate. But I can see a code being developed which is a guide to members of Parliament and where the sanctions are basically political sanctions if it is breached. In other words, people can point to the fact that the code was breached. Certainly, at this stage, I do not think that having legal sanctions attached to breaches of the code is appropriate.

If the code is breached there are political sanctions; the member would have to justify that breach in the public arena. However, all those matters—those raised by Attorney-General and by me, the reports in other States, the royal commissions and the parliamentary committees looking at them in the other States—can all be looked at by the Legislative Review Committee. I believe it is a useful exercise. I am somewhat more enthusiastic about codes than the Hon. Mr Griffin seems to be. However, I do not think that we should let the issue rest. It is perhaps to some extent a preemptive measure to ensure that problems which occurred elsewhere do not occur here. I will await with interest the deliberations and findings of the Legislative Review Committee.

The Council divided on the amendment:

AYES (9)

Davis, L. H.	Griffin, K .T.(teller)
Irwin, J. C.	Laidlaw, D. V.
Lucas, R. I.	Pfitzner, B. S. L.
Redford, A. J.	Schaefer, C. V.
Stefani, J. F.	

NOES (10)

Crothers, T.	Elliott, M. J.
Feleppa, M. S.	Kanck, S. M.
Pickles, C. A.	Roberts, R. R.
Roberts, T. G.	Sumner, C. J.(teller)
Weatherill, G.	Wiese, B. J.

PAIRS

Lawson, R.D.	Levy, J. A. W.

Majority of 1 for the Noes.

Amendment thus negatived; motion carried.

STATUTES AMENDMENT (NOTICE OF CLOSURE OF EDUCATIONAL INSTITUTIONS) BILL

Adjourned debate on second reading.

(Continued from 30 March. Page 357.)

The Hon. SANDRA KANCK: I will be very brief on this matter. It deals with the closure of schools and TAFE colleges, which is a matter of some concern. Having been a teacher and having taught in one and two teacher schools, I am quite convinced that some of the best education occurs in those schools. It is education that is relevant to what those children require in those communities, but because of economic rationalism (these days this is a contradiction in terms because there is nothing rational about it), the demand is that small schools be closed. Over the past decade with assorted Governments that has occurred with increasing frequency.

The Minister for Education accused the Opposition of hypocrisy in this matter. I am not here to assess whether or not it is hypocritical. I am certainly aware that the previous Government did preside over many of these school closures, but in terms of what this is calling for, it is not unreasonable that 18 months notice of closure be given. It allows parents and students time to alter their plans accordingly, and particularly for small schools in rural areas that can be very important. So, the Democrats will support the second reading.

The Hon. C.J. SUMNER (Leader of the Opposition): In closing the second reading debate, I thank the Hon. Sandra Kanck for her contribution in support of the Bill. The Government, predicably enough, is opposed to it, but I still think it is worth pursuing in the Parliament and getting it to be debated in another place. No doubt the weight of considerable numbers, which the governing Party has in that Chamber, will see the matter, presumably, opposed. However, I urge the Government to reconsider the issue as the proposition is worthy of consideration. I urge the Minister to examine the matter again in another place. I do not want to canvass all the facts of the school closure issue again. It was debated fully during the election campaign and has been the subject of some questioning in this Chamber.

This Bill has raised the issue and the Audit Commission has also raised the issue of school closures in a dramatic way. I have no doubt that the debate will continue. We are trying to say that in the context of that debate and in the context of possible future closures, some mechanism should be put in place to notify people of proposals to close so that submissions can be made and the best decision taken in the end in this area.

The Council divided on the second reading:

AYES (10)

Crothers, T.	Elliott, M. J.
Feleppa, M. S.	Kanck, S. M.
Pickles, C. A.	Roberts, R. R.
Roberts, T. G.	Sumner, C. J. (teller)
Weatherill, G.	Wiese, B. J.

NOES (9)

Davis, L. H.	Griffin, K .T.
Irwin, J. C.	Laidlaw, D. V.
Lucas, R. I. (teller)	Pfitzner, B. S. L.
Redford, A. J.	Schaefer, C. V.
Stefani, J. F.	

PAIRS

Levy, J. A. W.	Lawson, R. D.

Majority of 1 for the Ayes.

Second reading thus carried.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Notice of closure of schools.'

The Hon. R.I. LUCAS: I have a series of questions that I wish to put to the Opposition spokesperson on education as to the practical effect of the legislation before us. In particular, I want to look at how the legislation would be intended to operate in some circumstances should it pass this Chamber. I ask the Leader first: if a decision is taken by the Government in September of this year to close a particular school, does he agree that that therefore means that the school cannot close until some time during the first term of 1996? If so, how many students does he think will attend that school in the first term of 1996 if the result of this legislation is that the school will close at some time during that first term?

The Hon. C.J. SUMNER: Clearly, 18 months' notice must be given once the decision has been made and published in the *Gazette*. That is fairly clear. It is not a particularly complex piece of legislation. I noted the comments of the Leader of the Government in his second reading speech in which he said that he expected, once the notice had been given, that the school would be deserted in the first term of a year if that coincided, as it would, with the notice period. I do not accept that that is necessarily the case. There is no reason why it should be the case. I believe it depends upon—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Well, I think some will continue to send their children to the school, if it is convenient, but of course within a period of 18 months one would expect, once the notice has been given, that there would be discussion by the Government with the groups concerned, in particular, the parents and students perhaps and other members of the local community such as local government and Government agencies that might be concerned about a school closure. There would be discussion, and 18 months gives time for that discussion to occur. It might be after the discussion has occurred that the Government says, 'We'll change our mind; we don't think this closure should proceed', in which case the children will continue to go to the school. Those decisions might be made within weeks or a very few days.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: You might have. This ensures that you do in fact have that consultation. You might decide to close the school without any consultation whatsoever. That is still something the Government can do. You today could decide without consulting with anyone to close a school. You might say, 'That's not our policy and it hasn't happened', etc, but the fact of the matter is that you can. It is exactly what happened in Victoria, as you know. The Government—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: They did close them.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: They made a decision to close them overnight.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Yes, but without any consultation and no review of the decision. I understand that one of—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Yes, but this gives the chance for people to—

The Hon. R.I. Lucas: There's no review.

The Hon. C.J. SUMNER: I was going on to say that I understand there was a judicial review of one of the decisions in Victoria under that State's equal opportunity legislation, and the Government was ordered to reopen the school on the basis that the closure would, as I understand, be discriminatory to Aboriginal people, but that is another issue. Judicial review might, in some circumstances, be possible if the closure is contrary to other legislation, such as the equal opportunity legislation. However, the reality is that decisions can be made by Governments to close schools without consultation, and that is exactly what happened in Victoria—there was not any consultation.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: It does during this period. That is what the 18 month period is for.

The Hon. R.I. Lucas: It says that once I have made a decision to close—

The Hon. C.J. SUMNER: If you're that—

The Hon. R.I. Lucas: Look at your Act.

The Hon. C.J. SUMNER: If you're that silly, then—

The Hon. R.I. Lucas: Look at your Bill.

The Hon. C.J. SUMNER: It may not be an Act, that's right. I understand that in another place there is a—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: If you want to put in 'required to consult', but I would have thought—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: The Leader of this Government has been in this Chamber long enough to know that, although Bills are opposed by various Parties, as they proceed through the Committee stage amendments are sometimes moved in order to make the Bill more palatable.

The Hon. R.I. Lucas interjecting:

The CHAIRMAN: Order! You will get a chance to speak.

The Hon. C.J. SUMNER: Even in those circumstances if the thing was going to be debated seriously in another place then no doubt you could move amendments. I invite you to move amendments. I am quite happy to look at amendments relating to consultation if it is of concern to you, although I would have thought that it is pretty obvious that the purpose of this Bill is to provide an 18 month period for consultation.

The Hon. R.I. Lucas: We've already made the decision.

The Hon. C.J. SUMNER: I know, and you might have made the decision without any consultation at all, which is what happened in Victoria under the Kennett Government. Many schools—and I do not know the exact number—were closed without consultation; it was an overnight decision to close. They may not have closed until the end of the year—even Mr Kennett was not that silly—but the decision to close them was made without consultation. That is how it is. What this is designed to do (as the honourable member would know if he had read my second reading explanation) is to give notice, to enable consultation, and to enable the school communities and the local communities, whether they be local government or otherwise, to have an input into the decision and to put their views to Government, with the possibility that the Government would review the decision to close. That seems to me to be not an unreasonable proposition. If the Government is interested in amending the legislation to say that there shall be consultation during this period that is fine by me, but it is hardly necessary. If it would like to put forward some other modification to the proposal, then I am quite happy to look at it. But the fundamental principle—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: It would depend on the circumstances.

The Hon. R.I. Lucas: Give me the circumstances; what do you do?

The Hon. C.J. SUMNER: It may be that the matter has been resolved prior to that. It may be that parents—

The Hon. R.I. Lucas: It can't be; you've got to wait 18 months.

The Hon. C.J. SUMNER: If you are going to close it. You might decide to keep it open. That is an option, Mr Chairman.

The Hon. R.I. Lucas interjecting:

The CHAIRMAN: Order! The Minister will get an opportunity to ask his questions when his turn comes.

The Hon. C.J. SUMNER: So, it may be that the matter is revolved before that by discussion. It may well be that parents do decide, 'Well, the Government's going to go ahead with this in any event,' and effectively the school will be closed before the period, because the parents may take the view that they will not be able to change the Government's view. On the other hand, they might well say, 'Well, we are going to continue to press this issue,' and kids may still turn up for their lessons.

The Hon. R.I. LUCAS: I ask the Leader of the Opposition: is it correct that, under his legislation, in term 1 of 1996, if not one student turns up at a school, his legislation will require the Government to have a principal at the school, to have staff at the school, under the provisions of the Education Act, as it is still a school?

The Hon. C.J. SUMNER: If that happens, the school is effectively closed, because there are no students there.

The Hon. R.I. Lucas: We can't close it—

The Hon. C.J. SUMNER: This is the most—

Members interjecting:

The Hon. C.J. SUMNER: Well, it's not actually. You are trying to be funny about a serious proposition.

The Hon. R.I. Lucas: It's your Bill.

The Hon. C.J. SUMNER: Exactly.

The Hon. R.I. Lucas: Is that true?

The Hon. C.J. SUMNER: If that happens, if the notice is given, if the representation is made by parents, they may agree immediately, and there is no problem with the closure—

Members interjecting:

The Hon. C.J. SUMNER: Yes, all that may happen, in which case the consultation process is gone through, the parents accept the decision, and if there are no—

Members interjecting:

The CHAIRMAN: Order!

The Hon. C.J. SUMNER: If that is your attitude, I really have some problems about your future in the Government, or the future of the Government, because if that happens, if there are no kids there, effectively the school is closed. You do not have to have—

Members interjecting:

The Hon. C.J. SUMNER: Well, if one student is there—

The Hon. R.I. Lucas: Do you have a principal and a teacher?

The Hon. C.J. SUMNER: —you have enough teachers to cope with the situation.

Members interjecting:

The CHAIRMAN: Order! There is far too much background noise.

The Hon. C.J. SUMNER: I think they are fools, Mr Chairman, quite frankly. They are trivialising what is an important issue. If they want to continue to do it, I am happy to stay here all night and they can ask me more questions about it, and I will continue to answer the questions if that is the way they want it. It is not an unreasonable proposition to allow 18 months' consultation. I repeat: if you want to modify the Bill in some way by moving an amendment, then I am happy, as we do with most Bills, to consider an amendment to deal with consultation or circumstances where the issues between the community are resolved prior to the 18 month period. That is not a problem, as far as I am concerned, either. In my view, there is very little merit in trying to belittle the proposal and, quite frankly, you really do not do yourself any credit at all. The fact is that, if parents decide not to send their kids to the school, the school is effectively closed. There is no-one there.

[Sitting suspended from 6.2 to 7.45 p.m.]

The Hon. A.J. REDFORD: I have a question of the Leader of the Opposition in relation to the use of the word 'closed'. I might say that 'closed' could be used to describe the minds of the Labor and Democrat coalition to the Government program, but what does the Leader of the Opposition mean by the term 'closed' in this context? Does it prevent the Minister cutting off buses to a remote school? Does it prevent him reducing teacher numbers such that it could be the source of great debate as to whether or not the institution is functioning properly? To what extent can the Minister withdraw resources from a school without running the risk of having some court describing that school as being closed?

The Hon. C.J. SUMNER: I am sorry the honourable member could not do his own research on the topic, but if he had bothered to go to the desk here he could have found a *Concise Oxford Dictionary* and looked up 'to close', spelled c-l-o-s-e, and he could have read it out and that, presumably, would have answered his question. I would have thought that the honourable member's training in the law over these many years would have given him some familiarity with the Oxford or any other English dictionary and might have enabled him to look it up and provide an answer to his own question. I do not know whether he wants me to read out the whole lot: there is a number of meanings of 'close'. Perhaps the first one might do: it says 'shut'.

The Hon. A.J. REDFORD: The short answer is that that would not prevent the Minister from, say, stopping all buses going to that school and effectively causing it to become inefficient or, perhaps, withdrawing all the teachers from the school but leaving the doors open? I am not sure what the honourable member means by 'closed'.

The Hon. C.J. SUMNER: I do not think that is what is intended, although it might be. I assume statutes interpretation in the courts (although one sometimes wonders) has something to do with the application of commonsense to a situation and to the ordinary meaning of words. 'To close' means just that. It means 'to close', 'to shut'; it means it does not operate any more. It no longer operates as a school. I would have thought that was fairly obvious from just the ordinary plain English that is involved.

I must confess that I would have expected a little more of the Hon. Mr Redford. It would be a terrible pity for him at such an early stage of his career to fall into the well known adolescent habits of the Leader of the Government, but I guess there is not much point in my giving him advice about these things. In due course, presumably, he will find his own way around the place. All I can say is that we need to keep more schools open, and perhaps we should send the Leader of the Government back to one so that he can overcome some of his more adolescent behaviour.

Members interjecting:

The CHAIRMAN: Order!

The Hon. R.I. LUCAS: It is very disappointing that, when the Leader of the Opposition cannot answer questions directed to him on a silly piece of legislation, he resorts to personal abuse. All the Government is trying to—

The Hon. Anne Levy: You would never do that!

The Hon. R.I. LUCAS: The Hon. Anne Levy says, 'You would never do that,' and I say 'Quite right. I would never do that.' Thank you very much. What the Government is trying to point out in relation to this legislation is the silly situation in which it will place the Minister for Education and Children's Services of any Government, whether it be Labor or Liberal, in relation to school closures. As I indicated prior to the dinner break, if a Government takes the decision late this year to close down a school, the Leader of the Opposition is suggesting that for the first term or perhaps even for the two terms of 1996, even if there are no students at the school, the school cannot be closed at all; that the Minister for Education and Children's Services will be required to provide a principal and a teacher, or a principal who does some teaching, and a range of services for that particular school on the off chance, I suppose, that a wandering student passes by some time in the first six months of that year and decides to take up the Labor Opposition's proposition that we ought to keep that particular school open, even if it has no students.

Let us just look at a situation where we have at a school one student who is covered under our student with disabilities policy and, therefore, under our current Education Act, must have a negotiated curriculum plan which requires the provision of services by a speech pathologist and of a range of other special education teachers as well.

Members interjecting:

The Hon. R.I. LUCAS: This is your legislation. As the Leader of the Opposition indicates, the legislation is a joke. Under a negotiated curriculum plan—

Members interjecting:

The Hon. R.I. LUCAS: The Leader of the Opposition has no answer. What the Leader of the Opposition should respond to is: when we have one or two students at a school, under this legislation is it correct—a fairly simple question—that the Minister, the Government and the taxpayers will be required to provide a principal and a teacher and, if a student is under the negotiated curriculum plan of the department, under the student with disabilities policy, will the Government have to provide to that student the services of a speech pathologist and of trained special education teachers?

The Hon. C.J. SUMNER: The Minister seems to take umbrage at what he regards as personal abuse. I would have thought—

Members interjecting:

The Hon. C.J. SUMNER: No, I will answer his question. I spent about 20 minutes answering it before the dinner adjournment, Mr Chairman, during which stage the Minister engaged in a bit of personal abuse of his own. And that is fine; he is entitled to carry on in that way. We are used to his doing it. He has been doing it ever since he got in here and no doubt he will continue to do it, whether he is in Government, Opposition or whatever. He is an adolescent, I am afraid. I think we should keep the schools open so he can go back there.

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: It is going to be a great night, folks. It will be a great night; we will be here for a very long time if this is going to go on.

An honourable member interjecting:

The Hon. C.J. SUMNER: Well, the Democrats will go and then we will come back tomorrow and the week after and the week after. Don't worry about that.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: I would have thought you would not bother to come back but, still, that is your problem. So, having dealt with what I regard as the Minister's frivolous and adolescent behaviour, he then puts forward, as I said before the dinner break, some extraordinarily hypothetical examples in order to put a question to me about what would happen if a certain situation occurred—in fact, an example that verges on the fanciful. I tried to answer it by resort to

some commonsense about how the issue would be handled if that extreme hypothetical example ever occurred but—

Members interjecting:

The Hon. R.I. Lucas: What is the answer?

The Hon. C.J. SUMNER: I have already answered it, Mr Chairman.

Members interjecting:

The Hon. C.J. SUMNER: Come on folks; if they want to stay around that is fine by me. I am feeling quite fit and well fed, so we can stay around for as long as you like. I answered it before the dinner break. You may not like the answer but that is your problem. Not liking the answers that you get in this place happens every day of the week. The Minister purports to answer questions every day of the week. We do not like the answers half the time in so far as they are answers, but nevertheless he gives some sort of answer.

Now I have given an answer. If the Minister does not like the answer it is not my problem: it is his problem. He puts forward some very hypothetical and, I would suggest, fanciful examples of a situation that I have no doubt would be resolved in the consultation period that this 18 months moratorium is supposed to provide for.

Members interjecting:

The Hon. C.J. SUMNER: If the honourable member wants me to give a long speech about the topic I am quite happy to get back to it. The situation is that school closures are a major issue in this community. The Minister may not think it is but I can tell him that even from my short period as shadow Minister for Education I can see that school closures are an issue in the community. People have seen the example of the Kennett Government where dozens of schools were closed without consultation.

Members interjecting:

The Hon. C.J. SUMNER: I apologise, Mr Chairman, but they are the ones who are interjecting; if they want to continue to interject, then I will continue to talk. The situation is that we put forward a sensible proposition for an 18-month moratorium on school closures to enable a period of consultation. We have seen the action in Victoria, where the Kennett Government closed dozens of schools without any consultation. The decisions to close them were made overnight with no consultation whatsoever. We add that to what has occurred in this State with debate about school closures and to the Audit Commission report which has just come out and which contains some horrendous figures about the potential for school closures if the Government decides to move to what the commission believes is an optimum number of students in a school.

If the Minister does not recognise that it is an issue in the community and if he does not recognise that parents, teachers and people in the community are concerned about school closures then that is his problem, but he can rest assured that we will be keeping this issue before the public and we will be ensuring that in this area, as in other areas, the commitments that he made before the election are kept. So, I answered before—

Members interjecting:

The Hon. C.J. SUMNER: I answered the question before: we provide 18 months to allow for a consultation period, and if the issue—

Members interjecting:

The CHAIRMAN: Order!

The Hon. C.J. SUMNER: If the issue is resolved before the 18 months period, then I do not see that there will be a problem keeping the school open. If the hypothetical example that the Minister gives arises where there are just a few students left as the school runs down then I am sure it is not beyond the wit of the Education Department to provide adequate staffing.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: You do not have to provide 20 teachers for 20 students; you can provide enough teachers to cope with the school.

The Hon. T.G. Roberts: As they have always done in country areas.

The Hon. C.J. SUMNER: Indeed, as the Hon. Mr Roberts says, as they have always done in country areas. In fact, as we are on this track, I went to a school in a country area where there were 25 students and one teacher, and I did that for a year. So, if the hypothetical, fanciful example given by the Minister of the numbers diminishing as the school closes occurs—that notion of it being one is just bizarre—and it got down to a small number, I see no problem. Surely the Education Department could cope with staffing that school in an appropriate way.

The Hon. A.J. REDFORD: I have a question for the Leader of the Opposition. What happens in a situation where every single body involved—parents, students and the community—is happy to have the school closed quickly?

The Hon. C.J. SUMNER: The notice will be given and then the discussions will go ahead by which we will determine whether or not there is support for the closure and, if they agree, that is fine. If there—

The Hon. A.J. Redford: Do we wait 18 months?

The Hon. C.J. SUMNER: The thing just does not happen like that. It does not happen in the first day after you decide to close a school without consultation. You can give the notice and you can have your consultation and, if there is agreement generally in the community, effectively, as I said before—I have already answered that question—the school is closed with no students in it. So, it would be kept up on a maintenance basis until the 18 months was up.

An honourable member interjecting:

The Hon. C.J. SUMNER: I am sorry, but you are becoming adolescent because you are not applying any commonsense to the situation at all, and I invite you—

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: These points were made before and that is fine; it is not the first time a point has been made about a Bill. If you want to move an amendment to the Bill to cope with that situation because you feel so strongly about it, fine: put the amendment on file and we will have a look at it. It happens every day of the week in this Council: amendments are moved to Bills. It is a very simple procedure. I saw you reading the Standing Orders. Get them out, have a look, discuss it with the clerk, Ms Davis, and parliamentary counsel, and they will prepare the amendment for you; we will table it; and we will all have a look at it and decide whether or not it is a good idea. You can do that. The Hon. Mr Redford or the Hon. Mr Lucas can do it if they actually want to do it.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: That is your problem. If you think it is flawed then you vote against it, which you have already done. We do not think that it is flawed; we think it is a reasonable proposition. The Democrats quite rightly think it is a reasonable proposition. The public, I suspect, believe it is a reasonable proposition. If the Hon. Angus Redford envisages that there is a problem in the hypothetical he has put forward then he should move an amendment. I do not

believe there would be a problem, because the matter would be resolved by discussion and dealt with in that way. Either the school would be kept open or, effectively, it would be closed, and that could occur prior to the 18-month period.

The Hon. R.I. LUCAS: We do not intend to prolong it any further. We have highlighted the silliness of the legislation. However, in concluding, I would like to make some comments about how silly the legislation is. As the Hon. Angus Redford has indicated, if you have a situation were everyone in the community wants the school to close and agrees for it to close, and to close quickly, then the Hon. Mr Sumner's legislation requires the Government to keep the school open, with a principal and, as he says, ongoing maintenance just in case a wandering minstrel of a student floats by during the 18-month period. The Hon. Mr Sumner says that this is a hypothetical situation. Let me tell him that when I became the Minister in the third week of December there was on my desk two dockets for the closure of the Cockburn Rural School and the Wolseley Rural School—both schools closed by the Labor Government without actually announcing it during that election campaign.

The Hon. Diana Laidlaw interjecting:

The Hon. R.I. LUCAS: With no 18-month consultation. In both cases everyone in the local community—the local parents and teachers—supported the closing of those schools. Now, the Hon. Mr Sumner says that we are talking about hypothetical situations. We actually had two such examples in the third week of December as a result of decisions that his Government and his Minister had taken prior to the election. This silly piece of legislation that the Hon. Mr Sumner has introduced into Parliament would mean that the Government would have been required—

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: They do not even know about it. The Government would have been required to keep open the Wolseley school and the Cockburn school even though no-one wanted the schools to be kept open. We would have been required to provide a principal and ongoing maintenance and staffing for a school that no-one wanted to keep open and were all prepared to have their students moved to slightly bigger neighbouring schools, in the Wolseley case anyway, not too far away where they could get a better quality of education. All the Government has sought to do in the 25 minutes that—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —we have debated the legislation is to highlight how silly the legislation is and how ill-considered, ill-thought out and how much lack of preparation there has been in the drafting of the legislation. Quite simply, it was a stunt by the Hon. Mike Rann from another place, who had the running on this legislation. He was out in the media and the community saying that the Labor Party was going to introduce this piece of legislation. He had the amendment drafted up in true Hon. Mike Rann stunt style and had it produced and delivered for the Hon. Mr Sumner dutifully to trot out in this Chamber without having even thought about the ramifications of the legislation.

It is very disappointing to see that the standard of debate and legislation that this place is asked to consider has sunk to the level that the Hon. Mr Sumner has asked this Chamber to stoop to. Let us just say that this Bill has no prospect at all of ever becoming an Act; it will not be supported by the Government either in this Chamber or in another Chamber. There is no prospect of any amendment at all to the legislation to make it even marginally workable. The Hon. Mr Sumner knows that, because he has had to have a look at the questions I raised in the second reading debate and realises that it is so fundamentally flawed that he is not able to improve it by way of legislation. We have a Mike Rann stunt that has sadly gone astray for Hon. Mr Sumner and the Labor Party, and certainly the Government will not support it.

The Hon. C.J. SUMNER: It is hardly a revelation to me that the Government will not be supporting the thing; they indicated that in the second reading debate. I indicated that in my reply, on the basis that the matter would go to another place and be defeated by the overwhelming numbers—which was the phrase that I used—unless the Government has a change of heart. I still appeal to them to have a change of heart. If the honourable member believes that the legislation is silly, well, it is a free country, he is in Parliament and he is entitled to his point of view. He is entitled to think that giving notice to school communities about closures is silly. That is fine; that is good. He believes—this Minister for Education—that giving notice to school communities about school closures is silly. That is his word: 'silly'. That is fine; that is on the record. It is his view: it is not my view. I think it is a reasonable proposition to give school communities notice, and that is enshrined in the legislation.

All I can say to the honourable member—but there is no point because he will get his mates in the Lower House to defeat it—is that if he is not confident that he has the skills to administer the legislation then I can only suggest that he moves an amendment. But, as I said, that is not a course that he is inclined to because he thinks it is silly to give notice about school closures and because the Government will knock it off in another place, anyway.

Clause passed.

Clause 4 and title passed.

Bill read a third time and passed.

MINING

Adjourned debate on motion of Hon. M. J. Elliott:

1. That this Council recognises the significant public concern in relation to—
   (a) a recent attempt to implode a cave at Sellicks Hill;
   (b) massive leakage of water from tailings dams at Roxby Downs.
2. That the Standing Committee on Environment, Resources and Development be instructed to examine the above matters, make recommendations as to further actions and in particular comment on the desirability of the Department of Mines and Energy having prime responsibility for environmental matters in relation to mining operations.

to which the Hon. Carolyn Pickles had moved the following amendment:

Leave out all words after 'That' and insert the following:

'1. (a) This Council recognises the significant public concern in relation to a recent attempt to implode a cave at Sellicks Hill;

(b) The Committee on Environment, Resources and Development be instructed to examine all aspects of this matter including—

(i) the role of the Department of Mines and Energy;

(ii) the adequacy of the treatment of economic impact and compensation issues;

(iii) the role of Southern Quarries in this matter;

(iv) whether there should be remedial legislation.

2. (a) This Council also recognises the significant public concern in relation to a massive leakage of water at Roxby Downs;
   (b) The Committee on Environment, Resources and Development be instructed to examine this matter, make recommendations as to further action and, in particular, comment on the desirability of the Department of Mines and Energy having prime responsibility for environmental matters in relation to mining operations.'

and to which the Hon. Caroline Schaefer had moved the following amendment:

Leave out all words after 'That' and insert:

'the Environment, Resources and Development Committee be instructed to examine the nature of, and responsibility for, environmental monitoring in South Australia and to comment on the appropriateness of the current arrangements for ensuring sound environmental management'.

(Continued from 20 April. Page 536.)

The Hon. BERNICE PFITZNER: This is a call to investigate and monitor two environmental issues, that of Sellicks Hill quarry caves and the Olympic Dam uranium mine. Sellicks Hill caves are said to be unique caves in this State and once gone we would have lost something of value for our future generations. It is akin to losing a species of bird or animal. However, we must weigh it against economic costs. The other environmental issue is that of a dam which has uranium tailings deposits and which perhaps is leaking. This leak might be a danger to the surrounding community and in that there is the allegation that there might be radioactive material being leaked into the underground water. This issue is, of course, a very serious health concern.

The Sellicks Hill quarry cave is 50 kilometres south of Adelaide in the foothills behind the Sellicks Beach township. The quarry has been owned by Southern Quarries Pty Ltd since 1974. In September of 1991 a larger than usual cave was discovered in the floor of the new Hall Road. On the advice of the company's consultant geologist, the Cave Exploration Group of South Australia was invited to explore the cavity. The exploration and mapping were done until October 1991. The quarry then closed the entrance to the cave and no further access was allowed. Negotiations took place between the cavers and the quarry management, but no agreement was reached.

The company did some drilling in 1992 and again in 1993 and for safety reasons the company decided to blast in the vicinity of the dome of what they call the 'big cave', which was done on 10 December 1993. This resulted in publicity concerning the possible destruction of the caves system. Two independent reviews have been commissioned by the Department of Environment and Natural Resources and the Department of Mines and Energy—one by James Askew and Associates, geotechnical engineers, and the other by Mr K. Grimes.

The Askew report raised the issue of discrepancies in the outline of the caves system to the amount of plus or minus five metres (inaccuracy of data), the cavities beneath the quarry floor being a safety hazard and possible damage done by the quarry blast. There is no way of predicting the condition of the caves system without direct visual assessment, said the review. Neither is a tourist facility desirable in an operating cave. The Grimes review was more optimistic concerning the caves. It stated that the caves are considered to have considerable significance. However, without accurate data a decision cannot be made. The hypothesis is that it has physical significance in its size, possible scientific significance, recreational significance as evidenced by the cavers' video and possible tourist potential.

However, the difficulties are its post-blastability and therefore the safety factor needs to be considered. There are economic considerations as well. If there is a recommendation for the preservation of the cave, any development for tourism should be postponed until the quarry operations have ceased, says the review. In the meantime, if the evaluation has to take place without the process being onerous to the operators, that should be looked into. A decision might also be that the cave named 5A20 be destroyed because of economic considerations for the quarry, says the review.

We have to weigh again the economic importance of the quarry and people employed there against the uniqueness of the caves and all that that brings. We have to obtain accurate facts about the caves and balance these with all the facts to reach the best outcome. The Hon. Mrs Schaefer's amendment requests that the committee monitor the situation and that the committee comments on the appropriateness of the environmental arrangements. As the Environment Minister says in a media release:

> I am looking to the future and intend to make sure that neither I nor this Government is ever put in this position again. I will ensure that a code of practice covering this sort of situation is put in place between Mines and Energy and Environment and Natural Resources.

I now refer to Olympic Dam. Management of the $1 billion Olympic Dam uranium metal mine, owned by Western Mining Corporation Holdings Limited, was alerted to a possible leak of up to 5 million kilolitres of water beneath the mine's tailings dam into the watertable. Olympic Dam is to the north-west of Port Augusta and serviced by the nearby town of Roxby Downs, north of Woomera. The Olympic Dam project was conceived under the Tonkin Liberal Government and was officially opened by the Labor Government in 1988. Monitoring of the groundwater has been through 88 bores since 1988. Recently there was a rise of 10 metres of water from these bores to within 40 to 50 metres of the ground surface. An additional 16 bores were sunk to a depth of up to 200 metres to further investigate the cause of the water rise and possible seepage. The dam where the tailings are deposited has more than 2 million tonnes of tailings sludge a year. This waste contains some acid, some heavy metals and low level radioactive material.

This slush is left in the dam for evaporation and allowed to dry into a crust. The tailings include 25 per cent of uranium, 30 per cent copper, silver, gold and so on. The surplus water causing the rise has been tested and the report is that there is no radioactivity 'above natural background levels'. However, there is the hypothesis that perhaps some of this radioactive material could have been filtered by the layers of clay or limestone beneath and once these filtered layers are saturated we will be in trouble.

We know that the mine has an estimated life of 200 years and an expansion program is envisaged, costing $75 million. The program is aimed at increasing the production to 1 400 tonnes of uranium, 84 000 tonnes of copper, 20 000 ounces of gold and 500 000 ounces of silver by 1996. We know also that Western Mining Corporation is putting in a new seal under the 185 hectare tailings dam. It is planning for a second dam and closely monitoring the water through the bore holes. However, this particular situation definitely has to be monitored closely, as radioactive material as we all know is a health hazard and once contaminated is of severe consequence. There is a comment that it will cost Western Mining Corporation a couple of million dollars to implement these

precautions. However, the cost of these repairs are irrelevant compared with the possible morbidity or even mortality that radioactive substances can cause.

It would appear that the Western Mining Corporation is acting responsibly in putting a three month investigation in place to address this situation. As the Minister for Mines and Energy states in his press release:

In discussion with the company we agreed on the need for public disclosure of the position of Olympic Dam to ensure that employees, residents at Roxby Downs and the wider South Australian community were informed.

Therefore, I support the Hon. Mrs Schaeffer's amendment that the Environment, Resources and Development Committee be instructed to examine the nature of, and responsibility for, environmental monitoring in South Australia and to comment on the appropriateness of current arrangements, etc. Of course, the Sellicks Hill quarry caves and the Olympic tailings dam will be specifically included, but the wider view of other possible similar situations will also be investigated and a proactive stance rather than a reactive attitude can then be taken. I support the amended motion.

The Hon. M.S. FELEPPA secured the adjournment of the debate.

ADELAIDE TO DARWIN RAILWAY LINE

Adjourned debate on motion of Hon. Sandra Kanck:

1. That recognising that the completion of the Adelaide to Darwin railway line is of prime importance to the prosperity of South Australia and the Northern Territory and that its completion enjoys the support of all political parties—Liberal, Labor and Democrat—the South Australian Parliament supports the setting up of a joint South Australian-Northern Territory Parliamentary Committee to promote all steps necessary to have the line completed as expeditiously as possible.

2. This Council respectfully requests the House of Assembly to support this measure and that the Presiding Officers approach the Presiding Officer of the Northern Territory Parliament with the aim of establishing the joint multi-party committee and to arrange a secretariat to the committee

which the Hon. Diana Laidlaw had moved to amend by leaving out all words after 'South Australian Parliament supports' and inserting the following:

(a) the setting up of a South Australian Government team comprising representatives of the Economic Development Authority, the Department of Mines and Energy, the Transport Policy Unit and the Marine and Harbors Agency to prepare a detailed submission for presentation to the Wran Committee on the costs/benefits of the rail link and to co-ordinate a strategy that enables the State to maximise the benefits which will flow from the railway, while minimising any potential repercussions to the Port of Adelaide.

(b) the initiative taken by the Premier to invite the Chief Minister of the Northern Territory to participate in a joint South Australian/Northern Territory team of officials responsible for the preparation of funding proposals to the Commonwealth Government and the identification of potential private sector investment in the project.

2. This Council endorses the State Government's decision to pledge $100 million over five years towards the construction of the missing link (Alice Springs-Darwin) in the Transcontinental Railway, a commitment matched by the Northern Territory Government

which the Hon. Barbara Wiese had moved to amend by leaving out all words after 'South Australian Parliament' and inserting the following:

(a) supports the setting up of a joint South Australian/Northern Territory Parliamentary Committee to promote all steps necessary to have the line completed as expeditiously as possible.

(b) supports the setting up of a South Australian Government team comprising representatives of the Economic Development Authority, the Department of Mines and Energy, the Transport Policy Unit and the Marine and Harbors Agency to prepare a detailed submission for presentation to the Wran Committee on the costs/benefits of the rail link and to co-ordinate a strategy that enables the State to maximise the benefits which will flow from the railway, while minimising any potential repercussion to the Port of Adelaide.

(c) supports the initiative taken by the Premier to invite the Chief Minister of the Northern Territory to participate in a joint South Australian/Northern Territory team of officials responsible for the preparation of funding proposals to the Commonwealth Government and the identification of potential private sector investment in the project.

(d) calls on the State Government to allow the Joint Parliamentary Committee in (a) above to draw on advice as required from officials in the teams mentioned in (b) and (c) above.

2. This Council respectfully requests the House of Assembly to support these measures and that the Presiding Officers approach the Presiding Officer of the Northern Territory Parliament with the aim of establishing the joint multi-party committee and to arrange a secretariat to the committee.

(Continued from 20 April. Page 550.)

The Hon. SANDRA KANCK: When we last discussed this motion I sought leave to conclude my remarks later because I wanted to check on some information. I have discovered that I do not need to speak any further on this motion, and I am now ready to consider the amendments.

Motion as amended carried.

PARLIAMENTARY COMMITTEES (MISCELLANEOUS) AMENDMENT BILL

Consideration in Committee of the House of Assembly's amendments:

No. 1 Clause 3, page 1, lines 19 and 20—Leave out paragraph (a) and insert—

(a) by striking out from paragraph (a) of the definition of 'appointing House or Houses' 'the Economic and Finance Committee' and substituting 'the Public Accounts Committee or the Public Works Committee';.

No. 2 Clause 3, page 1, lines 25 to 28 and page 2, lines 1 and 2—Leave out all words in these lines and insert—

(c) by striking out the definition of 'Committee' and substituting the following definition:

'Committee' means—

(a) the Public Accounts Committee;

(b) the Environment, Resources and Development Committee;

(c) the Legislative Review Committee;

(d) the Public Works Committee;

(e) the Social Development Committee;

or

(e) the Statutory Authorities Review Committee, established by this Act:

No. 3 New clause, page 3, after line 10—Insert new clauses as follows:

Substitution of heading

3A. The heading to Part II of the principal Act is repealed and the following heading is substituted:

PART II

PUBLIC ACCOUNTS COMMITTEE

No. 4 New clause, page 3, after line 10—Insert new clause as follows:

Amendment of s.4—Establishment of Committee

3B. Section 4 of the principal Act is amended by striking out 'Economic and Finance' and substituting 'Public Accounts'.

No. 5 New clause, page 3, after line 10—Insert new clause as follows:

Amendment of heading

3C. The heading to Division II of Part II of the principal Act is amended by striking out 'ECONOMIC AND FINANCE' and substituting 'PUBLIC ACCOUNTS'.

No. 6 Clause 4, page 3, lines 12 and 13—Leave out all words in these lines and insert—

4. Section 6 of the principal Act is amended—

(a) by striking out 'Economic and Finance' and substituting 'Public Accounts';

(b) by striking out subparagraph (i) of paragraph (a) and substituting the following subparagraph:

(i) any matter concerned with the public accounts or finance or economic development;;

(c) by striking out subparagraph (iii) of paragraph (a) and substituting the following subparagraph:

No. 7 Clause 14, page 7, lines 4 to 7—Leave out this clause and insert—

Transitional provisions

16. (1) The Economic and Finance Committee is constituted immediately before the commencement of this Act continues in existence as the Public Accounts Committee for the purposes of the principal Act.

(2) The first members of the Public Works Committee and of the Statutory Authorities Review Committee must be appointed under the principal Act as soon as practicable after the commencement of this Act.

No. 8 Schedule, page 8, after line 9—Insert paragraph as follows:

(aa) by striking out from the schedule 'Economic and Finance Committee' twice occurring and substituting in each case, 'Public Accounts Committee';

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

That the House of Assembly's amendments be agreed to.

The amendments which have been proposed by the House of Assembly are amendments which were considered by the Legislative Council but were not accepted by the majority of the Council. They related to the change of name of the Economic and Finance Committee to the Public Accounts Committee. So the Bill went to the House of Assembly without the Economic and Finance Committee's name being changed on the basis that the majority of the Council were of the view that the name 'Public Accounts' did not accurately reflect the diverse functions of the committee. The Government disagreed with that in the House of Assembly, and the majority of the House of Assembly have now proposed the amendments to rename the Economic and Finance Committee the Public Accounts Committee.

I indicate that I am aware that the Hon. Mr Elliott, who has indicated to me his position, is proposing that the amendments not be agreed to. Because we need to deal with this matter expeditiously, I can indicate that, if the Opposition and the Australian Democrats hold that view, I will not be dividing if the vote is given against me.

The Hon. C.J. SUMNER: The Opposition opposes these amendments. Quite simply, this committee is not a Public Accounts Committee. It has much broader functions than public accounts. It is an Economic and Finance Committee, it includes a public accounts function, and public accounts are not its exclusive or indeed possibly paramount role. If it were to be named the Public Accounts Committee, it would be wrongly named. So, I oppose the amendment.

Motion negatived.

The following reason for disagreement was adopted:

The functions of the committee are wider than considering public accounts.

LIMITATION OF ACTIONS (RECOVERY OF TAXES AND SUBSTANTIVE LAW) AMENDMENT BILL

Consideration in Committee of the House of Assembly's amendments:

No. 1 Clause 4, page 2, line 8—Leave out 'twelve' and insert 'six'.

No. 2 Clause 4, page 2, line 12—Leave out 'eight' and insert 'two'.

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

That the House of Assembly's amendments be agreed to.

This Bill relates to the Limitations of Actions Act and relates particularly to a reduction in the period within which proceedings may be instituted to recover invalid taxes paid by a citizen. In the Bill introduced in this place, the Government proposed that the period be reduced to six months and that the transitional period be reduced from eight to two months. That was defeated. The Bill went to the House of Assembly with a time of 12 months for the limitation period and eight months for the transitional period, as I recollect. The House of Assembly has sought to amend it to restore the Bill to the form in which it was introduced here. The motion which I move is merely to agree to the amendments of the House of Assembly which restore the Bill to that position. Again, I indicate that I have been informed that the Hon. Mr Elliott, who supported the Opposition in its amendments, intends to maintain that position, and in view of that I can indicate that if I am not successful on my motion I propose not to divide.

The Hon. C.J. SUMNER: The Opposition opposes this proposal for the reasons outlined in the debate on the Bill. I think that 12 months is the generally accepted standard around Australia now for limitation periods in these sorts of circumstances, and we should not go further than that. If that standard changes at some point, the Government might want to ask the Parliament to reconsider its position but, for the moment, we should stick to the 12 months period.

Motion negatived.

The following reason for disagreement was adopted:

Because the limitation period should remain at 12 months as a matter of fairness.

PASSENGER TRANSPORT BILL

Consideration in Committee of the House of Assembly's amendments:

No. 1 Clause 4, page 3, lines 25 to 27—Leave out the definitions of 'relative' and 'relevant interest'.

No. 2 Clause 4, page 4, lines 1 and 2—Leave out the definition of 'spouse'.

No. 3 Clause 4, page 4, lines 20 to 33—Leave out subclause (3).

No. 4 Clause 7, page 6, lines 20 to 31, page 7, lines 1 and 2—Leave out subclauses (4), (5) and (6).

No. 5 Clause 8, page 7, line 5—Leave out 'five' and substitute 'three'.

No. 6 Clause 11, page 9, lines 1 to 3—Leave out subclause (7).

No. 7 Clause 13, page 10, lines 3 to 26—Leave out the clause.

No. 8 Clause 15, page 11, line 5 and 6—Leave out subclause (2) and substitute—

(2) No business may be transacted at a meeting of the board unless all members are present (subject to the qualification that this requirement does not apply if a member has been required to withdraw because of a personal or pecuniary interest in a matter under consideration by the board).

No. 9 Clause 15, page 11, line 7—Leave out 'carried by a majority of votes cast by' and substitute 'supported by at least two'.

No. 10 Clause 15, page 11, lines 10 and 11—Leave out all words in these lines after 'decision' in line 10.

No. 11 Clause 15, page 11, line 15—Leave out 'three' and substitute 'two'.

No. 12 Clause 19, page 12, line 33, page 13, line 1—Leave out paragraph (b).

No. 13 Clause 21, page 15, lines 12 to 28—Leave out the clause.

No. 14 Clause 22, page 17, lines 8 to 19—Leave out subclause (7).

No. 15 Clause 25, page 18, lines 17 to 31, page 19, lines 1 to 21—Leave out subclauses (1) to (6) and substitute—

(1) The Board—

(a) must establish the committees the Minister may require; and

(b) may establish other committees the board considers appropriate,

to advise the board on any aspect of its functions, or to assist the board in the performance of its functions or in the exercise of its powers.

(2) A committee may, but need not, consist of, or include, members of the board.

No. 16 Clause 39, page 33, line 11—Leave out 'principles' and substitute 'principle'.

No. 17 Clause 39, page 33, line 11—After 'Part' insert 'namely'.

No. 18 Clause 39, page 33, lines 16 to 22—Leave out subparagraph (ii).

No. 19 Clause 40, page 35, lines 6 to 8—Leave out subclause (8).

No. 20 Clause 47, page 39, lines 23 to 30—Leave out subclauses (9), (10) and (11).

No. 21 Clause 65, Page 52, lines 17 to 27—Leave out the clause.

No. 22 Schedule 2, clause 1, page 56, lines 8 to 10—Leave out subclauses (5) and (6).

No. 23 Schedule 2, clause 1, page 56, lines 11 to 23—Leave out subclauses (7), (8) and (9).

No. 24 Schedule 3, page 60, lines 1 to 24—Leave out the schedule.

No. 25 Schedule 4, clause 3, page 63, line 6—Leave out 'Subject to this clause, the' and substitute 'The'.

No. 26 Schedule 4, clause 3, page 64, lines 1 to 3—Leave out subclause (8).

The Hon. DIANA LAIDLAW: I move:

That the House of Assembly's amendments be agreed to.

The amendments are fair and reasonable. They enable the Government to get on with the job of revitalising passenger transport services in South Australia. They enable us to win back passengers, to generate repeat business and to get rid of much duplication within the passenger transport field in this State, a duplication of bureaucracy that has led to much frustration in this area. The original Bill with the amendments from the other place recognised the fact (and I think members must recognise the fact in addressing this Bill and, in particular, the amendments moved in the other place) that the deficit on the operations of the STA last year was $144 million. That deficit has accumulated to around $1.4 billion in real terms over the past 10 years. Over that same period the STA has lost 30.3 million passenger journeys. In the past four years alone, the passenger journeys have fallen 13.7 per cent.

The Hon. C.J. Sumner: We've heard all this before.

The Hon. DIANA LAIDLAW: I am just saying that, in terms of looking at our amendments, that background must be considered. It was also relevant for members to consider the Commission of Audit and its reflections on the performance of passenger transport, in particular, the STA in recent years. I ask members to look at page 293 of volume 2, because there it records that the STA has the second highest rail expenditure per boarding ($6.33) and the third highest bus expenditure per boarding ($2.54) of all State transit authorities; that the STA has the second highest level of administrative expenditure as a proportion of total expenditure; and the second highest Government contribution per passenger boarding on urban bus and rail in Australia, with a $4.52 subsidy per rail boarding and $1.97 subsidy per bus boarding.

The Commission of Audit also notes that, in all, these indicators suggest a relatively poor recent performance by the STA and the need for reform of its operational environment. That is exactly what the Bill as originally introduced and as now amended in the other place does: it provides a sound, reasonable, fair basis for the operations of the STA in future which is in the interests of both passengers and taxpayers. It is also relevant to recognise that, with the record that I have just outlined, no business that had performed so badly would remain in business today.

The amendments moved in the other place relate to the imposition of public corporation provisions. The amendments delete those provisions that were inserted by amendment in this place. The amendments deal with the size of the board and relate to the number, scope and composition of the committees. They relate to the charter and functions of the board, the reporting provisions to Parliament and also to the powers of the Minister.

I want to emphasise strongly that, notwithstanding the record of the STA over the past few years, the Government is not selling the STA and it is not privatising or selling the assets. We are keeping a public sector operating arm. Although some would counsel against that, that is the Government's intention. However, we are not prepared artificially to prop up the STA, which we are seeking to rename TransAdelaide. We will not accept the artificial propping up that the Democrats and the Opposition have insisted upon in terms of the amendments passed in this place.

Those amendments would have guaranteed 70 per cent business to TransAdelaide, no matter how well it performed in the next four years; no matter how many more passengers it continued to lose; and no matter how much more it continued to require in terms of operating deficit. It would have artificially propped up the STA. I have had repeated discussions with STA workers. Again tonight I met with a group of them, and they do not accept that they need to be artificially propped up, at least to the extent that the Bill as it originally left this place would provide. They are actually looking forward to proving to the private sector that they can do the job as well as, if not better than, the private sector. They want us to believe that they have confidence in their capacity to do so and to be an efficient, effective public sector operation, at least as good as the private sector and at least as good as the operations interstate.

We are not anywhere near that at present, yet this Council, with the amendments passed a couple of weeks ago, would prop the STA up notwithstanding that record. I have met with the unions, including the Public Transport Union representatives, since the Bill was last in this place, and I will briefly mention a little about those discussions. I indicated to them that the Government was not prepared to guarantee services to the extent of 70 per cent but that it was prepared to accept a guarantee of services to TransAdelaide up to the time of the review, and this place had looked at a review to be undertaken in 1998.

We looked at the possibility of the deferral of the Government's preferred agenda which would be to competitively tender services immediately. I indicated to the union that I would be prepared to defer that program in favour of starting in February 1995 so that that would give STA as TransAdelaide time to prepare for competitive tendering.

I indicate that we also had discussions about new initiatives for public transport in terms of infrastructure and the reintroduction of customer attendance on trains. The unions were left in no doubt however that, without the passage of this Bill and the savings proposed, a number of the initiatives which they have sought for a number of years would not be introduced.

I want to place on record that the reasonable package which I have put to the unions and which I have briefly outlined here tonight would work well for customers in this State and for taxpayers generally. We would see more passengers return to public transport and we would have a public transport system that actually generated some pride for this State, and that is not the case at present. Neither I nor the Government will be pushed around by members in this place who are prepared to accept—

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: The Government has accepted in the other place a host of amendments that were passed in this place. In addition, I am prepared to accept further amendments, but I want to leave members in no doubt that the Government is prepared to be reasonable and cooperative to a certain extent but that it does have an agenda which was released last—

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: Yes, and the unions spoke to me, something that they rarely did with the former Ministers. They thanked me for being so readily accessible, so I would be silent if I were the Hon. Mr Sumner, because they have never had such access to Ministers before and they—

Members interjecting:

The Hon. DIANA LAIDLAW: No, I am only repeating what they have said to me: they did not have the access and the consultation that is available at the present time. However, I repeat that the Government will not accept the artificial propping up of the STA at a level of 70 per cent, and I place that on record at this stage. I also emphasise that, if the Government is forced to reconsider whether it pursues this Bill, the amendments which members have moved in this place and which have passed in terms of certain safeguards for the workplace and the guarantees that I have given to the unions in terms of time to prepare for competitive tendering and other conditions in the workplace will be lost.

The Hon. C.J. SUMNER: The Opposition opposes the proposition to accept these amendments made by the House of Assembly. We have had a very long and extensive debate on this topic, some of which the Minister has repeated in moving this motion, but I do not think any useful purpose would be served by my canvassing the issues. This is clearly a conference matter and the quicker we get there the better. So, I oppose the motion.

Motion negatived.

The following reason for disagreement was adopted:

Because the amendments are unacceptable.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (ADMINISTRATION) AMENDMENT BILL

In Committee.

(Continued from 3 May. Page 696.)

New clause 5A—'Duties of employers.'

The Hon. R.R. ROBERTS: I move:

Page 5, after line 9—Insert new clause as follows:

5A. Section 19 of the principal Act is amended by striking out paragraphs (a) and (b) of the penalty at the foot of subsection (1) and substituting the following paragraphs:

(a) in the case of a first offence Division 2 fine or imprisonment for five years, or both;

(b) in the case of a second or subsequent offence Division 1 fine or imprisonment for five years, or both.

This amendment is intended to strengthen the sanctions against employers whose negligence results in the death or serious injury of a worker. Here it should be noted that some 2 000 workers die each year in this country as a result of work-related injuries and diseases. Despite this high level of industrial carnage, there has not been, as recently noted by the Industrial Commission, one prosecution that has resulted in goaling for a breach of occupational health and safety legislation by an employer. This is despite the fact that the overwhelming majority of workplace injuries and fatalities are attributable to poor workplace management of health and safety.

In moving this amendment, I should point out that there is already provision in the legislation for goal sentences. In this respect we are not talking about something new. Having said that, however, it is quite clear that in its current form the provision is virtually inoperable. The Opposition's amendment simply seeks to make it an effective deterrent. Before members opposite jump up and down—and I note that the Hon. Mr Griffin has already interjected—I would remind them that what we are proposing is not excessive, particularly when compared with penalties for other offences under legislation. For example, video piracy attracts a penalty of $250 000 and a goal sentence of up to five years. A worker who defrauds WorkCover, for instance, can be sent to gaol for one year.

Closer to home, this Bill, if enacted, would provide for goal sentences for two years for a member of the advisory committee who fails to disclose a conflict of interest. Surely the death of a worker through industrial negligence by an employer should attract a greater sanction than the offences just outlined? After all, we are talking about human lives here. In proposing this amendment, I am concerned that it should act as an effective deterrent. It is not put forward to have a go at employers but to assist in reducing the number of workers killed or seriously injured.

Again, it must be remembered that most workplace injuries are preventable. That they are not is a direct reflection of poor management and poor management systems. This must change. Having said that, Labor is cognisant of the fact goal sentences are not the only, or even the main, means by which to obtain compliance with occupation health and safety laws made by the Parliament. However, they are an important part of any enforcement regime. I commend the amendment to the Committee.

The Hon. K.T. GRIFFIN: This penalty is extraordinarily draconian. One has to wonder why only now the Opposition is proposing that there be imprisonment for these sorts of offences when previously imprisonment has not been provided. What is so different? It is a Labor Government Act of 1986. It was not deemed appropriate then to impose imprisonment, particularly in the light of the sorts of offences which are covered by it. If members look at section 19(1), they will see that it provides:

An employer shall, in respect of each employee. . . ensure so far as is reasonably practicable that the employee is, while at work, safe from injury and risks to health and, in particular—

(c) shall provide such information, instruction, training and supervision as are reasonably necessary to ensure that each employee is safe from injury and risks to health.

If you fail to provide certain information, what do you face? Imprisonment! What the a nonsense. Talk about draconian penalties. This is coming from a Party that is meant to be interested in the well-being of citizens, and not all just one-sided. I draw the honourable member's attention to the fact that section 59 of the principal Act deals with aggravated offences; penalties for imprisonment are already included. This section provides that:

(1) Where a person contravenes a provision of Part III—

(a) knowing that the contravention was likely to endanger seriously the health or safety of another; and

(b) being recklessly indifferent as to whether the health or safety of another was so endangered,

the person is guilty of an aggravated offence and liable upon conviction to a monetary penalty not exceeding double the monetary penalty that would otherwise apply under Part III for that offence or imprisonment for a term not exceeding five years or both.

So you already have the provision for an aggravated offence and imprisonment. It seems to the Government to be extraordinarily draconian to impose or seek to impose a penalty of imprisonment in section 19 when, particularly, there has been no provision for imprisonment for the past eight years. We are not aware of any evidence which would suggest that now there is a need to impose tougher penalties. Of course, the whole thrust of this Government's program is safety, education, training and encouraging employers and employees to work together to provide a safe workplace environment. Of course, if one imposes imprisonment, it is certainly not conducive to a cordial relationship and working together. We would very strongly oppose imprisonment being added as a penalty for breaches of section 19, particularly as some of the breaches may be quite trivial.

The Hon. M.J. ELLIOTT: I do not have in front of me at this stage the details of the fines. What monetary values are attached to a division 2 fine and a division 1 fine?

The Hon. K.T. GRIFFIN: A division 2 fine is $50 000 and a division 1 fine, as I understand it, is $100 000. They are very stiff financial penalties.

The Hon. M.J. ELLIOTT: Before actually committing myself on this clause, I note that, while the term 'draconian' was used in relation to the goal sentence, it is quite clear that the fines themselves are hefty and an indication that there are times when a heavy penalty is deemed necessary. If my recollection serves me properly, I think that the Industry Commission, when it made a report, commented on how rarely prosecutions took place, despite the fact that there may have been 500 industrial deaths a year, or something like that.

There is no doubt that as far as the Government using carrots and sticks, they seem to use carrots but they rarely appear willing to use the stick. Generally I have grave concerns about the attitude in our society where what are deemed to be white collar crimes are regarded not to be worthy of penalty while other crimes are, and here we have a white collar crime that can lead to a person's death, yet because it is part of business somehow if imprisonment is talked about it is deemed to be draconian. There is something in our society that is very curious with that sort of attitude. It is right through our whole so-called justice system. I make that comment at the start. The question I ask the Hon. Mr Roberts is, recognising that a five-year penalty is potentially available under section 59, for what reason does he also feel that it needs to be present under section 19? I could also ask the reverse question of the Minister: recognising that it is present in section 59, why is he so strongly opposed?

The Hon. K.T. GRIFFIN: Because section 59 relates to an aggravated offence; it relates to aggravation. In section 19 they are ordinary offences, if one could describe them as such. Section 59 relates to an aggravated offence which is one where a person contravenes section 19, for example, knowing that the contravention was likely to endanger seriously the health or safety of another and being recklessly indifferent as to whether the health or safety of another was so endangered. It is more than ordinary negligence. One could describe it as wilful disregard for safety or gross negligence—a recklessness. It is that which distinguishes section 59 from section 19. One would have to say (and I have not looked that far ahead) that if one seeks to impose imprisonment here in section 19, one would really have to double the penalties in section 59 if one were to place some special emphasis on an aggravated offence. Section 59 really imports into the offence an element of criminality—it is criminal, whereas under section 19 it is not criminal behaviour; in a sense it is akin to something like civil negligence, which is not necessarily criminal. People who drive on the roads—

The Hon. M.J. Elliott: It is deadly sometimes.

The Hon. K.T. GRIFFIN: Yes, sure, but you have to distinguish between negligence and criminality. If you drive on the road, you might kill someone. You may be negligent, but you may not have had the intention, you may not have been driving recklessly and be indifferent to the consequences of your driving. Everybody is negligent if they run into the back of someone, but you may not have had any criminal intent. On the other hand, if you are speeding along, you crash a red light and run into the back or side of someone, that is a more serious and aggravated offence which has an element of criminality if there is that recklessness and indifference to the consequence of one's behaviour. I suggest that there is a sequential approach to offending in sections 19 and 59.

I make one other observation on the Hon. Mr Elliott's reference to the great diversity of penalties imposed for a wide range of offences. When I became Attorney-General I indicated to the *Sunday Mail* that one of my goals is to endeavour to bring a greater level of rationality or comparability into the penalty process right across the board. It might be an unachievable goal, but the very point that the Hon. Mr Elliott made is one that concerns me where for fraud, as was proved the other day, one woman got six years gaol. Yet, someone who kills someone as a result of driving dangerously, recklessly and so on may get a suspended sentence. I would like to see across the board an attempt to try to get a greater level of consistency or relativity between the various offences we have in the law.

Many of the penalties are imposed on a somewhat *ad hoc* basis. We cannot address that now. We need to recognise that there are two levels of offending referred to in the principal Act—section 19 at one level and section 59 at a more serious level where there is a greater prospect of criminality. You need to have that progression if one is to recognise adequately the nature of the offences which the statute creates.

The Hon. M.J. ELLIOTT: Continuing the line we are following, as it is important, will the Attorney-General venture an opinion in relation to section 59—the aggravated offence—where a person knowingly contravenes and endangers a person or is recklessly indifferent, whether or not a maximum term of five years would be sufficient in the scheme he is envisaging.

The Hon. K.T. GRIFFIN: Off the top of the head I cannot. I think one needs to relate that to the criminal law. I do not keep all those sorts of figures at my finger tips: causing death by dangerous driving, assault occasioning grievous bodily harm—

The Hon. M.J. Elliott: They are pretty light.

The Hon. K.T. GRIFFIN: They may be, but if one looks at relativity I would have thought that five years was in the middle range. I can do a bit of work on it, and by the time I get to section 59, I can tell the honourable member.

The Hon. R.R. ROBERTS: I am somewhat surprised by the vehemence of the opposition of the Hon. Mr Griffin.

The Hon. K.T. Griffin: Passion.

The Hon. R.R. ROBERTS: I thought that it was more vehement. The Government has been very loud in its determination to providing harsher sentences for criminal acts and longer gaol sentences, truth in sentencing and all this sort of thing. We are talking about commitment to change in the occupational health and safety system and changing the way that we do business in a number of areas. If we were going to move to a new occupational health and safety system we would be trying to embody all the principles that we espouse in our policy. The Hon. Mr Elliott asked how many people get killed. That is addressed in the Industry Commission report. On page 78, in talking of fines and maximum fines, the last paragraph states:

> Since fines are not used to their full potential as a means of deterring breaches of regulations, the commission looked at gaol sentences as an alternative last resort mechanism. No gaol sentence has ever been imposed in any jurisdiction for a breach of occupational health and safety regulation, despite at least 500 deaths a year from work related injury and illness and an unknown number from occupational diseases.

Deaths in the workplace are not an apparition: there are quite a few of them. With reference to the point made by the Hon. Mr Griffin about the difference between sections 19 and 59, section 19(3) provides:

> Without derogating from the operation of subsection (1), an employer shall so far as is reasonably practicable—
>
> (d) ensure that any employee who is to undertake work of a hazardous nature not previously performed by the employee receives proper information, instruction and training before he or she commences that work;
>
> (e) ensure that any employee who is inexperienced in the performance of any work of a hazardous nature receives such supervision as is reasonably necessary to ensure his or her health and safety.

It seems to me that if an employer fails to provide those safeguards, whilst they are provided in section 19 and whilst the employer may not have viciously, vindictively or deliberately caused death, he does have a responsibility under this Act to provide those conditions. If that occurs under section 19 or section 59, we will have a corpse on our hands, and he will say, 'Treat me under section 59.' You have actually effected the same deed. There is a range of other requirements under this Act which the employer must, so far as is reasonably practicable, perform. It is not just a question of whether it is a section 19 or a section 59. What we are saying is that negligent action by an employer which causes the death of a worker ought to be treated as a serious crime.

You may argue that the prison sentence should be only two years or five years—it may even be 10 years depending on your point of view. However, I believe that what we are doing here is consistent with modern day thinking in the area of occupational health and safety. There are other examples. The Industry Commission report makes quite clear that in its opinion harsher penalties must be imposed in this area to ensure compliance. Dr Hopkins in *Worksafe News* believes that the threat of prosecution is a significant deterrent to unsafe work practices. In his study he has interviewed management in a selection of industries involving some 40 companies in Sydney, Melbourne, Brisbane and Canberra to find out what impact different strategies have on their financial costs. The most striking finding is that the fear of personal liability is what really drives people, according to Dr Hopkins. He continues in a similar vein.

In the changing occupational health and safety system with its changing trends and in recognition of its importance in industry where we refer in many cases these days to right sizing or demanning, call it what you like, there are increasing hazards for workers in the workplace. If employers for whatever reason, because of financial constraints or the pressure of costs put workers in a position without adequate training, as is their responsibility under section 19, and they are killed, I do not see that the result of that should be treated differently under one section or the other. If that action results in the death of the worker through the negligence of the employer, I think the penalties ought to be the same.

The Hon. K.T. Griffin: Where does the Industry Commission say that you should impose harsher penalties? There is no recommendation to that effect.

The Hon. R.R. ROBERTS: On page 80 the commission found that fines and penalties—

The Hon. K.T. Griffin: It found, but it did not recommend increased penalties.

The Hon. R.R. ROBERTS: If the Attorney reads all the article, the inference is clear that they are an important part of the enforcement of occupational health and safety. I will not read the whole lot again, but it is clear from the text that the emphasis is on harsher penalties to ensure higher standards of occupational health and safety in industry.

The Hon. M.J. ELLIOTT: Approximately how many prosecutions have been initiated under sections 19 and 59 on an annual basis?

The Hon. K.T. GRIFFIN: I do not have that information but I can get it. I will take that question on notice but I do not have the report or anything that will provide that information.

The Hon. M.J. ELLIOTT: The problem that is being addressed by the Hon. Mr Roberts is incredibly important. It is a question of how the problem is to be addressed. My suspicion is that one of the major problems is, first, with the judiciary who, as I said, when faced with a person wearing a white collar and tie tend not to see them as unsavoury types and are not willing to apply penalties. The Industry Commission found essentially that in areas of occupational health and safety with 500 people dying a year penalties are rarely applied and they are rarely harsh.

However, the point I make is that under section 19 there is a fairly heavy monetary penalty; under section 59 a five year goal term is possible. However, if you do not have a judiciary that is willing to enforce those penalties, not just in respect of this crime but other crimes as well, the law is essentially devalued. That is a problem which, as I said, goes beyond this legislation. Some people argue that it is happening in other places as well. That is my first point.

My second point is that the Hon. Ron Roberts might perhaps see the fact that there is a heavy prison penalty under section 19 as being educative in some fashion. Education is certainly needed. There is gross ignorance in relation to safety in the workplace. That applies to the self-employed also, such as farmers. Look at the death rate on farms, where the farmers kill themselves. They do not have a very high safety awareness. There is an appalling problem in the community

generally. The fact that it is present amongst the self-employed indicates that we have a problem. It is not just a matter of the employers not having regard for workers. As much as anything, there is an incredible ignorance throughout the whole of society on questions related to safety.

At the end of the day our major challenge will be to make sure that the new WorkCover Corporation treats safety seriously, gets the message out into the community and finally uses the penalties that are available under sections 19 and 59. I would be most interested to see how often actions are initiated under those two sections. I have a suspicion that they probably hardly ever use section 59 despite an average of 50 deaths a year in South Australia. If that is the case, it is an indictment because they have not educated the employers to realise they have an unsafe workplace or, if employers are aware, they should have prosecuted them. Either way, I think it is a significant failing of the system as it now stands. I will not support the amendment, but I do not disagree with what is intended. I think at least in law there is an important difference between sections 19 and 59 in terms of the concept of deliberate negligence, and there is a need to draw that distinction.

The Hon. A.J. REDFORD: I can point out to the Hon. Mr Elliott that, if this amendment does go through—

The Hon. M.J. Elliott interjecting:

The Hon. A.J. REDFORD: Yes, I know that, but if I can just make this comment—it will make it an indictable offence. It makes the procedure much more complex, and it probably makes it much harder for prosecutions to be initiated. There are some benefits in keeping it down to that level, because the prosecution process, when it is initiated, is much simpler, and it is also done within the context of the Industrial Court as opposed to the normal criminal courts.

The Hon. K.T. GRIFFIN: In response to the Hon. Ron Roberts, who made some reference to the Industry Commission report in so far as it relates to penalties, my interjection was that nowhere in the report is there a recommendation to impose prison sentences. Certainly, there are some observations about the way the courts approach sentencing, whether it be fines or imprisonment.

The Hon. M.J. Elliott: Strong criticism, in fact.

The Hon. K.T. GRIFFIN: Well, there is, but there is no recommendation that they should be toughened up. If one looks at the report in relation to gaol sentences, one sees that there is an important paragraph which needs to be noted, that is, on page 79, where the report states:

> There are a number of problems with gaol sentences for OHS breaches, one of the most important being the ability to choose the right person to prosecute. This person must be the controlling mind of the company and yet must have been involved in the negligent act or omission. There are also evidentiary problems, for example, related to the different way evidence is gathered by the police and OHS authorities and difficulties with public perceptions of OHS offences has been somehow different than, say, culpable driving and how this effects juries and judges.

So there is an important issue there. The Hon. Mr Elliott has said, 'Well, maybe there is a reluctance on the part of the courts to impose the tougher penalties.' I draw his attention to the fact that these offences are generally prosecuted before industrial magistrates. Of course, if they are minor indictable or indictable offences they do go to the mainstream courts.

But there is a persuasive argument that, if you specialise too much in a particular area, you may become desensitised to a particular range of offences or offending, and there is some value in these sorts of offences being dealt with in the mainstream of the courts. That is not an argument that we will pursue tonight, but it is an issue that needs to be addressed at some time in the future because, where there are statutory offences, whether they be occupational health and safety, WorkCover or any other sorts of offences, they are in effect no different from other statutory offences and, in those cases where criminality is intended to be established, no different from fraud, assault and a whole range of other offences which are dealt with in the ordinary criminal courts. I am pleased that the Hon. Mr Elliott is not supporting the Hon. Mr Roberts' amendment, because it would be particularly harsh and would detract from the general scheme of progression from the section 19 offences to the aggravated offences of section 59.

The Hon. T.G. ROBERTS: There have been no prosecutions under section 59, basically for the reasons the honourable member read out of the Industry Commission report, namely, it is very difficult to be able to get evidence that allows for a prosecution, on the basis that management is separated basically from the day-to-day operations of responsibility. In most case the accidents happen in the field under the supervision of the—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: But there are responsibilities inherent in management decisions. The point we are trying to make is that it is a very serious problem out there. People are being killed. People who have the expectation of going to work to earn a living and coming home at night are not coming home; they are being killed in their employment. It has to be brought home, particularly to those people in the hazardous industries, for example, the mining and transport industries and many other industries that have inbuilt hazards in them, that they have a responsibility to manage properly.

I know it sounds draconian but there are managers who have management policies that lead to dangerous situations and, because of their management decisions, where they sit and where the day-to-day operations occur, they take no responsibility for them. You have accountants making decisions on the basis of investment programs that lead to danger circumstances. You have transport operators who know the distances between interstate runs and cities and who insist that their drivers drive 20 hours day. They are dangerous not only to themselves in terms of industrial accidents but to the public as well.

The Attorney's illustration of comparing it to culpable or dangerous driving is not a good one, because in that case the driver is in direct control of his actions, whereas in most industrial actions a chain of events occur, mainly through negligence and poor supervision, poor attention to detail, and an absence of any decisions, rather than decisions made, that lead to a lot of dangerous circumstances. The amendment tries to put on the public record that this Parliament, at least, does feel its responsibility is a serious one to try to get all those people in that chain of command to take the required responsibility to prevent people from being killed and maimed in industry. It is those costs that members on this side of the Council would be arguing that you need to get under control, as well as the other costs that the honourable member would argue make the State uncompetitive. If South Australia could have the best occupational health safety record in this nation, then we would drive costs down to give us a far better competitive edge than some of the penny-pinching efforts in some of the other legislation. We need to send that signal.

The Hon. R.R. ROBERTS: The Hon. Mr Griffin quoted from page 79 of the Industry Commission's report. The

paragraph before the one that he quoted involves a Melbourne University study into workplace deaths by Polke, Haines and Parone (1993). It has argued that:

> Pyramid approaches to enforcement presumes that there is, in fact, a peak to the pyramid. The failure of the legal system to take exceptionally negligent work deaths seriously raises questions about the integrity of these models of the regulatory enforcement and about the integrity of the justice system itself.

Further, it states:

> Any society with a commitment to the basic principles of social justice and equality before the law must question its tolerance of a privileged class of criminal homicide where corporate offenders repeatedly are able to evade being held even minimally accountable for their grossly negligent behaviour which results in serious injuries and death of their employees.

I recognise that Mr Elliott has made up his mind, but it is important that this evidence be on the record. Further down the page, the report states:

> There is some evidence from overseas which suggests that the more rigorous approach to occupational health and safety regulation enforcement can bring positive results. For example, Oregon in the USA tripled the amount it received in penalties from 1987 to 1992. This was part of a strategy which included a number of things.

The second of which is:

> Using penalties to their fullest extent against employers who violate State health and safety regulations.

And it names four or five other things. The next paragraph is the one that I think is worth putting on the record, and it reads as follows:

> The results from the increased emphasis on occupational health and safety in Oregon are impressive. From 1988 to 1992 claims decreased by over 30 per cent and fatalities fell by 22 per cent, although employment increased by over 10 per cent. The lost work day cases incidence rate fell by over 21 per cent from 1988 to 1991. Workers compensation premiums [in which we are all very interested] fell by over 30 per cent from 1991 to 1993, taking Oregon from the sixth most expensive US State for workers compensation premiums to the twenty-second highest in 1986.

The Hon. M.J. Elliott: Did the death rate drop by 30 per cent?

The Hon. R.R. ROBERTS: Fatalities dropped by 30 per cent. I am disappointed that the Hon. Mr Elliott has not seen fit to agree to our amendment. However, I think that the arguments are very strong. The evidence is sound. There is an obvious recognition throughout the world, as is quite clear from the example of Oregon. It is also quite clear from those quotes that what the Labor Party has been saying in respect of all this legislation is that improving your occupational health and safety, having a proper, independent inspectorate and applying appropriate penalties and training is the best way to improve our workers compensation in this State—not by these other draconian methods being proposed by the Government.

The Hon. CAROLINE SCHAEFER: I would like to comment on what has been said about the agricultural industry and the high risk of injury therein.

The Hon. M.J. Elliott interjecting:

The Hon. CAROLINE SCHAEFER: I know you weren't. There is no doubt that the incidence of accidents within that industry is quite high. One of the reasons for that is that people are increasingly forced by this economy to work alone when they should have two or three people working with them. The introduction of draconian penalties and even imprisonment, such as this, will only add to that risk. People will no longer be prepared to take the risk of employing under any circumstances. There is only one way to increase occupational health and safety on farms, and that is by education. Increasing penalties to this extent will only increase the stress on the agricultural industry generally, and will drop employment to an even lower rate than it is now.

New clause negatived.

Clause 6—'Duties of workers.'

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

Page 5, lines 11 and 12—Leave out all words after 'amended' and insert 'by striking out subsection (1)(e) and substituting the following paragraph:

> (e) comply with any policy that applies at the workplace published or approved by the Minister on the advice of the Advisory Committee;.

I am not changing the Minister's role but I am ensuring that when the Minister acts it is done on the advice of the advisory committee. I want with a number of amendments in this legislation to ensure that the advisory committee is not just a token body—that it has a genuine role. If the advisory committee is not giving advice, I am not sure what else it is doing. On that basis alone, I believe that the Minister should be acting on the committee's advice.

The Hon. K.T. GRIFFIN: I indicate opposition to the amendment. What the Hon. Mr Elliott is doing, as I have indicated in previous clauses, is seeking to give the advisory committee an operational and administrative role rather than a policy role.

The Hon. M.J. Elliott: It is an advisory role.

The Hon. K.T. GRIFFIN: It is not an advisory role. The policy that applies is that which is published or approved by the Minister on the advice of the advisory committee. The Minister cannot act without the advisory committee approving. The Minister does not have to act if the advisory committee gives advice, but the Minister can act only when the advice is given. So, there is no independent discretion on the part of the Minister. One is really putting the advisory committee into a role that is more than merely a policy role and it is getting involved in the administration and operation of the whole scheme of occupational health, safety and welfare. The Government opposes the amendment.

The Hon. R.R. ROBERTS: The Opposition supports this amendment, as it ensures that the advisory committee is involved in the determining of any policy pertaining to the duties of workers.

Amendment carried; clause as amended passed.

Clause 7—'Health and safety representatives may represent groups.'

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

Page 5, lines 14 and 15—Leave out all words after 'amended' and insert 'by striking out "commission" and substituting "corporation"'.

The effect of this amendment is that with the abolition of the commission the corporation should take up this role, rather than its being a role that is given to the Minister.

The Hon. K.T. GRIFFIN: That is accepted.

Amendment carried; clause as amended passed.

Clause 8—'Election of health and safety representatives.'

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

Page 5, lines 20 and 21—Leave out paragraph (b) and substitute—

> (b) by striking out from subsection (5) 'commission' and substituting 'Advisory Committee';.

Here we have another function that is being carried out by the commission, in this case regulations that were previously made on the recommendation of the commission, where the commission was clearly behaving in an advisory manner. In those circumstances, I believe it is the advisory committee that should be still appropriately providing advice in relation to the regulations.

The Hon. R.R. Roberts: We support this.

The Hon. K.T. GRIFFIN: I indicate opposition to that, but I think that this falls within the same framework that the

honourable member has been successful in convincing the majority of the Committee should be supported, that is, to give the advisory committee a greater involvement in these sorts of areas. The Government does not accept it but it recognises that there is a consistency in that approach.

Amendment carried; clause as amended passed.

Clause 9 passed.

Clause 10—'Functions of health and safety representatives.'

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

Page 5, line 32—Leave out subparagraph (i) and substitute—

(i) the Minister acting on the advice of the Advisory Committee.

Again I am seeking to ensure as far as possible that we have a role either for the corporation or for the advisory committee, whichever is the suitable one. In this case the commission had a role to carry out. I believe that whilst the legislation has the Minister carrying out that function the Minister should, in this case, be acting on the advice of the advisory committee. Again I am consistently taking roles formerly carried out by the commission and determining whether or not they should suitably be carried out by the corporation or by the advisory committee. In this case I believe the advisory committee is the proper body, but it would act by giving advice to the Minister.

The Hon. K.T. GRIFFIN: The Government opposes the amendment. The difficulty is that if the Minister has to act on the advice of the advisory committee it means calling the committee together and formally obtaining its advice.

The Hon. M.J. ELLIOTT: The commission used to do it.

The Hon. K.T. GRIFFIN: Yes, but the commission can delegate. The commission is an entity in itself whereas if you have an advisory committee, which you are saying has 10 members, they all have to be given notice; you must have a quorum; and then the advice has to be given to the Minister. So I would suggest that it is unworkable and for that reason I oppose it.

Amendment carried; clause as amended passed.

Clause 11—'Responsibilities of employers.'

The Hon. R.R. ROBERTS:I move:

Page 6, line 4—Leave out 'Corporation' and substitute 'Advisory Committee'.

This is a consequential amendment.

The Hon. K.T. GRIFFIN: As this amendment is consequential, the Government also opposes it.

The Hon. R.R. ROBERTS: This basically continues along the same lines as the Hon. Mr Elliott's amendments. It is again the 'advisory committee' substitution.

The Hon. M.J. ELLIOTT: It is not quite the same. It relates to the corporation in place of the commission. It is not actually consequential.

The Hon. K.T. GRIFFIN: The Act presently talks about 'commission' and the Bill says 'corporation'. There is consistency in that. It depends how far you want to take the role of the advisory committee.

The Hon. R.R. ROBERTS: I suggest that what we are doing here is consistent with the theme which the Government opposes and with which the Hon. Mr Elliott and I have been in concert up until now. The Opposition's view on this matter is that the issues of training for health and safety representatives should be considered and approved by the advisory committee rather than the corporation. The corporation does not have any experience in this area and it should not be dealt with by the corporation, given that the Government has consistently maintained that the corporation's role is to manage the scheme but not to become involved in policy issues. Policy issues, as the Government points out, are more properly considered by the advisory committee. I therefore commend this amendment on that basis.

The Hon. K.T. GRIFFIN: The Hon. Mr Elliott has previously moved an amendment in relation to clause 7, which deals with health and safety representatives representing groups, where the role of the commission under the principal Act was amended to be that of the corporation. We had sought to have the Minister exercise that responsibility. I would have thought that the corporation was the appropriate body to deal with the responsibilities of employers.

The Hon. M.J. ELLIOTT: I support the amendment.

Amendment carried.

The Hon. R.R. ROBERTS: I move:

Page 6, lines 5 and 6—Leave out paragraph (b) and substitute—

(b) by striking out from subsection (5) 'The Commission may' and substituting 'The Corporation may, acting on the advice of the Advisory Committee'.

This amendment is largely consequential on the previous one and simply authorises the corporation to prepare and publish guidelines on the advice of the advisory committee. It allows the corporation to publish, but it still maintains the principle that we have now taken along with us, namely, that the policy in those publications must be arrived at after consultation with and advice from the advisory committee.

The Hon. K.T. GRIFFIN: Again, I oppose the amendment. This amendment relates to subsection (5) of section 34 of the principal Act, which states:

The Commission may prepare and publish guidelines in relation to the operation of subsection (3).

We want to ensure that that refers to the corporation. The Hon. Mr Roberts's amendment makes the corporation subservient to the advisory committee, and that will hamstring it absolutely, and it will no longer have any opportunity to act as its charter proposes that it should, that is, independently and in the interests of employers and employees.

The Hon. M.J. ELLIOTT: It might be a question of what interpretation has been placed on the wording here. The interpretation that I put on the word 'advice'—and perhaps a lawyer has a different interpretation—is that the corporation has taken advice. It does not mean that it has necessarily to accept the advice. The legal interpretation might be different, but wherever I have used the term 'on advice' my intention has been that they are not making these decisions without consultation.

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: As I said, it may be a matter of interpretation. That is my interpretation and the reason why I am supporting this amendment and, indeed, why I have been looking at the question of the words 'on advice' in other areas. In case there has been some misunderstanding I indicate that, and perhaps it might help considerations later.

The Hon. K.T. GRIFFIN: I have always construed that in these circumstances the Advisory Committee gives advice and the corporation acts on it. If it is going act, it may only do so on the advice of the Advisory Committee. It has a discretion not to act. But, if it is going to act, it acts on the advice of the Advisory Committee. It is not in my view acting 'after consultation with', which then means the corporation has an independent discretion but has to consult before it exercises that discretion. That is not what this means: this hamstrings it in my view.

The Hon. R.R. ROBERTS: We seem to be going back into a pedantic argument again. We had a situation before whereby the commission was able to publish training manuals

and documents in respect of occupational health and safety. We have had this argument a couple of times, where the corporation is going to get into the administration and the policy would be developed. We have now constructed fairly conclusively in series of amendments that the policy issues would be developed on the advice of the Advisory Committee. If the corporation is to publish something in respect of occupational health and safety in which it engages in its articles an Advisory Committee to advise it on these very matters it seems stupid to me that it can go away and print something which does not carry the *imprimatur* of its own Advisory Committee. It is a fairly simple proposition and that is what this amendment aims to do.

Amendment carried.

The Hon. R.R. ROBERTS: I move:

Page 6, after line 6—Insert—

(c) by inserting after subsection (7) the following subsection:

(8) A health and safety representative who is entitled to take time off work to take part in an approved course of training under subsection (3) and whose workplace is more than 75 kilometres by road (taking the most direct route) from the place where the course is held is entitled to claim from the employer an allowance for travel, accommodation and living away from home expenses in accordance with, and at rates prescribed by, the Conditions of Employment Manual for Weekly Paid Employees (Volume 5) published by the Department for Industrial Affairs (or if that document is replaced by another, that document).

The Opposition takes this opportunity to rectify something that has been raised with me on a number of occasions. This amendment relates to occupational health and safety representatives who are duly elected under the Act and who operate specifically in country areas. This amendment deals with a problem that has existed for many years. I am the first to say that it has existed under the present Act. However, as we are doing a comprehensive revamp of this legislation it seems an appropriate time—

The Hon. K.T. Griffin: And you thought you would slot in a few more benefits.

The Hon. R.R. ROBERTS: It seems an appropriate time to provide proper facilities and conditions for people acting under this legislation. For many years occupational health and safety representatives who have been elected from time to time have wished to participate in approved training courses. Most of those courses unfortunately take place in the metropolitan area and require those employees, duly elected, to attend Adelaide, sometimes for five days. In fact, many of these courses run for five days. A number of examples have been brought to my attention by some of my colleagues, including the Australian Workers Union organiser who acts in the Mid North, Mr Trevor Girdham, and who has encountered this on a number of occasions. These courses sometimes require these people to be away for seven days, because there is one day involved in travelling, five days for the course and a day to get home.

Under the Act a mechanism kicks in: where there are 10 workers in a workplace they are entitled automatically to a certain amount of training. The next step in that exercise is that they are entitled to their normal payment. The problem has been that there is five days pay but they incur not insubstantial costs in travel and in accommodation during the training days. This amendment seeks to make it a condition of this legislation that, where those people are involved in this training, the cost of that travel, the accommodation involved and reasonable living expenses should be made available. At the end of the day that is a cost. One must bear in mind that it will add a cost to the system and to the employer, but there is also a benefit, which has been demonstrated by the quote I gave from the commission report. It has been well documented that improved occupational health and safety has a cost benefit in itself. This is not an unreasonable amendment, and it is not unreasonable, when we are revamping the legislation, to fix something that is a problem. It fits in with the thrust of a reorganised occupational health and safety service. I believe that this has great merit and I ask members to support it.

The Hon. K.T. GRIFFIN: It is not surprising that the Government opposes this amendment. Many people commute from Victor Harbor each day. Victor Harbor is, I think, 80 kilometres from Adelaide and it is not an unreasonable distance for people to travel to conferences, to training or whatever. This amendment seeks to provide that if a person has to travel more than 75 kilometres by road taking the most direct route—that is, Adelaide to Victor Harbor or Victor Harbor to Adelaide—then that health and safety representative is entitled to claim an allowance for travel, accommodation and living away from home allowance in accordance with the rates prescribed by certain conditions. I think that is an outrageous impost to place upon employers. There is an adequate provision already in the regulations for paid training leave. Some awards provide for what I understand is called a 'locomotion allowance'. In the Government's view that ought to be adequate. The proposal in the Hon. Mr Roberts' amendment really is—

The Hon. T.G. Roberts interjecting:

The Hon. K.T. GRIFFIN: Well, it takes one beyond the realms of comprehension.

The Hon. R.R. ROBERTS: I am shocked that the Attorney-General finds the conditions that apply to members of Parliament to be outrageous. In fact, we enjoy the 75 kilometre allowance and if we stay overnight there is a living away from home allowance. What we are seeking to do here—

The Hon. K.T. Griffin: Do you go home at midnight?

The Hon. R.R. ROBERTS: I can go home at midnight at 241 kilometres each way, down and back. I suggest to the Attorney-General that that would be unreasonable. It is unreasonable to expect someone who does not normally live in the metropolitan area—and who lives a recognised distance from the metropolitan area—not to be compensated. The honourable member apparently agrees with that in some circumstances but not in others. But there is also—

The Hon. K.T. Griffin: You come to here to be trained?

The Hon. R.R. ROBERTS: Yes, I certainly do and I am learning a lot, especially about you lot. You tend to take the minimalist position. However, it has been brought to my attention by a number of unions, including the Australian Workers Union and others, that some of their members are living at Roxby Downs and some at Leigh Creek. There is a substantial difference. If we are going to run them back and forward every day, we are then talking about a ridiculous situation.

In this amendment we are suggesting that where those persons are required to attend a course and required to stay overnight, they ought to be entitled to recompense for those things. In many instances where this sort of training is concerned, most members keep receipts. I have been involved in training myself prior to coming into Parliament and it was not an unreasonable expense. As it is part of the occupational health and safety issue and is now being married into the WorkCover scheme, it ought to be encapsulated into the scheme. It is not an unreasonable set of circumstances. Conditions are not just plucked out of the sky. There is a

condition of employment manual for weekly paid employees, and by applying those arbitrated levels of payment it is not an unreasonable request at a time when we are doing a major revamp of the legislation.

The Hon. M.J. ELLIOTT: I understand the sentiments behind this, but there is more than one way of solving the problem.

The Hon. R.R. Roberts: Stop the training.

The Hon. M.J. ELLIOTT: No, I believe training courses should be made more accessible, which is the real solution. The solution being offered here, if courses are only being offered in Adelaide, is a reasonable one. If that is the case, those responsible for running the courses should be questioned. The fact is that these courses should be offered in major regional centres and on a regular basis. I invite the Minister to give some indication on what sort of courses are being offered in regional centres.

The Hon. K.T. Griffin: The Trade Union Training Authority runs them all in Adelaide.

The Hon. M.J. ELLIOTT: I am asking the Minister for his knowledge. The issue being covered by the Hon. Ron Roberts is an important one, and there is more than one solution to it. This one is probably the more expensive one, not only for employers but cumulatively the most expensive. It should be easy to take a couple of trainers to a large number of trainees rather than the other way around. What is the current position?

The Hon. R.R. ROBERTS: While the Attorney-General is gathering his thoughts, I make clear to the Hon. Mr Elliott that the trade union training courses do, from time to time, go out to major centres. They have been in Port Pirie, Port Augusta and Whyalla from time to time, but that will not solve the problems of a person living at Roxby Downs who still has to travel a vast distance to get to that point. The principle still remains true, whether it is in the metropolitan area, or at a place where the course is to be conducted. While those courses are restricted generally to principal towns, there are still employees acting as safety representatives under this Act who are required to receive training and they do as a necessity in the majority of cases have to travel those distances.

The Hon. K.T. GRIFFIN: I have been gathering my thoughts, but not much has come of the gathering. All that I can do with respect to the question is to take it on notice and to obtain some information about it. If that means that the Hon. Mr Elliott will support it, there will be another opportunity to revisit it.

Amendment carried; clause as amended passed.

Clause 12—'Powers of entry and inspection.'

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

Page 6, line 13—After 'Minister' insert 'or the Advisory Committee'.

I note that the Hon. Mr Roberts has an amendment also. I do not see these amendments as being alternatives because it is possible that a number of individuals or bodies may be able to be inserted into this clause. We have both agreed that the Minister should be removed, but it does not have to be a choice of the Advisory Committee or director—it could be the Advisory Committee and the director. Previously there were inspectors or persons authorised by the commissioner or the director and now we are talking about an inspector or a person authorised by, and it could be potentially the Advisory Committee and the Director. They are not necessarily alternatives.

The Hon. K.T. Griffin: 'Or', not 'and', or they both have to give authorisation.

The Hon. M.J. ELLIOTT: I agree with that. That is the best that I can manage at 10.20 p.m. I understand that the Advisory Committee is not supposed to be all powerful, but I want the Advisory Committee to have the capacity to inspect and to gather information. I am looking for the Advisory Committee to have the power, not in an enforcement sense but in an inquiry sense. I hope that the Minister understands that the reason why I want the Advisory Committee to be put in here is not in relation to any enforcement that would happen under the amendment proposed by the Hon. Ron Roberts by way of the Director, but simply so that if the Advisory Committee wishes to follow a particular line of inquiry, it is empowered to do so.

The Hon. K.T. GRIFFIN: I have very grave concerns about the Advisory Committee having the power to enter any workplace at any time.

The Hon. M.J. Elliott: It is not just individuals. The committee as a whole has to resolve it.

The Hon. K.T. GRIFFIN: It can delegate, I suppose. The power of entry and inspection provision in section 38 provides that it be a member of the commission. We are suggesting that it should be a member of the corporation. 'An inspector' (the inspector is appointed) 'or a person authorised by the commission or the director'. We are generally seeking to limit that to an inspector who is appointed properly under the Act or to a person authorised by the Minister, remembering that the inspectorate is the responsibility of the department. Our view is that the Minister ought to authorise the inspectors. The Hon. Mr Elliott is suggesting that the Advisory Committee should be authorised to enter, to exercise, inspect and so on. In statutes the powers of entry and inspection are generally given to authorised persons. They are not given to committees. They are very wide powers.

The Hon. M.J. Elliott: It is given to the commission, which is a committee.

The Hon. K.T. GRIFFIN: It is. I had a special interest in powers of inspection and entry.

The Hon. M.J. Elliott: So does Graham Gunn.

The Hon. K.T. GRIFFIN: I have always had an interest in ensuring that if an Act includes entry into private dwellings that it includes warrants. I have a recollection that back in 1986 I raised a concern about the commission being able to exercise this power. The Bill seeks to bring the powers back to the normal provision in statutes and they are exercised by inspectors or authorised persons appointed under a particular process provided in the statute.

I will object to the Hon. Ron Roberts' amendment, although I suspect that it is consistent with what he moved earlier and that, therefore, this amendment could be regarded as consequential. However, I certainly very much oppose an advisory committee having the opportunity to exercise these very wide powers which are akin to police investigation powers.

The Hon. R.R. ROBERTS: I move:

Page 6, line 11—Leave out 'Minister' and substitute 'director'.

This amendment seeks to revisit the argument we had earlier in this debate about the director and the separation of the inspectorate and ministerial involvement. I think the same arguments are still valid for the same reasons. The Hon. Mr Elliott advises me that he will insist on his amendment.

The Hon. M.J. Elliott: I will support your amendment.

The Hon R.R. Roberts' amendment carried.

The Hon M.J. Elliott's amendment carried.

The Hon. R.R. ROBERTS: I move:

Page 6, line 13—Leave out 'Minister' and substitute 'director'.

Amendment carried.

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

Page 6, line 13—After 'Minister' insert 'or the advisory committee'.

Amendment carried.

The Hon. R.R. ROBERTS: I move:

Page 6, lines 17 and 18—Leave out paragraph (d).

This amendment is designed to ensure that the administration of this Act and, in particular, the powers of inspectors are not determined by a ministerial whim or political expediency. By ensuring that the powers under section 38 are authorised by the director of the department responsible for the enforcement of the legislation rather than the Minister, our amendment will ensure that the enforcement of this State's occupational health and safety laws does not end up becoming a political football.

The Hon. K.T. GRIFFIN: I oppose the amendment.

The Hon. M.J. ELLIOTT: I support the amendment.

Amendment carried; clause as amended passed.

Clause 13—'Constitution of review committees.'

The Hon. R.R. ROBERTS: This clause is opposed. The Opposition believes that the existing tripartite based review committee which provides for the involvement of employer and union nominees in the proceedings of a review committee should continue. It brings an element of the real world into the proceedings, a fact which I am advised has been welcomed by magistrates (the presiding officers for the review committee). I am also advised that the inclusion of lay members on review committees has not always resulted in delays with proceedings. Where delays have occurred this has been due to an insufficient number of magistrates. Consequently we are not convinced of the need for the Government's proposal. It would be better if the Government seriously considered an increase in the number of magistrates.

The Hon. K.T. GRIFFIN: I understand that the problem is that it is difficult sometimes to get lay members to be prepared to sit on a review panel for a longer period of time. Some proceedings might go for, say, a month, and it is impossible to get a lay member of the review panel for that period of time. The Government seeks to give flexibility to the President of the Industrial Court in a special case to be able to constitute a review committee solely of a judge or an industrial magistrate. It seems to us that there is no injustice created by that; it is just a matter of proper management and ensuring that the object of the Act is met in the way in which review panels work but which otherwise might be frustrated. There is nothing sinister in it: it is a reasonable proposition to give a judge that sort of flexibility recognising that it is the President of the Industrial Court who constitutes the review committee, and recognising also that in a special case the President is given the power to take this course of action. We strongly maintain that clause 13 should remain in the Bill.

The Hon. R.R. ROBERTS: I understand what the Attorney-General is saying, but what constitutes a special case? Under the Act, some people have been able to get a review to take place and they have the right to have it heard by three people. What constitutes a special case which means that another person cannot have a wider review with the input of at least some of his peers as well as one judge? It seems to me that the Government is applying two standards of judgment for basically the same circumstances, because in most cases I assume a full review would take place, but the Attorney-General is saying that he envisages some circumstances where there would be a lesser level of judgment than in other cases. It seems to me that, if it applies in one review area, it ought to apply in all areas. Therefore, despite the explanation we still oppose the proposition.

The Hon. K.T. GRIFFIN: I draw the honourable member's attention to the fact that last year the Workers Compensation Appeal Tribunal composition was amended because previously there had been lay persons as part of such tribunals in conjunction with a presiding member who was a judicial officer, and it was found that it just did not work. So, you only had one person to organise, and of course the decisions were then appealable. In relation to review committees, these committees sometimes go out into the country. The lay members of the review panel are required to be away from home for—

The Hon. R.R. Roberts: Do they get expenses?

The Hon. K.T. GRIFFIN: I presume they get full expenses on this occasion; they probably get some payment for it, too, for the time they spend out there. But there are not too many of them who can be away, say, for a month at a time on a particular matter. I draw the honourable member's attention to the fact that section 49 of the principal Act does provide that a party to proceedings before a review committee may appeal to the Supreme Court against a decision of the committee in those proceedings. The Supreme Court is mentioned—and it is constituted of a single judge—because if it is a judge of the Industrial Court, the only level of appeal really is to the higher court, the Supreme Court. There are protections there for those who believe that a review committee has not acted properly. So, it is fully appealable. I think that is quite proper. What the Government's provision seeks to do is to provide that, in those cases to which I referred, there is not a thwarting of the object of the Act by the fact that you cannot get people and people selected from these panels to go away for that period of time.

The Hon. M.J. ELLIOTT: I guess so long as we have an independent judiciary—and I must say in relation to industrial relations legislation you wonder how much longer that might be—I would expect that 'in a special case' would be interpreted fairly carefully. I understand the concern of the Hon. Ron Roberts, but I would expect, as I said, if you do have the independent judiciary you do have a special case. So I would expect them to interpret that fairly carefully. In fact, their failure to do so in itself might create a situation which could create an appeal, anyway. I may be wrong, but that would be my guess. So, I think that that would be treated with a great deal of care. In those circumstances, I will not support the amendment.

The Hon. R.R. ROBERTS: If one appealed at present it could be a fairly strong ground for appeal that the review committee was improperly constituted if the three people were not there. One of the defences of a worker now is to say, 'Look, my review was not conducted properly; therefore, I have not received the proper treatment to which I am entitled.'

The Hon. K.T. Griffin interjecting:

The Hon. R.R. ROBERTS: His defence now would be, 'I have been denied justice, because I am entitled to have a review, a collective review under the legislation now, and if I don't get that, and I do not get a decision, it is a defence for me to say that I ought to have another review of this because my judgment has not been done properly.' All you are doing really at the moment is to take that away by saying, 'Well,

that's no longer a review because one will now constitute a proper review.'

The Hon. K.T. GRIFFIN: There is a protection there. The Hon. Mr Elliott just made some reference to his not knowing for how long the judiciary and the Industrial Court were going to remain independent. I can just give him an assurance that it will remain independent.

Clause passed

Clause 14 passed.

Clause 15—'Delegation by Minister.'

The Hon. R.R. ROBERTS: This clause is opposed.

Clause negatived.

Clause 16—'Power to require information.'

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

Page 7, lines 1 to 4—Leave out subsection (1) and insert—

(1) The Minister or the advisory committee or a person authorised by the Minister or the advisory committee may, by notice in writing, require a person to furnish information relating to occupational health, safety or welfare that is reasonably required for the administration, operation or enforcement of this Act.

This is an amendment of a similar nature to those I have already moved. Again, I am seeking to give the advisory committee the power to inquire and to gather information. So, really the amendment is the insertion of 'advisory committee'.

The Hon. K.T. GRIFFIN: I have already expressed my arguments. I oppose the amendment.

Amendment carried; clause as amended passed.

Clause 17—'Confidentiality.'

The Hon. R.R. ROBERTS: I move:

Page 7, line 16—After 'about' insert 'confidential'.

The purpose of this amendment is to limit the confidentiality provisions proposed in section 55 to those matters that are genuinely confidential. For example, an unlawful lot of existing commercial and trading operations are common knowledge in many if not most workplaces. It is unfair to discriminate against the health and safety representatives on this basis. They should not be subject to penalties for disclosing information which is in fact common knowledge. Similarly, information provided in return or in response to a request for information should not automatically be deemed to be confidential. It is also inappropriate when dealing with occupational health and safety matters to impose confidentiality provisions other than to the minimum extent necessary. Access to information is the life blood of information decision making. The Opposition believes that these amendments provide a proper balance between the worker's right to know and that of the employer to have confidentiality provisions apply to those commercial and related matters that are truly confidential.

The Hon. K.T. GRIFFIN: All I can say about this is that I find that quite extraordinary. What our Bill does is merely to restate, in amended drafting form but the principle is the same, what is already in section 55 of the principal Act. There it states that where a person performing any function under this Act obtains information relating to commercial operations or trade processes, certain consequences follow. It is impossible, I suggest, to define what is confidential. The whole operation of a business—

The Hon. R.R. Roberts: Why would that cause breach of confidentiality if we cannot define what is confidential?

The Hon. K.T. GRIFFIN: Confidentiality is a concept. What the honourable member is saying is 'confidential commercial or trading operations'. With respect, it just does not make sense legally, and it is impossible to interpret in terms of what is specifically a confidential commercial or trading operation. Confidentiality is just the heading. Nowhere is confidentiality mentioned in the body of the principal Act. Of course, the heading is not taken into consideration in interpreting the consequences of the legislation.

The heading is put to one side: it is a shorthand abbreviation for what one is trying to do in the section. At the moment, what it is seeking to do is say that if someone goes into the business and gains access to information in the course of carrying out the functions, and the information is about commercial or trading operations (that is, the way in which the business trades or operates commercially, or about the physical or mental condition, etc), then you cannot disclose that information except as permitted by law.

If you insert 'confidential commercial or trading operations', first, it is almost impossible to define what is a confidential commercial operation. It is just not capable of definition, but the fact that one is seeking to say 'Look, there are some things about a person's commercial or trading operations you can disclose and it does not matter to whom, but there are other things that maybe you cannot and they are incapable of definition,' suggests that it is open slather. Every area of the law that deals with access by inspectors or authorised persons to information about a person's business or affairs is required to keep them confidential and not to disclose them to any other person except for the purposes of the legislation; otherwise, it is open slather. The police cannot go into your home or a business and obtain information and disclose it other than in the context of court proceedings; otherwise it is open slather.

It is an unreasonable approach to the way in which a business in this context may have its affairs splattered everywhere, whether published in a newspaper or through the media or if in some other way information is disseminated. I just think that it is a totally unacceptable proposition that the honourable member is proposing, and I will vigorously oppose it.

The Hon. M.J. ELLIOTT: In this and some of the companion Acts I have expressed concern about the way in which some confidentiality clauses have worked. However, this amendment would be incredibly difficult to interpret. In fact, I suggest a probably more sensible amendment would be to qualify 'commercial' in some other way: if we talked about commercially sensitive operations as distinct from—

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: If it found its way into the court it would certainly be defined.

The Hon. K.T. Griffin: That's right. More work for lawyers.

The Hon. M.J. ELLIOTT: But you have work here, anyway. What are you talking about?

Members interjecting:

The Hon. M.J. ELLIOTT: No, it is not. It is not saying there is not a line drawn; it is merely saying where the line would be drawn. The lawyers have fun no matter what you do; that is the reality of life. Parliament has been invented mainly for lawyers, I think, and just coincidentally, possibly, for the benefit of anybody else. The point I was making is that I actually oppose the amendment, simply because talking about confidential commercial operations would be virtually impossible to interpret. I am actually supporting amendments and moving amendments of my own elsewhere that tackle this question of confidentiality and where there is, I believe, an over-degree of caution, particularly in relation to the advisory committees.

The Hon. R.R. ROBERTS: I am surprised by the passion of the Attorney-General at this late hour, but confidential information is generally accepted. I have been involved in matters before the South Australian Industrial Commission where information in respect of companies' trading methods, etc., has been claimed to be confidential, or they want the information that is being provided to be deemed to be confidential. In fact, the commission agreed—

The Hon. K.T. Griffin: That is permitted under the amendment that is in the Bill. You can disclose information required by a court or tribunal constituted by law. What is the problem?

The Hon. R.R. ROBERTS: But even within that concept of that holding area in which you lawyers work they have interpreted what is confidential because, when a request is made that the information being provided to the commission remain confidential, it has remained confidential and has not become part of the transcript.

The Hon. K.T. Griffin: That is different from deciding what is a confidential commercial or trading corporation.

The Hon. R.R. ROBERTS: I understand, and I understand the numbers even better, but I still commend my amendment, knowing that it will be lost.

Amendment negatived.

The Hon. R.R. ROBERTS: I move:

Page 7, line 20—After 'subparagraph (iii)' insert 'confidential'.

The Hon. K.T. Griffin: This is opposed.

Amendment negatived.

The Hon. R.R. ROBERTS: I move:

Page 7, line 30—Leave out ', made under the authorisation of the Minister'.

The Opposition is not convinced that the disclosure of the corporation or the Government department should require the Minister's approval. On the contrary, this could result in the suppression of information relevant to the health and safety of workers as a result of pressure or lobbying of the Minister by employers or others involved in trying to cover up unacceptable health and safety conditions. I commend the amendment.

The Hon. K.T. GRIFFIN: I oppose the amendment. The authorisation of the Minister is a safeguard against abuse. The previous Government has information privacy principles which seek to protect information being bandied around willy-nilly by instrumentalities and agencies of the State Government, and I would have thought that, if information was to be made available outside the ambit of proposed subsection (1), it ought to be subject to some sort of authorisation. Subsection (1) provides:

A person (including a health and safety representative, a member of a health and safety committee or a person acting as a consultant) must not disclose information (except as permitted by subsection (1a)

if certain things occur—and it may be commercial or trading operations. The disclosure of information under subsection (1a) is permitted if it is in the course of official duties, disclosure of statistical information, with the consent of a person, required by a court or tribunal constituted by law, disclosure to the corporation, or to an administrative unit made under the authorisation of the Minister or disclosure authorised by the regulations. In those circumstances I would have thought it was quite proper to ensure that some safeguards were in place, and the authorisation of the Minister ensures that process.

Amendment negatived; clause passed.

New clause 17A—'Inspections by officers of registered associations.'

The Hon. R.R. ROBERTS: I move:

Page 8, after line 10—Insert new clause as follows:

17A. The following section is inserted after section 57 of the principal Act:

57A. (1) An officer of a registered association may, at the request of an employee who is a member of the association—

(a) enter at any time any workplace where the employee is required to work; and

(b) inspect the place, anything at the place and work in progress at the place.

(2) A power of entry of inspection under subsection (1) must be exercised so as to avoid any unnecessary disruption of, or interference with, the performance of work at the workplace.

(3) A person must not hinder an inspection under this section.

Penalty; Division 7 fine.

This is another problem that has been encountered by practical operators in the field, and again I am talking in many instances of people living in remote areas or in respect of workers who work in smaller organisations where there are no provisions for occupational health and safety representatives. This amendment is endeavouring to allow an officer of a registered association to access those organisations to inspect and to advise in areas where normally we could expect an occupational health and safety officer to be present; this gives an extension of those powers so that representatives of employees' organisations can act on their behalf. This is a new function. However, as I have stated previously, I believe that this is the time and the place to make these sensible arrangements.

The Hon. K.T. GRIFFIN: The Government opposes the amendment. The first point to make is that it is inappropriate for this power to be granted under this Act. It is more appropriate to deal with it under the industrial relations legislation. Under the present Industrial Relations Act the Industrial Commission has the following power:

(c) by award, authorise an official of a registered association of employees, subject to such terms and conditions as the Commission thinks fit, after giving the employer notice prescribed by the award, to enter the premises of an employer subject to the award, or any other premises where employees of the employer may be working, and—

(i) inspect time books and wage records of the employer at those premises;

(ii) inspect the work carried out by the employees and note the conditions under which the work is carried out; and

(iii) interview employees (being employees who are members, or are eligible to become members, of the association) in relation to the membership and business of the association.

So, there is already power there, but it is subject to the watchdog role of the Industrial Relations Commission. The power is in that Act but it is subject to safeguards. The other point to make is that, under section 38 of the Occupational Health, Safety and Welfare Act, there is the power of entry and inspection, and that is a very much more powerful provision.

It ought to be noted that the Hon. Mr Roberts's amendment does not require notice. It is not limited to any particular purpose. It is a very wide power merely to enter at any time any workplace where the employee is required to work and inspect the place, anything at the place and work in progress at the place, so it is an open-ended check, quite obviously designed to further entrench and broaden the powers of registered associations.

There ought to be at least some reason for inspection. Certainly, the Government's policy is—and it is evident from the industrial relations Bill that we will debate hopefully later this week—that union officials should have rights of entry for

inspection of workplaces but only in premises where they have members, and that the rights of entry should be tailored for particular workplaces and enterprises and be the subject of some supervision so that the rights granted are tailored to the needs of a particular workplace. The Government therefore very much opposes this amendment.

The Hon. M.J. ELLIOTT: The major reservation I have about this amendment is that it really is being introduced in isolation and, if this were introduced, there are a number of other protections and provisos, etc., that I would like to see surrounding it. I did not even realise that this amendment was on my desk until the previous amendment came up only a few minutes ago. It has come at me with no notice at all. As I said, it does not have sufficient protection surrounding it. So, although I do not express any particular view about what the honourable member is trying to achieve, I cannot support the amendment in the way it is presented.

The Hon. R.R. ROBERTS: I ask the Hon. Mr Elliott to bear with me a little bit before he makes a final decision on this. There was a fairly persuasive argument put by the Attorney-General which in my view is an argument more of convenience rather than of fact. He was talking about—

The Hon. K.T. Griffin: The Hon. Mr Elliott put the same issue to me when I put an amendment on the table and both of you opposed it yesterday, because it came on at short notice. That is fair enough.

The Hon. R.R. ROBERTS: What you put to the Committee was a situation which talked about the industrial relations issue. This clause has nothing to do with inspection of books or the workplace. This right of entry is for a member of a registered association, at the request of an employee who is a member that association. It allows that person to enter the workplace and perform the functions that that worker, if he were working in another organisation, could obviously expect to have done by his elected safety representative. This is to apply to areas where there are no safety representatives, and under the Act you cannot have anyone but a safety representative perform these functions. What is contained in this amendment is nothing more than what happens. This allows the worker working in an area where he has concerns about health and safety or the safety provision, in the absence of an elected safety representative, to have a suitably qualified person from his own organisation—

The Hon. K.T. Griffin: It might be a female representative.

The Hon. R.R. ROBERTS: Well, 'his' or 'her'. I thought that you were the person who did not want to be pedantic at this time of night. However, whoever the representative may be—of whatever gender—that worker enters the workplace and performs functions that he has been elected to do by the worker, where the worker has no relief in another forum—and this is a form of activity that his registered association engages in. It provides a facility for workers who are disadvantaged under the Act where they were clearly meant to be covered by the services of the occupational health and safety representatives under the Act as it was originally passed. However, there are limits on what constitutes a workplace where a safety representative must be elected, and that cuts in at 10 employees. You can have them in other areas, but in some areas there are obviously going to be situations where unsafe work is taking place. If there is no relief you cannot always get an officer from the Department of Labor and Industry. The way this Government is going it would not want them, anyway. In many cases a worker can have redress by approaching his organisation and getting someone who is qualified to come in and act on his behalf.

The Hon. T.G. ROBERTS: The real politics of it are that there are many employees who are not members of unions who are intimidated by their employers. The processes they work in are dangerous in many cases.

The Hon. K.T. Griffin: This amendment does not apply to them.

Members interjecting:

The CHAIRMAN: Order!

The Hon. T.G. ROBERTS: Again, the real politics of it is that it is those organisations and workplaces that need some outside assistance from time to time to break the gridlock of employer patronisation to a point where those workplaces are quite dangerous. If there is a fear on the part of some of those employers that there is some sort of outside approach to inspect then it may be that they keep their places and premises in a better condition and do not intimidate their workers not to make contacts outside. I know it is 1994 and many members on the other side probably do not feel that that happens, but I can assure them that it does.

New clause negatived.

Clause 18—'Expiation of offences.'

The Hon. R.R. ROBERTS: I move:

Page 8, line 13—Leave out paragraph (a).

The Hon. K.T. GRIFFIN: The Government opposes the amendment.

Amendment carried; clause as amended passed. Clauses 19 and 20 passed.

Clause 21—'Repeal of s. 65.'

The Hon. R.R. ROBERTS: I move:

Leave out this clause and insert new clause as follows:

Annual report

21. Section 65 of the principal Act is amended by striking out 'Commission' wherever it occurs and substituting, in each case, 'Advisory Committee'.

I would suggest that this is probably consequential as well.

The Hon. K.T. Griffin: It is not.

The Hon. R.R. ROBERTS: This amendment is designed to ensure that the Advisory Committee provides an annual report which will subsequently be provided to the Parliament. In this regard the amendment will ensure that the operations of the Advisory Committee are open to public scrutiny. I commend the amendment.

The Hon. K.T. GRIFFIN: I point out that this was not required of the Workers Compensation Advisory Committee, why should it be required of this one?

The Hon. M.J. Elliott: We didn't think of it.

The Hon. K.T. GRIFFIN: Bad luck. The corporation is required to present and table an annual report. That corporation's annual report should be sufficient in relation to the administration of the Act. I certainly cannot see that there is any value at all in requiring that of an Advisory Committee, which is an Advisory Committee, after all, although it seems to be acquiring masses of responsibilities under the amendments which have already been passed and which are to be passed. But, in the Government's view, it is quite inappropriate for an annual report to be required.

The Hon. M.J. ELLIOTT: I made a comment by way of injection that I did not think of it in relation to the Workers Compensation Advisory Committee; I recollect now that it was one amendment that I had been considering and I am not quite sure how that one fell off my list.

The Hon. T.G. Roberts: We will accept your support at this late stage.

The Hon. M.J. ELLIOTT: Perhaps we can bring back the other piece of legislation and put it in. I do not think that it is unreasonable that the Advisory Committee should provide an annual report. I note that the annual report provisions are fairly extensive and some sections of that in fact probably are not relevant.

The Hon. K.T. Griffin: Beyond power.

The Hon. M.J. ELLIOTT: That is what I am saying. Some sections are not relevant, but at this stage I will simply support the amendment because I support the concept of annual reports, recognising that there will need to be some substantial amendment in terms of the content of the annual report.

The Hon. K.T. GRIFFIN: The Government opposes the amendment.

Clause negatived; new clause inserted.

Clause 22—'Modification of regulations.'

The Hon. R.R. ROBERTS: I move:

Page 8, line 30—Leave out 'Minister' and substitute 'Advisory Committee'.

This is another amendment designed to correct the ministerial intervention in the administration of the Act. In practice, employers only rarely seek to have regulations modified, and in the past this has not given rise to any problems. We believe that the Advisory Committee is the appropriate body to consider these applications for modification of specific regulations.

The Hon. K.T. GRIFFIN: The Government opposes it, for the same reasons I have already expressed.

The Hon. M.J. ELLIOTT: I support it.

Amendment carried; clause as amended passed.

Clause 23—'Exemption from Act.'

The Hon. R.R. ROBERTS: I move:

Page 9, lines 1 to 19—Leave out paragraphs (a) to (f) and substitute 'by striking out "Commission" whenever it occurs and substituting, in each case, "Advisory Committee"'.

This amendment also deals with the principle that we were going through of inserting 'commission' and 'Advisory Committee'. It is consequential and embodies all the same principles. I do not wish to go into a long debate on this unless opposition is expressed by the Hon. Mr Elliott.

The Hon. K.T. GRIFFIN: It is inappropriate for the Advisory Committee to be so referred to and I oppose it.

Amendment carried; clause as amended passed.

Clause 24 passed.

Clause 25—'Consultation on regulations.'

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

Page 10, lines 19 and 20—Leave out paragraph (a).

The consequence of it is that—

The Hon. K.T. Griffin: Agreed.

Amendment carried; clause as amended passed.

Clause 26—'Regulations.'

The Hon. R.R. ROBERTS: I move:

Page 10, lines 24 to 27—Leave out paragraphs (a) and (b).

Labor's amendment here is consequential to that proposed in clause 4 and simply seeks to ensure that the reference to the Minister is replaced by the Director. We have gone through the discussion in a number of other areas. I ask the Committee to support it.

The Hon. K.T. GRIFFIN: I do not agree with it.

Amendment carried.

The Hon. R.R. ROBERTS: I move:

Page 11, lines 3 and 4—Leave out paragraph (f).

It embodies the reference to 'Director or a designated person'. I commend the amendment to the Committee.

The Hon. K.T. GRIFFIN: It is opposed.

The Hon. M.J. ELLIOTT: We support it.

Amendment carried; clause as amended passed.

Clause 27—'Amendment of first schedule.'

The Hon. R.R. ROBERTS: This clause is also consequential on the Government's proposal to eliminate any reference to the Director. I will not give a detailed explanation as it is the same principle.

The Hon. K.T. GRIFFIN: It is opposed.

Clause passed.

Remaining clauses (28 and 29) and title passed.

Bill read a third time and passed.

JOINT COMMITTEE ON WOMEN IN PARLIAMENT

The House of Assembly intimated that it had concurred in the Legislative Council's resolution for the appointment of a Joint Committee on Women in Parliament, that it would be represented on the committee by three members, of whom two would be the quorum necessary to be present at all sittings of the committee, and that the members of the joint committee to represent the House of Assembly would be Ms Greig, Mr Leggett and Ms Stevens.

The Hon. DIANA LAIDLAW (Minister for Transport): I move:

That members of the Legislative Council on the joint committee be the Hons Sandra Kanck, Carolyn Pickles and Angus Redford.

Motion carried.

FORESTRY (ABOLITION OF BOARD) AMENDMENT BILL

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

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That this Bill be now read a second time.

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

Leave granted.

The Forestry Act 1950 is the Act under which the activities of the former Woods and Forests Department were administered.

Prior to October 1992 the Woods and Forests Department was responsible for the establishment and management of the State's forestry resource and the operation of three sawmills in the south-east of South Australia.

In July 1992, the Government of the day announced a proposal whereby the sawmilling activities of the former Woods and Forests Department would be amalgamated with those of the South Australian Timber Corporation to form a single, commercially oriented, business operation.

This decision was implemented on the 1 October 1992. A proclamation was made purporting to dissolve the Minister of Forests as a body corporate and vesting its assets and liabilities in the Minister of Primary Industries. A further proclamation committed the administration of the Forestry Act to the Minister of Primary Industries.

Concerns were raised as to the validity of the proclamation to dissolve the body corporate and subsequent advice from the Crown Solicitor indicated that the proclamation of the 1 October 1992 was ineffective, as abolition of the body corporate can only be effected by an Act of Parliament.

The advice from the Crown Solicitor at that time also recommended that, in the interests of more efficient administration, several other amendments to the Act were desirable.

The proposal now before the House seeks to address these and other matters; major amendments being:

- Section 3(3) currently allows the Governor to vary or revoke a proclamation declaring Crown lands to be forest reserve. Such a proclamation is subject to disallowance by Parliament if it has the effect of removing land from a forest reserve, and cannot

come into operation until the period for disallowance elapses—sometimes a considerable period of time.

To enable more appropriate and efficient management of the forest reserves, it is proposed that variation or revocation of previous proclamations of land used for "commercial" plantation forests be effective upon proclamation.

However, to protect the environmental heritage of the State, it is intended that any proposal to revoke or vary proclamations declaring land to be Native Forest Reserve will remain subject to disallowance by either House of Parliament.

Officers of the Forestry Group of Primary Industries are currently preparing management plans for a number of areas which are to be declared as Native Forest Reserves.

- The provision creating the Minister of Forests as a body corporate will be repealed.
- It is proposed that the Forestry Board be abolished. In recent years the Board's role in forestry activities has been minimal as the strategies, policies, practices and procedures for the management of forests are well established.

The Board has not met during the last 12 months and, at its last meeting, supported its abolition subject to appropriate consultative mechanisms being put in place when it is considered necessary to seek additional advice.

- The Act does not empower the Minister to enter into joint ventures, or hold shares in companies, involved in the sale of trees and forest produce.

Indeed, the shares in Forwood Products Pty. Ltd., the company established to operate the sawmilling operations of the South Australian Timber Corporation and the former Woods and Forests Department, are held by the South Australian Timber Corporation due to this lack of legal capacity.

It is proposed that the Act be amended to give this power to the Minister.

The other proposed amendments are cosmetic and are intended to remove archaic terminology and unnecessary requirements. I commend this Bill to the honourable members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clauses 1 and 2 are formal.

Clause 3: Amendment of s. 2—Interpretation

Clause 3 makes a number of amendments to the definitions contained in subsection 2(1) of the principal Act to reflect the abolition of the Woods and Forests Department and the Forestry Board. The definition of "the board" is struck out and a definition of "Chief Executive Officer", which refers to the person for the time being holding or acting in the office of Chief Executive Officer of the administrative unit responsible for the administration of the Act, is substituted. The definition of "the Director", which refers to the Director of the Woods and Forests Department, is struck out.

A new definition of "forest warden" is substituted to include all members of the police force as well as persons appointed as forest wardens under the principal Act.

The definition of "the Minister", which refers to the Minister of Forests, is struck out.

Subsection 2(2) of the principal Act is consequentially amended to remove the reference to the Director and substitute a reference to the Chief Executive Officer.

Clause 4: Amendment of s. 3—Forest reserves and native forest reserves

Clause 4 substitutes a new subsection (4) in section 3 of the principal Act. New subsection (4) provides that whenever, by proclamation, land which constitutes the whole or part of a native forest reserve would cease to be such a reserve or within such a reserve a copy of the proclamation and a statement of the reasons for the proclamation must be laid before both Houses of Parliament.

Clause 5: Repeal of ss. 4, 5, 6 and 7

Clause 5 repeals sections 4, 5, 6 and 7 of the principal Act. Sections 4, 5 and 7, which deal, respectively, with administration of the Act by the Minister, incorporation of the Minister and the appointment of officers for the administration of the Act, are either obsolete or unnecessary. Section 6 is repealed to effect the abolition of the Forestry Board.

Clause 6: Substitution of s. 8

Clause 6 substitutes a new section 8 in the principal Act which provides for the delegation of powers by the Minister and the Chief Executive Officer.

Clause 7: Amendment of s. 8a—Forest wardens

Clause 7 amends section 8a of the principal Act, by striking out subsection (5), to avoid repetition of the matters included in the new definition of "forest warden".

Clause 8: Substitution of s. 8b

Clause 8 substitutes a new section 8b in the principal Act, providing for the issue of identity cards to persons appointed by the Minister to be forest wardens under the Act.

Clause 9: Amendment of s. 8c—Powers of forest warden

Clause 9 substitutes divisional penalty provisions in those subsections of section 8c which create the offences of failing to comply with requirements of, hindering, abusing, threatening or insulting and assaulting a forest warden. The new penalty provisions impose a division 7 fine in respect of all offences except the offence of assaulting a forest warden which would incur a division 5 fine or division 5 imprisonment.

Clause 10: Amendment of s. 8e—False representation

Clause 10 amends the penalty provision of section 8e of the principal Act to provide for a division 7 fine or division 7 imprisonment.

Clause 11: Insertion of s. 8f

Clause 11 inserts a new section 8f into the principal Act. Subsection (1) of new section 8f provides for immunity from liability for forest wardens, and persons assisting forest wardens, for acts or omissions in good faith and in the exercise or discharge, or purported exercise or discharge, of powers or functions under the Act. Subsection (2) provides that a liability that would, but for subsection (1), lie against a forest warden lies instead against the Crown.

Clause 12: Amendment of s. 10—Leases of forest reserves

Clause 12 amends section 10 of the principal Act by striking out the passage in subsection (1) which refers to the need for a recommendation of the board for the Minister to grant a lease, and conferring power on the Minister to grant a lease on such terms and conditions as the Minister thinks fit. Subsection (2) is struck out.

Clause 13: Substitution of s. 11

Clause 13 substitutes a new section 11 in the principal Act. New section 11 gives the Minister power to grant licences and other interests in relation to forest reserves, on such terms and conditions as the Minister thinks fit.

Clause 14: Amendment of s. 12—Planting and milling of timber

Clause 14 amends section 12 of the principal Act by striking out the passage in paragraph (c) which refers to the need for a recommendation of the board for the Minister to establish, maintain and operate mills.

Clause 15: Substitution of s. 13

Clause 15 substitutes a new section 13 in the principal Act, dealing with the sale of timber from forests. New section 13 provides, in subsection (1), that the Minister may sell or otherwise dispose of trees or timber produced in forests under the Minister's control, or any mill products from the treatment of those trees or timber. Subsection (2), however, provides that this power may not be exercised except on recommendation of the Chief Executive Officer. Subsection (3) then provides that before making any such recommendation the Chief Executive Officer must consult with a person who is a corporate member, or who is eligible to be a corporate member, of the Institute of Foresters of Australia Incorporated and who has, in the Chief Executive Officer's opinion, appropriate expertise, on the question of whether trees or timber from the forest can, or should, be made available for sale.

Clause 16: Repeal of s. 15

Clause 16 repeals section 15 of the principal Act, which deals with the sale of electricity generated at mills operated under the Act.

Clause 17: Amendment of s. 16—Ancillary powers of Minister

Clause 17 amends section 16(1) of the principal Act which specifies the ancillary powers of the Minister. The current paragraph (c) is struck out and new paragraphs (c), (d) and (e) are substituted. New paragraph (c) provides that the Minister may form bodies corporate, or acquire, hold, deal with and dispose of shares or other interests in, or securities issued by, a body corporate. New paragraph (d) gives the Minister power to enter into partnerships and joint ventures. New paragraph (e) is a general power to enter into such other arrangements as are necessary or expedient.

Clause 18: Amendment of s. 18—Injury to forest reserves

Clause 18 amends section 18 of the principal Act to remove the reference to the board contained in subsection (1) and to provide a division 7 fine or division 7 imprisonment for the offence created by this subsection.

Clause 19: Amendment of s. 19—Technical advice and assistance

Clause 19 amends section 19 of the principal Act to remove the reference to the board and to the Director.

Clause 20: Repeal of s. 20

Clause 20 repeals section 20 of the principal Act, which provides that proceedings for all offences are to be disposed of summarily.

Clause 21: Amendment of s. 21—Regulations

Clause 21 amends section 21 of the principal Act by striking out paragraph (c) and substituting a new paragraph (c) which expresses the maximum fine which may be prescribed by the regulations as a division 9 fine.

Clause 22: Transitional provision

This clause declares that the assets and liabilities of the Minister of Forests are vested in the Minister.

Schedule

This is a statute law revision schedule to amend various provisions of the Act. None of the amendments are substantive; they merely serve to bring the language of the Act into line with modern drafting style.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

IRRIGATION BILL

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

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill is the result of the on-going review of water-related legislation. It concerns the distribution of water for irrigation, and the drainage of irrigation water and has been prepared after extensive public consultation, particularly with the Riverland irrigation community.

Statutory powers for irrigation may be found in eight separate Acts of Parliament. There is no good reason for several Acts to address the same issue. Considering the similarity of purpose of the various irrigation Acts, it is logical and practical to have standard provisions which would enable all areas to be managed in similar ways. This encompasses both Government and private irrigation bodies.

The responses to the "Green Paper" on the proposals for legislation were generally supportive of consolidated and updated legislation.

The Renmark Irrigation Trust will continue to operate under its existing statute, the *Renmark Irrigation Trust Act 1936*. It can however, elect at any time to have its Act repealed and operate under this legislation.

The need for land tenure and irrigation management to be dealt with in the *Irrigation Act 1930* no longer exists. In fact this was recognised in 1978 when the administration of irrigation activities in government irrigation areas was delegated by the Minister of Lands to the then Minister of Works. This Bill enshrines that arrangement.

The pertinent aspects of the Bill are:

- the establishment and management of Government and private 'Irrigation Districts'
- the separation of the land tenure provisions from water management
- the land tenure concept of 'Irrigation Areas' is not relevant to water management. The water management function will now revolve around 'Irrigation Districts' which are simply those properties to which the irrigation and drainage facilities are available
- it considerably simplifies the conversion from Government irrigation district to a private irrigation district, at the same time protecting the rights of individuals and taking into consideration Government's obligations
- in addition to the normal regulation-making powers, there is also provision for private trusts to make their own regulations to cover local requirements, subject to Ministerial approval
- there is a right of appeal to the Environment, Resources and Development Court
- there is a power to grant financial assistance under certain conditions to an owner or occupier in a Government irrigation district or a private irrigation Trust
- there is a power for a Trust to borrow money from any institution it deems appropriate
- the legislation provides for a simple but effective means of setting and recovering charges, but more importantly provides the flexibility to suit the needs of individual districts.

To this extent, this Bill is similar to the Bill that was introduced in this place in 1993.

Since the drafting of that Bill, the major restructuring issues surrounding the rehabilitation of the irrigation systems have become clear. The blueprint for the restructuring of the irrigation industry that must accompany this major undertaking has been developed in conjunction with the irrigators. This Bill reflects those requirements by providing the means by which the industry can ensure greater efficiency in the use of water.

The new Bill sets out the parameters for restructuring by—

- providing the power to exclude land from a district where—
  - the land is not used to carry on the business of primary production;
  - the land is not suitable for carrying on the business of primary production efficiently; or
  - it is not economically viable to extend the rehabilitated system to that land;
- providing for compensation, and the principles for such compensation, where land is to be excluded;
- providing a right of appeal to the Environment, Resources and Development Court—against the decision to exclude land and the level of compensation.

It is a necessary consequence of these parameters that only those properties that are used to carry on the business of primary production will comprise an irrigation district. A property that is not used for that purpose when the Bill comes into operation will continue to be supplied with water as though it were included in the district.

This arrangement will last until 5 years after the authority for the district serves notice on the owner of the land ending it. The owner may end it earlier if he or she wishes to do so. An authority's purpose in ending such an arrangement would normally be to provide water to the land on a different basis. Clause 5 of the second schedule of the Bill sets out these transitional arrangements.

Another consequence is that there must be power to abolish a private irrigation district and dissolve its trust if the trust is not carrying out its functions properly because its members cannot co-operate, or it cannot pay its debts or it is in breach of the Act or conditions imposed under the Act. Clause 14 gives the Minister power to abolish a district in these circumstances after serving notice of his or her intention to do so. The trust has three months to rectify the problem which will extend to six months if it appeals to the Environment, Resources and Development Court.

This Bill also includes additional provisions enabling two or more private irrigation districts, or parts of districts, to merge and form a new district. The procedures for merger are set out in Part 3, Division 2 of the Bill.

The Bill changes the emphasis from the mere provision of water for irrigation to the provision of water for the business of primary production. Whilst the Bill specifically addresses irrigated horticulture, the Minister or a trust may supply water for other forms of primary production—such as aquaculture—which may benefit the economy of the State.

I am confident that this legislation will go a long way in improving the way Irrigation Districts are managed in the future. It will enable the important primary industries which rely on irrigation waters to manage their affairs in a business-like manner, be they Government or private.

I commend this Bill to the House.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Repeal

This clause repeals the Acts listed in schedule 1. The Bill supersedes these Acts.

Clause 4: Interpretation

This clause defines terms used in the Bill.

Clause 5: Existing government irrigation districts

This clause provides for the continuation of irrigation areas established under the *Irrigation Act 1930*. They are called government irrigation districts under the Bill and will be made up of land used to carry on the business of primary production connected to the irrigation systems in operation under the Act of 1930. See clause 4(2)

for the concept of connection of land to an irrigation or drainage system.

Clause 6: Establishment or extension of irrigation districts

This clause provides for the establishment of new government irrigation districts and the extension of existing districts by establishing or extending irrigation systems and connecting land to the new or extended systems.

Clause 7: Inclusion in or exclusion from a district

This clause provides for individual properties to be included in or excluded from an irrigation district. The application must be made by the owner and any long term occupier of the property. A long term occupier is a registered lessee with at least five years of the term of the lease left to run. See the definition in clause 4(1).

Clause 8: Change of name and abolition of district

This clause enables the Minister to change the name or abolish a government irrigation district by notice in the *Gazette*.

Clause 9: Existing private irrigation areas

This clause provides for the continuation of existing private irrigation areas as private irrigation districts under the Bill.

Clause 10: Establishment of private irrigation district

This clause provides for the establishment of private irrigation districts. All land owners must apply and long term occupiers are given an opportunity to object. If a long term occupier does object the property that he or she occupies must be excluded from the district.

Clause 11: Conversion from government to private irrigation district

This clause refers to conversion from a government irrigation district to a private irrigation district pursuant to Part 4.

Clause 12: Inclusion in or exclusion from a district

This clause provides for inclusion of a property in or exclusion of a property from a private irrigation district.

Clause 13: Abolition of private irrigation district on landowner's application

This provision enables the owners of land in a private irrigation district to apply to the Minister for abolition of the district. All owners must apply and any long term occupier may veto the proposal. Abolition under this provision could be used to convert a private irrigation district to a government irrigation district with the agreement of the Minister.

Clause 14: Abolition of private irrigation district without landowner's application

This clause enables the Minister to abolish a private irrigation district and dissolve the trust if the trust is not performing its functions properly, cannot pay its debts or has failed to comply with the Act or a term or condition on which an application for merger or conversion from a government irrigation district was granted. The Minister must give the trust 3 months notice in which it can remedy the problem and the trust or a member of the trust may appeal to the Environment, Resources and Development Court.

Clause 15: Interpretation

This clause is an interpretative provision.

Clause 16: Application for merger

This clause enables owners of properties in two or more private irrigation districts to apply for merger of the districts or parts of the districts.

Clause 17: Grant of application

This clause enables the Minister to merge the two districts by publishing a notice granting the application in a local newspaper. The terms of the notice must have been agreed to by two thirds or more of the irrigated properties in the districts concerned.

Clause 18: Constitution of trust

This clause provides that the owners of land constituting a private irrigation district are the members of a trust which is a body corporate.

Clause 19: Presiding officers of trust

This clause makes provision for the presiding officer and deputy presiding officer of a trust.

Clause 20: Calling of meeting

This clause provides for the calling of meetings of a trust.

Clause 21: Procedure at meetings of trust

This clause provides for procedures at meetings.

Clause 22: Voting

This clause provides for voting at meetings. One vote may be cast in respect of each property comprising the district. The values of the votes are determined in accordance with subclauses (6), (7), (8) and (9).

Clause 23: Accounting records to be kept

Clause 24: Preparation of financial statements

Clause 25: Accounts, etc., to be laid before annual general meeting

These clauses provide for accounts, financial statements and reports.

Clause 26: Interpretation

This clause is an interpretative provision.

Clause 27: Application for conversion

This clause enables landowners in a government irrigation district to apply for conversion of the district to a private district.

Clause 28: Proposal for conversion by the Minister

This clause enables the Minister to initiate procedures for the conversion of a government irrigation district to a private irrigation district. The consent of a majority of the landowners is required for the Minister's proposal to succeed.

Clause 29: Conversion to private irrigation district

This clause provides for the notice granting an application under clause 27.

Clause 30: Functions

This clause sets out the functions of irrigation authorities.

Clause 31: Powers

This clause sets out the powers of irrigation authorities.

Clause 32: Further powers of authorities

This clause enables an irrigation authority to do "contract work" for property owners and enables a trust to buy in bulk on behalf of its members.

Clause 33: Water allocation

This clause provides for the fixing of water allocations on a fair and equitable basis.

Clause 34: Transfer of water allocation

This clause provides for the transfer of water allocation. They can be transferred between properties with the consent of the authority or may be transferred to the authority itself. The authority may resell the allocation to another landowner.

Clause 35: Supply of water for other purposes

This clause enables an irrigation authority to supply water for other purposes.

Clause 36: Power to restrict supply or reduce water allocation

This clause enables an irrigation authority to restrict or stop the supply of irrigation water for the reasons set out in the clause. Action under this clause (except under subclause (1)*(d)*) must be on a fair and equitable basis.

Clause 37: Supply of water and drainage outside district

This clause provides for irrigation and drainage outside a district under agreement with the owner or occupier of land.

Clause 38: Drainage of other water

This clause provides for the drainage of water other than irrigation water.

Clause 39: Establishment of boards

This clause enables the Minister to establish advisory boards which may also exercise powers delegated by the Minister.

Clause 40: Delegation

This clause is the Minister's power of delegation.

Clause 41: Direction of trust by Minister

This clause enables the Minister to take action against a trust to prevent irrigation water draining onto or into land outside the trust's district.

Clause 42: Boards of management and committees

This clause enables a trust to establish a board of management to carry out its day-to-day operation. A trust can also establish committees for specific purposes.

Clause 43: Delegation

This clause enables a trust to delegate its functions and powers.

Clause 44: Change of name of district

This clause enables a trust to change the name of its district.

Clause 45: Regulations by a trust

This clause provides for the making of regulations by a trust. The regulations can only be made with the approval of the Minister.

Clause 46: Notice of resolution

This clause provides that the establishment of a board of management or the delegation of functions or powers must be by resolution of which 21 days notice has been given.

Clause 47: Exclusion of land from an irrigation district

This clause allows an authority to exclude land from its district for the reasons set out in subclause (1). The authority must give the owner and the long term occupier of the land at least three months (but not more than 12 months) notice. The owner or long term occupier may appeal against the authority's decision (see clause 65(1)*(b)*).

Clause 48: Exclusion of land on basis of cost

This provision enables an authority to exclude land that is too expensive to connect to a new system being installed by the authority. The reason for installing a new system must be to improve the efficiency with which water is supplied or drained. The landowner is entitled to pay the cost himself or herself (subclause (4)).

Clause 49: Compensation

This clause provides compensation for a landowner and long term occupier whose land is excluded from a district under clause 47.

Clause 50: Appointment of authorised officers

Clause 51: Powers of authorised officers

These clauses provide for the appointment and powers of authorised officers.

Clause 52: Hindering, etc., persons engaged in the administration of this Act

This clause makes it an offence to hinder or obstruct a person referred to in subclause (2) in the administration of the Act.

Clause 53: Right to water

This clause provides for a landowner's right to water.

Clause 54: Restrictions on and obligations of landowners

This clause sets out the obligations of landowners under the Bill.

Clause 55: Charges

This clause gives irrigation authorities the right to impose water supply and drainage charges.

Clause 56: Declaration of water supply charges

This clause sets out the factors on which a water supply charge may be based.

Clause 57: Minimum amount

This clause provides for the payment of a minimum amount in respect of a water supply charge.

Clause 58: Drainage charge

This clause provides for declaration of a drainage charge and the basis of such a charge. A landowner may be exempted if water does not drain from his or her land into the authority's drainage system.

Clause 59: Determination of area for charging purposes

This clause provides the degree of accuracy required when determining the area of land for charging purposes.

Clause 60: Notice of resolution for charges

This clause requires 21 days notice of the resolution fixing the basis for water supply and drainage charges by a trust.

Clause 61: Minister's approval required

This clause requires a trust that is indebted to the Crown to obtain the Minister's approval for the declaration of charges and the fixing of interest.

Clause 62: Liability for charges and interest on charges

This clause sets out the basis for liability for charges and interest on charges.

Clause 63: Sale of land for non-payment of charges

This clause provides for the sale of land to recover unpaid charges or interest on charges. The wording of this provision follows the wording of the corresponding provision in the *Local Government Act 1934*.

Clause 64: Authority may remit interest and discount charges

This clause enables an authority to remit interest in case of hardship and discount charges to encourage early payment.

Clause 65: Appeals

This clause provides for appeals to the Environment, Resources and Development Court.

Clause 66: Decision may be suspended pending appeal

This clause enables a decision appealed against to be suspended pending the determination of the appeal.

Clause 67: Appeal against proposal to abolish district

This clause enables a trust or a member of a trust to appeal against a proposal by the Minister to abolish a private irrigation district.

Clause 68: Constitution of Environment, Resources and Development Court

This clause provides for the constitution of the Court when exercising the jurisdiction bestowed on it by the Bill.

Clause 69: Financial assistance to land owners in government irrigation districts

This clause enables the Minister to give financial assistance to an owner or occupier of land in a government irrigation area.

Clause 70: Trust's power to borrow, etc.

This clause sets out detailed borrowing powers of trusts.

Clause 71: Financial assistance to trust

This clause enables the Minister to grant financial assistance to a trust.

Clause 72: Unauthorised use of water

This clause makes the unauthorised taking of water from an irrigation or drainage system an offence.

Clause 73: Division of land

This clause sets out provisions relating to the division of an irrigated property. This provision does not prohibit the division of a property but provides for certain consequences if a property is divided without the authority's consent. A person dividing a property would have to comply with any relevant planning legislation.

Clause 74: False or misleading information

This clause makes it an offence to provide any false or misleading information to an irrigation authority.

Clause 75: Protection of irrigation system, etc.

This clause makes it an offence to interfere with an irrigation or drainage system without lawful authority.

Clause 76: Protection from liability

This clause provides for immunity from liability in certain circumstances.

Clause 77: Offences by bodies corporate

This clause is a standard provision making the persons who run a company or other body corporate guilty of an offence if the body corporate commits an offence.

Clause 78: General defence

This clause is the standard defence provision.

Clause 79: Proceedings for offences

This clause provides for proceedings for offences against the Act.

Clause 80: Evidentiary provisions

This clause provides for evidentiary matters.

Clause 81: Service, etc., of notices

This clause provides for service of notices.

Clause 82: Regulations by the Governor

This clause provides for the making of regulations.

Schedule 1: Repeal of Acts

This schedule repeals the Act listed in the schedule.

Schedule 2: Transitional Provisions

This schedule sets out transitional provisions. Clause 1 provides for the transfer of property, rights and liabilities from the boards and other authorities managing irrigation areas and districts under the repealed legislation to the trusts established under the Bill. Clause 2 allows an authority to fix a water allocation in relation to land where that land did not have an allocation under repealed legislation. Clause 3 provides transitional arrangements for the payment of rates under the repealed legislation and the payment of charges under the new Act on its commencement. Clause 4 ensures that a person who was entitled to vote at meetings of a board of management before this Act comes into force will be able to vote at a meeting of the corresponding trust. Clause 5 is required because land comprising a district under the new Act will (with some exceptions) be land used to carry on the business of primary production (an irrigated property). Clause 5 provides that land not falling within this category when the Act comes into force will continue to be provided with water for at least 5 years as though the land were an irrigated property. An agreement will be taken to subsist under section 37 and can be terminated by the owner at any time and by the authority after 5 years notice or in circumstances referred to in section 47(1)*(c)*, *(d)* or *(e)*. Clause 6 is a special provision relating to the exclusion of land from the Cobdogla irrigation district which is a variation of clause 48 of the Bill.

Schedule 3: Consequential Amendment of Other Acts

This schedule amends certain Acts. The title of the *Irrigation Act 1930* is changed to the *Irrigation (Land Tenure) Act 1930*. The parts of the Act dealing with irrigation are struck out leaving the land tenure provisions as the principal provisions of the Act.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

POLICE (SURRENDER OF PROPERTY ON SUSPENSION) AMENDMENT BILL

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

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill seeks to complement existing legislation within the *Police Act* which relates to a person who ceases to be a member of the police force. On termination of service, such a person is required to return to the Commissioner of Police any issued property belonging to the Crown. While the current legislation relates to a person who ceases to be a member of the police force due to either retirement, resignation or dismissal, it does not apply to a person who is suspended from duty.

Consequently, a police officer who is suspended (and this is usually for reasons of discipline or on being charged with some offence) is not legally bound to return issued government property. As such property can include police identification, search warrant authorities and weapons, it is important that legislation be enacted to provide legal sanction against unauthorised possession.

Explanation of Clauses

Clause 1: Short title

Clause 1 is formal.

Clause 2: Amendment of s. 20—Duty of former or suspended member of police force or police cadet to deliver up equipment, etc.

Clause 2 amends section 20 of the principal Act. Section 20 requires a person who for any reason ceases to be a member of the police force or a police cadet to immediately deliver up to the Police Commissioner (or a person appointed by the Commissioner) all property that belongs to the Crown and was supplied to the person for official purposes. This amendment extends that requirement to members of the police force and police cadets who are suspended from office pursuant to the principal Act or the regulations under that Act.

Clause 3: Amendment of s. 34—Duty of former or suspended special constable to deliver up equipment, etc.

Clause 3 amends section 34 of the principal Act. Section 34 requires a person who for any reason ceases to be a special constable to immediately deliver up to the Commissioner (or a person nominated by the Commissioner) all property that belongs to the Crown and was supplied to the special constable for official purposes. This amendment extends that requirement to special constables who are suspended from office pursuant to the principal Act or the regulations under that Act.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

JURIES (JURORS IN REMOTE AREAS) AMENDMENT BILL

Returned from the House of Assembly with amendments.

RACING (MISCELLANEOUS) AMENDMENT BILL

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

CRIMINAL LAW CONSOLIDATION (SEXUAL INTERCOURSE) BILL

Returned from the House of Assembly without amendment.

STATUTES AMENDMENT (TRUTH IN SENTENCING) BILL

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

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That this Bill be now read a second time.

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

Leave granted.

The provisions of this Bill implement a significant aspect of the Government's pre-election Prisons Policy. It will bring to an end the flawed sentencing and parole laws which have been in place in this State since 1983.

In 1983 the Bannon Government was responsible for legislation which made dramatic changes to the parole scheme. Under the scheme put in place by the Liberal Government in 1981 the courts were required to set a non-parole period before which prisoners could not apply for parole—it was, in effect, a minimum period which the courts were required to set before a prisoner could apply for parole. Even when application was made after the expiration of the non-parole period, the Parole Board had a discretion as to whether or not the prisoner should be released. The minimum sentence which a prisoner was required to serve was clear.

This all changed when the 1983 legislation was enacted. Instead of retaining a minimum sentence the courts were now required to fix a non-parole period, at the end of which a prisoner would be automatically released but the non-parole period did not represent the period the prisoner would be required to serve. Remissions of up to a third of that non-parole period could be granted administratively for good behaviour. The remissions were granted off the non-parole period and introduced great uncertainty as to the time a prisoner would spend in prison.

Since 1983 sentences pronounced by the courts bear no relation to the time a prisoner spends in prison. The public is rightly concerned about what it sees as the disparity in sentences imposed and the time spent in prison.

The 1986 provisions providing for release on home detention when a prisoner had served only one third of his or her non-parole period created even greater disparity in the sentence of imprisonment imposed by the court and the sentence served by the prisoner in prison. A prisoner sentenced to five years imprisonment can serve as little as eight months before being released on home detention. This brings into disrepute the whole system of justice, and the community loses confidence in the judicial process.

The Liberal Government believes that the sentence imposed by the courts should be the sentence the prisoner serves, that it should be clear to everyone—the judiciary, the prisoner and the public—exactly what sentence is being imposed by the court and what sentence will be served by the prisoner.

This Bill will restore truth in sentencing.

Remissions are abolished and the non-parole period fixed by the court will be the minimum period which must be served before the prisoner is released on parole. All prisoners will no longer be automatically released by the Parole Board at the end of their non-parole period. Prisoners serving a sentence of less than five years will continue to be automatically released by the Parole Board at the end of their non-parole period but prisoners serving a sentence of 5 years or more will have to apply to the Parole Board for release at the expiration of their non-parole period.

Prisoners applying for parole will be required to demonstrate good behaviour, including abstention from drugs and alcohol, and productive participation in work, trade training, education and, where appropriate, anti-violence programmes.

Further, the police will be able to make submissions to the Parole Board on a prisoner's application for parole, and victims of crimes of violence will also be given the opportunity to make submissions to the Parole Board.

Remissions cannot simply be abolished—the consequences of their abolition need to be dealt with.

Under Section 12 of the *Criminal Law (Sentencing) Act 1988* Courts are required to take account of remissions when fixing a sentence or a non-parole period. The Courts will now need to adjust both non-parole periods and head sentences to take account of the abolition of remissions. Accordingly, the *Criminal Law (Sentencing) Act* is amended to direct the court's attention to the effect of the abolition of remissions on both the non-parole period and the head sentence.

The abolition of remissions will remove a management tool used by prison management to punish offenders for breaches of discipline. New provisions are put in place to provide immediate penalties for minor breaches of prison regulations.

Where a Manager of a correctional institution is satisfied that a prisoner has committed a breach of a designated regulation the breach can, if the prisoner agrees, be dealt with by the Manager without any inquiry into the allegations being conducted.

The Manager can forfeit specified amenities for a specified period, not exceeding seven days, or exclude the prisoner from any work that is performed in association with other prisoners for a similar period.

A prisoner can still require that the breach be dealt with by the Manager conducting an inquiry into the allegation under the provisions of Section 43 of the Act.

One of the penalties that both the Manager and the Visiting Tribunal could impose was the forfeiture of a specified number of

days of remissions. This penalty will, of course, no longer be available and a monetary penalty is substituted.

The abolition of remissions also requires an amendment to the home detention provisions. Section 37A(2)(a) provides that a prisoner may be released on home detention when the prisoner has served at least one-third of the non-parole period. This is amended to one-half which equates with the one-third when remissions are taken into account. Section 37A is also amended to allow the setting by regulation of classes of prisoner who will not be eligible for home detention.

The Bill also makes amendments to the *Young Offenders Act 1993*, removing reference to remissions in relation to youths sentenced as adults. Sentences of such youths will be reduced in the same way as those of adults.

It will be noted that the amendments abolish remissions as from the day the amendments come into operation. However, provision is made to ensure that prisoners who were sentenced on the basis that they are eligible for remissions are not penalised. The transitional provisions provide that the abolition of remissions does not affect any days of remission already credited to the prisoner and all prisoners who are eligible for remissions will be taken to have their term of imprisonment and non-parole period (if any) reduced by the maximum number of days of remission they could have earned had remissions not been abolished.

The Government believes that it would be undesirable for there to be two groups of prisoners, pre-amendment prisoners who continue to be eligible for remissions and post-amendment prisoners not being eligible for remissions. Such a situation would be confusing for both prisoners and prison officers. Prisoners eligible for remissions could be penalised by the loss of remissions, whereas other prisoners would have to be dealt with under the new provisions. Prison Officers, when dealing with an incident would have to determine under which system a prisoner should be dealt with.

The retention of the two systems would be particularly confusing if a prisoner was serving a sentence under both the old system and the new system.

There would be administrative costs involved in maintaining a dual system, not only in the costs of setting up and maintaining two systems but also in added prison staff workloads in clarifying prisoners' concerns and Parole Board staff workloads in clarifying the status of prisoners.

A dual system would have to be maintained until the prisoner with the longest remaining non-parole period is discharged on parole. This will be twenty-one years.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for the commencement of the measure on a day to be set by proclamation.

Clause 3: Interpretation

This clause is formal.

PART 2

AMENDMENT OF CORRECTIONAL SERVICES ACT 1982

Clause 4: Amendment of s. 4—Interpretation

Clause 4 provides a definition of "victim" and strikes out subsection (2) as a consequence of the abolition of remissions.

Clause 5: Amendment of s. 37A—Chief Executive Officer may release certain prisoners on home detention

This clause amends section 37A so that it refers to the making of regulations prescribing classes of prisoner that are not to be given home detention. The clause makes two further amendments that are consequential on the abolition of remissions.

Clause 6: Insertion of s. 42A

42A. Minor breaches of prison regulations

This clause provides a summary procedure by which prison managers can impose limited penalties on prisoners in relation to prescribed breaches of the regulations without conducting a hearing. A prisoner may opt for the holding of a formal hearing.

Clause 7: Amendment of s. 43-Manager may deal with breaches of prison regulations

Clause 7 allows a prison manager, on formally hearing a charge of breaching the regulations, to impose on a prisoner a fine not exceeding a prescribed limit.

Clause 8: Amendment of s. 44—Manager may refer to a Visiting Tribunal

This clause allows a Visiting Tribunal to impose a fine not exceeding a prescribed limit on a prisoner who breaches the regulations, removes a reference to remissions and provides that prisoner may be required to pay a prescribed amount in relation to damage of property.

Clause 9: Insertion of s. 48A

48A. Manager may delegate power to deal with breaches of prison regulations

This clause inserts new section 49 which provides for the delegation of a prison manager's disciplinary powers with the approval of the Chief Executive Officer.

Clause 10: Amendment of s. 56—Term of office of members

This clause provides that the presiding member of the Parole Board may be appointed for a period of time not exceeding five years rather than for a set five year term.

Clause 11: Substitution of ss. 66 to 68

66. Release on parole—prisoners imprisoned for a period of less than five years

Proposed section 66 provides that a prisoner for whom a non-parole period has been set and who is imprisoned for less than five years will be automatically released from prison on the expiry of the prisoner's non-parole period. This maintains the status quo in relation to this class of prisoners. The section also provides that where a court backdates the expiry of a non-parole period, the Department may release the prisoner within 30 days of the fixing of the period rather than within 30 days of the end of the non-parole period.

67. Release on parole—prisoners imprisoned for a period of five years or more

This section provides for the parole of prisoners in respect of whom a non-parole period has been set and who are serving a sentence of life imprisonment or who are liable to serve a total period of imprisonment of five years or more.

In such cases the prisoner, the Chief Executive Officer, or any employee of the Department authorised by the Chief Executive Officer, may apply to the Board not more than six months before the expiration of the prisoner's non-parole period for the prisoner's release on parole.

Proposed subsection (4) sets out the matters that the Board must have regard to in determining the application.

The Board may order that an applicant be released from prison on parole on a day specified in the order except in the case of a life prisoner, where the Governor may order the release of the prisoner on the recommendation of the Board. A life prisoner must remain on parole for a period of not less than three years and not more than ten years determined by the Governor on the recommendation of the Board.

Subsection (8) requires that the Board, not more than 30 days after refusing an application by a prisoner for release on parole, notify the prisoner in writing of its refusal, the reasons for the refusal and the earliest date at which the prisoner may reapply for parole. However the Board may accept a further application by a prisoner for release on parole before that date where special circumstances exist.

68. Conditions of release on parole

This section provides conditions that must be placed on a prisoner's parole and also that the Board may place any other condition on the parole. Subsection (2) sets out the matters that the Board must consider in setting parole conditions. The Board may designate conditions as conditions the breach of which will lead to the automatic cancellation of the parole.

Clause 12: Amendment of s. 70—Duration of parole for life prisoners

This section provides for the setting by the Governor, on the recommendation of the Board, of a parole expiry date for life prisoners released on parole prior to the commencement of the *Prisons Amendment Act 1981*. The parole of these prisoners currently extends for life whereas other life prisoners released on parole more recently are now placed on parole for between three and ten years.

Clause 13: Amendment of s. 77—Proceedings before the Board

This clause provides for the notification of the prisoner, the Chief Executive Officer of the Department for Correctional Services and the Police Commissioner on an application being made for parole.

Where the offence for which the applicant for parole was imprisoned is an offence against the person under Part III of the *Criminal Law Consolidation Act 1935* or any other offence involving violence, a victim of the offence may be notified also. A victim may make submissions to the Board in writing in relation to these classes of offences.

Clause 14: Repeal of Part VII
This clause provides for the repeal of Part VII of the Act which provided for remissions.
Clause 15: Amendment of s. 89—Regulations
This clause provides for the making of regulations prescribing classes of prisoner that are not to be given home detention.
Clause 16: Statute revision amendments
This clause provides for statutes revision amendments to be made in the schedule.

PART 3
AMENDMENT OF CRIMINAL LAW (SENTENCING) ACT 1988

Clause 17: Amendment of s. 9—Court to inform defendant of reasons, etc. for sentence
This clause makes an amendment consequential on the abolition of remissions.
Clause 18: Repeal of s. 12
This clause repeals section 12 consequential on the abolition of remissions.

PART 4
AMENDMENT OF YOUNG OFFENDERS ACT 1993

Clause 19: Amendment of s. 36—Detention of youth sentenced as adult
This clause strikes out subsection (4) of section 36 of the *Young Offenders Act 1993*. Subsection (4) applies the remission system to youths who have been sentenced as adults and is removed consequentially on the repeal of Part VII of the *Correctional Services Act 1982*.

PART 5
TRANSITIONAL PROVISIONS

Clause 20: Reduction of sentences and non-parole periods
This clause provides that sentences of imprisonment (including suspended sentences), and non-parole periods, imposed before the commencement of this measure, are, on that commencement, reduced by the number of days remission that the prisoner (or youth) has already accrued and the maximum possible number of days that the prisoner (or youth) could earn in remissions over the remainder of the prisoner's sentence.
Clause 21: Sentences imposed after commencement of this Act
This clause provides that Courts, when fixing a term of imprisonment or in fixing or extending a non-parole period must, when looking to precedent sentences imposed during the operation of the remission system, take into account the fact that the remission system has been abolished. Reduced sentences are to apply whether the offence in relation to which they are fixed occurred before and after the commencement of this Act.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

PARLIAMENTARY COMMITTEES (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly intimated that it did not insist on its amendments to which the Legislative Council had disagreed.

LIMITATION OF ACTIONS (RECOVERY OF TAXES AND SUBSTANTIVE LAW) AMENDMENT BILL

The House of Assembly intimated that it insisted on its amendments to which the Legislative Council had disagreed.

PASSENGER TRANSPORT BILL

The House of Assembly intimated that it insisted on its amendments to which the Legislative Council had disagreed.

Consideration in Committee.

The Hon. DIANA LAIDLAW: I move:

That the Legislative Council do not insist on its disagreement.

Motion negatived.

A message was sent to the House of Assembly requesting a conference at which the Legislative Council would be represented by the Hons M.S. Feleppa, Sandra Kanck, Diana Laidlaw, A.J. Redford and Barbara Wiese.

MINING

Adjourned debate on motion of the Hon. M. J. Elliott (resumed on motion).

(Continued from page 724.)

The Hon. M.J. ELLIOTT: I thank those members who have indicated support for this motion and note that there is an amendment by the Hon. Ms Pickles, which I am quite happy to support. I also note that there is an amendment from the Hon. Ms Schaefer that I not happy to support in the form in which it is has been moved. As I said in introducing this legislation, there have been a couple of significant events in South Australia which deserve further examination: first, the implosion of a cave at Sellicks Hill and the events that surrounded the decision to implode it; and, secondly, the reported massive leakage of water from the tailings dam at Roxby Downs and again the events surrounding that. They are both matters which I believe deserve the attention of the Environment, Resources and Development Committee, and what we find may be useful in terms of any future occurrences.

I have some compassion for the mine owners in relation to the Sellicks Hill quarry. I do not know precisely what role they played in it all, but I can imagine it must be frustrating if you are going about your business and you suddenly find that you have a cave which people are saying is incredibly significant and you start scratching your head and wondering about the economic considerations. At the end of the day, I certainly do not want to be pointing fingers at the mine owners here, but I would like to think that we could come up with recommendations so that, if anything similar happens again, there is a proper course of action which has already been clearly described. It may not be a cave; it may be something else of significance. Whether it is an Aboriginal heritage site or almost anything else that is found, we do not really seem to have mechanisms which are capable of resolving how to act next. The committee could learn from the experience of what happened here and treat them in a positive way so that next time something of a similar nature happens mistakes are not made.

I have no doubt that a number of mistakes were made here, but I do not believe that there is sufficient prescription in legislation or administrative guidelines as to what to do. That, I think, should be one of the aims of the Environment, Resources and Development Committee.

In relation to Roxby Downs, no doubt there has been a significant leak. It appears quite likely that no significant damage has happened as a consequence of that. Nevertheless, the fact that this leak has gone on for a long time begs significant questions about dam design and monitoring and, if these systems and designs have failed, are there other systems of both design and monitoring which might fail and which might have real consequences?

It is also worth noting that in both these cases the monitoring was done by a department that I do not believe has the capacity or the commitment in relation to monitoring of such matters, that being the Department of Mines and Energy. I may be wrong, but I have had complaints over a long period

in relation to that department. I must say that since then its behaviour in relation to Yumbarra National Park has also come into question. I believe that matters of some significance may be examined there as well. I will be supporting the Hon. Carolyn Pickles amendments, which do not alter the intent of my original motion.

However, the Hon. Mrs Schaefer's amendment is significantly limiting and does not specifically look at issues that I initially wanted to look at. It does touch on one matter that I think is important and, if it had been an amendment by way of addition, I would have accepted it, because I think it is a worthwhile question in its own right. Unfortunately, however, it leaves some other important questions unasked and therefore unanswered, and for that reason I oppose that amendment: it is not adding to the motion but taking away from it. I urge the support of the Committee.

The Hon. R.I. LUCAS: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

Amendments carried; motion as amended carried.

PASSENGER TRANSPORT BILL

A message was received from the House of Assembly agreeing to a conference, to be held in the House of Assembly conference room at 12.15 p.m. on Thursday 5 May.

ADJOURNMENT

At 11.57 p.m. the Council adjourned until Thursday 5 May at 11 a.m.