LEGISLATIVE COUNCIL

Tuesday 4 April 1995

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

INDUSTRIAL AND EMPLOYEE RELATIONS (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

The Hon. R.I. LUCAS (Minister for Education and Children's Services): On behalf of the Attorney-General, I move:

That the sittings of the Council be not suspended during the continuation of the conference on the Bill.

Motion carried.

CONSENT TO MEDICAL TREATMENT AND PALLIATIVE CARE BILL

The Hon. DIANA LAIDLAW (Minister for Transport): I move:

That the sittings of the Council be not suspended during the continuation of the conference on the Bill.

Motion carried.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following Questions on Notice be distributed and printed in *Hansard*: Nos 62, 107, 115, 116, 130, 132, 136, 137, 140-2, 144, 147 and 151-3.

PRIMARY INDUSTRIES MINISTER

62. **The Hon. R.R. ROBERTS** asked the Attorney-General:

1. Since 11 December 1993, what intrastate, interstate and overseas travel has the Minister for Primary Industries undertaken in performing his duties as Minister?

2. Who accompanied the Minister and what was the cost of each trip?

The Hon. R.I. LUCAS:

1. and 2. As at the end of the financial year the Minister for Primary Industries and Mines and Energy's interstate travel included trips to Melbourne, Canberra and Hobart. He was accompanied by the Chief Executive Officer, Primary Industries South Australia at a total cost of $2 762.

In this time he also travelled intrastate to Mount Gambier, Port Pirie, Riverland, Eyre Peninsula and Kangaroo Island. He was accompanied by his chief of staff at a total cost of $3 000.40.

His overseas travel covered Europe, Canada and Hong Kong. He was accompanied by his Chief of Staff and the Chief Executive Officer, Primary Industries South Australia at a cost of $15 343.90.

SOUTH AUSTRALIAN RESEARCH AND DEVELOPMENT INSTITUTE

107. **The Hon. R.R. ROBERTS:** What research programs have been halted, shelved or curtailed as a result of the reduction in staff numbers at the South Australian Research and Development Institute (SARDI) since 11 December, 1993?

The Hon. R.I. LUCAS: The Weeds Research Unit has been closed. Ongoing externally funded projects are being completed by scientists in the Crop Evaluation Unit and Sustainable Resources Unit (PISA).

NEWSPAPERS AND MAGAZINES

115. **The Hon. R.R. ROBERTS:**

1. Is the Minister aware of the recent Trade Practices Tribunal decision allowing small businesses to deal directly with publishers of newspapers and magazines in negotiating direct supply on full commission, a decision which has ended the monopoly position of newsagents in selling and distributing newspapers and magazines?

2. Does this decision apply to small businesses in South Australia, and if so, would publishers still be allowed to refuse supply to small businesses to protect newsagent and subagent networks.

The Hon. K.T. GRIFFIN:

1. The matter to which the honourable member refers was handed down by the Trade Practices Tribunal on 11 November 1994. It concerned an application for a review of a determination by the Trade Practices Commission, previously made on 30 July 1993, granting authorisation for a newspaper distribution system for Victoria. Under Section 101 of the Trade Practices Act, the Trade Practices Commission may permit the members of an industry to engage in certain trade practices which would otherwise be a breach of the legislation, provided that the particular conduct is in the public interest.

In Victoria, as in South Australia, publishers and newsagents had been given permission to establish a distribution network whereby there are sole agents and their sub-agents operating within certain geographical areas around the State. Such behaviour would normally be seen as a barrier to competition.

Other retailers, who were unable to sell newspapers and magazines because of that network, sought a review of the Trade Practices authorisation.

The Trade Practices Tribunal agreed that the authorisation was now less appropriate, given changes in recent years in the retailing sector, but it did not totally reject the networked system of newspaper distribution. The Tribunal's intention was to create greater flexibility in the system. Rather than remove the restrictions immediately, it has allowed the industry a three year period in which to reorganise its operations.

2. Although the network system in South Australia is already somewhat more open than in other States, this decision is still likely to have ramifications for South Australia. Its changes will have to flow on to contracts made with newsagents in this State. I would anticipate that publishers will contact their agents in the near future concerning the arrangements between them. Newsagents who are concerned would be strongly advised to contact the News Agents Association of South Australia or to seek legal advice on this complex matter. I understand that the News Agents Association has been having some discussions with publishers about the new contracts on behalf of newsagents.

Other than in a few specific situations, nothing in the Trade Practices Act prevents a supplier from refusing to deal with a particular retailer. The Trade Practices Commission produces an excellent, plain English guide on the law in this area which is available free of charge, and I would recommend that any interested person obtain it.

PRAWN FISHERY

116. **The Hon. R.R. ROBERTS** asked the Attorney-General:

1. Who has been appointed, or elected, to the Gulf St. Vincent Prawn Fishery Management Advisory Committee established to advise the Minister for Primary Industries on future management arrangements for the fishery?

2. Which members of the committee have been appointed by the Minister and what expertise do they bring to the committee?

3. Which members of the committee have been elected by industry representatives and what was the method of election?

4. Has the committee met and what is the proposed schedule for meetings over the next 12 months?

5. What remuneration will members of the committee receive?

The Hon. K.T. GRIFFIN:

1. The members of the Gulf St Vincent Prawn Fishery Management Advisory Committee are:

Mr Ken Smith—Chairperson; Mr Lindsay Durham; Mr Maurice Corigliano; Mr Ivan Kolic; Mr Florian Valcic; Ms Mervi Kangas; Mr David Hall.

2. All members of the Gulf St Vincent Prawn Fishery Management Advisory Committee were appointed by the Minister for Primary Industries and their areas of expertise are:

- Mr Smith is a business person with interests in the dairy industry and petroleum sales. He has been instrumental in successfully restructuring the management of milk collection and distribution and as a member of the Dairy Authority of South Australia, he has been involved in the restructuring of that organisation;
- Mr Durham has had a long career as a consultant to primary industry, specifically involved in debt issues. He has provided consultancies in a number of overseas countries for international agencies;
- Messrs Corigliano, Kolic and Valcic have extensive involvement in the industry as licence holders in the fishery;
- Ms Kangas is employed by the South Australian Research and Development Institute's Aquatic Sciences division as the research officer for the Gulf St Vincent Prawn Fishery. She has been employed as a research officer since 1985 and has researched this fishery since 1988; and
- Mr David Hall is the General Manager, Fisheries, in the Department of Primary Industries. He has worked in South Australia and Western Australia as a fisheries scientist and manager since 1981.

3. Messrs Corigliano, Kolic and Valcic were nominated by the South Australian Fishing Industry Council (SAFIC). SAFIC provided the nominations following a ballot conducted for all licence holders in the fishery.

4. The committee has met on a formal basis on three occasions. The first meeting was on 20 December 1994. The committee has agreed to meet as often as is necessary to allow it to address the issues impacting on the fishery.

5. The two non industry or non Government members of the committee, Mr Ken Smith (Chairperson) and Mr Lindsay Durham (Independent Adviser) are to be provided a sitting fee in line with a determination to be made by the Commissioner for Public Employment.

TRANSPORT STRATEGY

130. **The Hon. R.R. ROBERTS** asked the Minister for Transport:

1. How many jobs will be lost outside of the Adelaide statistical division as a result of the implementation of the Transport Department's Strategic Review, tabled in the Legislative Council on Tuesday 21 February, 1995?

2. In which towns and cities will jobs be lost?

3. How many jobs will be lost in each town and city?

4. Has a Regional Impact Statement been prepared in conjunction with this major policy development?

The Hon. DIANA LAIDLAW: The main two areas where jobs may be affected outside the Adelaide statistical division are the labour required for ferry operations and work performed by maintenance gangs.

A significant part of the Option 2 strategy relies on the establishment of a competitive framework whereby departmental maintenance gangs and some construction gangs would be expected to bid for contracts on an open tender basis. As a result, the actual number of jobs lost outside the Adelaide statistical division, and which towns and cities will be affected by the implementation of the department's strategic review report, will be heavily dependent on the extent to which existing departmental gangs are successful in winning these contracts.

SERCO AUSTRALIA PTY LTD

132. **The Hon. CAROLYN PICKLES:**

1. Who has been appointed to the Working Party established by the Minister to consider whether the proposal by Serco Pty Ltd to outsource school management should be trialled?

2. What are the terms of reference for the Working Party?

3. When will the Working Party report?

The Hon. R.I. LUCAS:

1. I have asked the Department to establish a Working Party comprising of senior departmental management and representatives from the Principals' Associations. To date, a Working Party has not been established, however, nominations from the Principals' Associations have recently been received.

2. The Working Party will assess the feasibility of putting elements of the SERCO proposal on trial in one school cluster. They will address the issue of whether a trial is warranted, what a trial would involve, how it would be structured and where it would be conducted.

3. It is expected that the Working Party will convene shortly. A report will be provided once all the complex issues regarding the SERCO proposal have been considered.

DROUGHT

136. **The Hon. R.R. ROBERTS** asked the Attorney-General:

1. When did the Minister for Primary Industries become aware of the drought conditions affecting farmers on the Eyre Peninsula and in the Mallee region?

2. Why did the South Australian Government's submission to the Rural Adjustment Scheme Advisory Council (RASAC) miss the October 1994 deadline?

The Hon. R.I. LUCAS:

1.
   - The Department of Primary Industries (PISA) first called an initial meeting of relevant departmental officers in May 1994 to consider future strategies relating to the late break to the season.
   - A formal Adverse Seasonal Conditions Committee was formed in August 1994 to co-ordinate PISA's approach to drought, to obtain the required information for SA's submission and to provide regular updates on the situation to the Minister. The committee has met around 13 times since then.
   - A document entitled 'The Big Dry' was prepared and forwarded to Canberra on 22 September, 1994. The document was a position paper on South Australia's seasonal conditions and information on a regional drought declaration strategy, a summary of agricultural conditions and proposed measures to address the economic effects of drought on the farm family.
2.
   - There was no October deadline. The Agriculture Resource Management Committee of Australia and New Zealand (ARMCANZ) did not agree until 28 October 1994 to a harmonised system of core criteria for the declaration of drought exceptional circumstances based on meteorological threshold conditions being the primary trigger. The meteorological criteria need to be supported by criteria on agronomic and stock conditions, water supplies, environmental damage, farm income levels, and the scale of the event.
   - It is important to note that Victoria and the Northern Territory, which forwarded a drought submission prior to the ARMCANZ decision, were not accepted for drought assistance as the Commonwealth did not believe they had met the required level of detailed criteria.
   - PISA's Adverse Seasonal Conditions Committee was responsible for determining the required level of information, and obtaining the relevant data, which in SA's case had to be started from scratch.
   - South Australia forwarded the submission to the Commonwealth Government on 29 November, 1994 requesting the declaration of Exceptional Circumstances (EC) drought on parts of the Eyre Peninsula.
   - The Federal Minister for Primary Industries and Energy, Senator Collins on 28 February, 1995 announced the extension of EC drought support to the Eyre Peninsula and has provided an allocation of $11.3m to eligible farmers in the region.
   - The Cleve local government district was the only area excluded by the Commonwealth as not meeting the criteria, however, following further discussions with my Federal counterpart, he has agreed to review this decision provided additional evidence supporting the claim is provided. To achieve this, I have written to the Cleve District Council which, in conjunction with PISA, are preparing further evidence for transmission to the Commonwealth.

137. **The Hon. R.R. ROBERTS:**

1. What financial contribution has the South Australian Government made to the drought relief package announced on 28 February 1995?

2. How will the South Australian Government's contribution be dispersed?

The Hon. R.I. LUCAS:

1. The South Australian Government has approved funding of up to $1.1 million to add to the $2.87 million allocated by the Commonwealth for the interest rate subsidy and re-establishment

components of the drought package. The drought relief payment and Austudy measures are met 100 per cent by the Commonwealth.

2. The State contribution will be applied to meet the following assistance under the Rural Adjustment Scheme (RAS):

- An interest rate subsidy of up to 50 per cent of interest costs on existing secured farm debt. This is calculated on the current commercial borrowings taken out to finance the farm (excluding lease and hire purchase).
- An interest rate subsidy of up to 100 per cent of interest on finance to cover carry-on expenses for the coming season. This is only paid if the farmer has borrowed more for the coming season.
- An additional 'bonus' of $30 000 to the existing re-establishment grant of $45 000, making a total of $75 000 available for those farmers in the drought declared areas wishing to leave the industry.
- The assistance will be administered through Rural Finance and Development in Primary Industries, South Australia.

EDS (AUSTRALIA) PTY LTD

140. **The Hon. BARBARA WIESE** asked the Minister for Transport:

1. Is there a role for EDS (Australia) Pty Ltd. in the proposed contracting out of the processing operations of the Motor Vehicle Registration data base in accordance with the Government's previously announced policy to deal with this company?

2. If not, why not?

3. If there is a role for EDS, were any projected savings for this function included in the figure of $141 million anticipated savings outlined by the Minister?

4. If so, what is the projected savings figure?

5. Is this amount in addition to the projected savings to Government outlined by the Premier in his announcement of the EDS contract?

The Hon. DIANA LAIDLAW:

1. I understand that EDS (Australia) Pty Ltd. will become the provider of information processing and network management for the whole of Government. EDS will therefore take on the future management of the Motor Registration computing system, DRIVERS, which is currently managed by the Justice Information System of the Attorney-General's Department.

Motor Registration will continue to be responsible for management of the use of information contained on the DRIVERS data base.

2. Not applicable.

3. No.

4. Such a figure has not been calculated.

5. Not applicable.

TRANSPORT DEPARTMENT, ASPHALT PLANT

141. **The Hon. BARBARA WIESE:**

1. How much does the Department of Transport now pay for hot mix for road repairs and construction compared with the price when the department's Marino Asphalt Plant was in operation prior to July 1994?

2. What is the value of the Department of Transport's Marino Asphalt Plant, lying idle since July 1994, and are there any prospective buyers?

The Hon. DIANA LAIDLAW:

1. There is a large variation in the cost of asphalt depending on factors such as the mix type, job size, and cartage distance. In addition, seasonal factors including the time of the year that work is performed can also have an impact on asphalt prices.

It is now only seven and a half months since the Department of Transport's Asphalt Operations and Marino Asphalt Plant closed at the end of July 1994. In that time the amount of asphalt work performed by contractors has been insufficient to determine whether there have been any clear trends in cost changes within the asphalt industry. The Department has been closely monitoring contract costs since the closure of its own operations and will continue to do so as part of normal operations.

2. In conjunction with the Government Asset Management Task Force, the Department of Transport is currently examining alternative strategies for the disposal of the Marino Asphalt Plant.

A number of prospective buyers have informally expressed interest in the plant and preparations are being made to seek registrations of interest for the disposal of the plant and land.

An overall valuation of the plant and land is currently being prepared, but a figure is not currently available due to the need to consider the results of an environmental assessment of the soil at the site.

TRANSPORT DEPARTMENT TENDERS

142. **The Hon. BARBARA WIESE** asked the Minister for Transport: Has the Minister, or any officer of the Department of Transport, ever intervened to stop tender bids from units of the department when their tender price was lower than competing private sector bids?

The Hon. DIANA LAIDLAW: At no time have I nor any officer of the Department of Transport intervened to prevent the department from tendering.

SOUTH AUSTRALIAN FILM CORPORATION

144. **The Hon. SANDRA KANCK:**

1. Does the South Australian Film Corporation have its own archives?

2. Are they transferring their archival material to the Mortlock Library?

The Hon. DIANA LAIDLAW:

1. No, apart from some recently archived material which has been stored in the former SA Film and Video Centre.

2. The South Australian Film Corporation stores its archival material in the following locations:

- Public Records of SA (PROSA), Gepps Cross has files pertaining to film productions (1970s and 1980s), film titles, master copies of films and back catalogue items in storage.
- Approximately 500-540 films have been transferred to the Mortlock Library.
- Recently archived material has been stored in the former SA Film and Video Centre.

SOUTH AUSTRALIAN DEVELOPMENT COUNCIL

147. **The Hon. R.R. ROBERTS** asked the Minister for Education and Children's Services: What companies have received assistance from the South Australian Government on the recommendation of the Economic Development Advisory Board and what level of assistance has been provided to each company?

The Hon. R.I. LUCAS: The role of South Australian Development Council (formerly the Economic Development Advisory Board) is to establish key strategic directions for the economic development of South Australia and to identify and advise the Government on major economic initiatives. Its focus is on longer-term economic improvement brought about by an active program of Government initiatives and reforms.

It is not the role of the council to recommend to the Government assistance to companies.

To date the council has made a one-off grant of $30 000 to the Physics Department, University of Adelaide for a trial Japan-Australia workshop in theoretical physics as a first step towards establishing a National Institute for Theoretical Physics in Adelaide. No other financial assistance has been made available to any companies or other organisations.

MEAT HYGIENE

151. **The Hon. R.R. ROBERTS:** At the time the Minister for Primary Industries was giving consideration to withdrawing from the domestic meat inspection arrangements with the Australian Quarantine Inspection Service and removing Government meat inspectors from domestic abattoirs in South Australia—

1. Was advice sought by the Government from the Department of Health and Primary Industries on the food safety implications of these actions?

2. If so, what was the advice provided to the Government by those Departments?

The Hon. R.I. LUCAS:

1. Reform of meat hygiene regulations in South Australia was commenced in 1993 by the Department of Primary Industries with a consultation process involving key sectors of the meat processing industry and several other Government agencies, including the State Department of Health and the Commonwealth Department of Primary Industries and Energy.

Improvement of food safety was one of the central issues considered during the consultation process on hygiene reforms. The

State Health Department and the Commonwealth Primary Industries Department were not only consulted on the issue, they were both fully represented on the Meat Hygiene Consultative Committee and later the South Australian Meat Hygiene Advisory Council. These two bodies were, respectively, responsible for development of the legislation and the development of policy and regulations involved with its implementation.

2. Advice provided by both Departments was consistently in strong support of introduction of quality management systems, that is quality assurance systems based on Hazard Analysis—Critical Control Points (HACCP), throughout the meat processing industry as the most effective method of meat quality and safety control. In fact the Commonwealth Department of Primary Industries and Energy's quarantine and inspection service (AQIS) had, for some years prior to the South Australian reforms, been actively and successfully promoting HACCP-based quality assurance in export food (including meat) industries in Australia.

152. **The Hon. R.R. ROBERTS** asked the Attorney-General:What is the full extent of the Chief Meat Hygiene Officer's experience in the meat slaughtering, meat production and meat processing industry?

The Hon. R.I. LUCAS: The Chief Meat Hygiene Officer, Dr Robin Vandegraaff, is a veterinarian with 23 years' experience in State veterinary medicine and veterinary public health programs in Victoria and South Australia. He has a post-graduate Masters degree in Epidemiology and Preventive Medicine and is a Member of the Australian College of Veterinary Scientists (MACVSc).

The degree in veterinary science includes comprehensive training in veterinary anatomy and physiology, pathology, parasitology and microbiology which form the core subjects of meat inspection qualifications. Meat inspectors employed by the Australian Quarantine and Inspection Service are supervised throughout Australia by veterinarians.

In several field and management positions Dr Vandegraaff has initiated or participated in several projects and surveys in the meat industry including projects in collaboration with meat inspectors and veterinary officers in abattoirs. Topics of these projects have included parasitic diseases of public health or trade significance, including hydatid disease and sheep measles and important bacterial diseases such as salmonellosis and Johnes disease of cattle, both of which have important public health significance.

He is a member of the Curriculum Advisory Group for the present Certificate in Meat Inspection (Quality Assurance), a nationally accredited DETAFE course conducted at Gilles Plains TAFE College.

His knowledge and experience of hygiene programs in the South Australian meat processing industry developed further during the McKinsey Organisational Development Review of the Department of Agriculture in 1992. He was subsequently requested in June 1993 by the former Primary Industries SA Chief Executive Officer (during the period of the previous Government), to lead the regulatory reform program in the meat industry.

Dr Vandegraaff has since been closely involved with all sectors of the industry in the program of legislative reform. During this time he has inspired a very high level of co-operation from all industry groups and continues to enjoy their full support with the reform program, which progressed rapidly to the proclamation of the new Meat Hygiene Act in December 1994.

SGS AUSTRALIA

153. **The Hon. R.R. ROBERTS:** What are the qualifications of the personnel employed by the Government's contracted audit agency, SGS Australia, to audit companies engaged in domestic meat production in South Australia?

The Hon. K.T. GRIFFIN: The qualifications of personnel employed by SGS Australia to conduct inspections and audits in the domestic meat processing industry include a Meat Inspection Certificate and additional qualifications in quality assurance auditing and public health and food safety technology.

All inspections and audits of meat processing operations in South Australia are conducted by SGS Australia personnel with a recognised meat inspection qualification, from the South Australian DETAFE College at Gilles Plains or equivalent. Depending on the individual processing operation, staff are assigned according to their specialist qualifications and skills; for example inspections of smallgoods operations are conducted by personnel with both meat inspection and food technology qualifications.

SGS (*Société Générale de Surveillance*) is an international certification agency accredited by the Joint Accreditation System of Australia and New Zealand (JAS-ANZ). The company provides independent audit and certification of quality management systems operated by firms in accordance with standards including ISO 9000/AS3900 quality system standards.

SGS provides services internationally to companies and governments in 130 countries. Over 20 countries have engaged SGS to carry out import and export inspections for customs purposes and to control capital flows. SGS certificates are used world wide in conjunction with letters of credit in support of international trade.

SGS operates a similar inspection and audit service in Victoria, under contract to the Victorian Meat Authority to that conducted under the South Australian Meat Hygiene Act.

The SGS staff involved to date in inspections and audits in SA are:

Rob Parrish	-	a registered lead auditor (RLA) in ISO 9000 quality certification;
Peta George	-	RLA and specialist Food Technologist;
Ray Coffey	-	meat inspection certificate, accredited quality assurance auditor (AQIS) with Advanced Certificate in Food Technology (DETAFE, Moorabbin);
Dean Foster	-	meat inspection certificate, accredited quality assurance auditor (AQIS) also with Advanced Certificate in Food Technology.

QUESTION TIME

EDUCATION BUDGET

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 the education budget.

Leave granted.

The Hon. CAROLYN PICKLES: Last August the Minister announced a budget strategy to reduce spending on education by $40 million over three years from 1994-95 to 1996-97. The cut in 1994-95 was $22 million. Will the Minister give a categorical assurance that cuts to the education budget this year will not exceed the figure of $18 million already announced?

The Hon. R.I. LUCAS: Budget discussions are confidential to Cabinet and will be revealed at the time of the budget.

The Hon. CAROLYN PICKLES: As a supplementary question, in the lead-up to the budget last year, the Minister gave an undertaking that the budget strategy for that year and the next financial year was to reduce spending by cuts of $40 million over three years. Will the Minister give a categorical assurance that the figure of $18 million will not be exceeded this year?

The Hon. R.I. LUCAS: Budget decisions are confidential to Cabinet, and will be released—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: The only other comment I can make in relation to the budget is that, should the Institute of Teachers be successful with its claim for pay rises of about $55 to $60 million, should the Institute of Teachers be successful with its claim in relation to class sizes, and should the Institute of Teachers be successful in relation to its claim about teaching time for teachers (we are still doing the figures), the net cost to the education system will be over $100 million. Clearly the education system and the taxpayers of South Australia cannot afford the Federal award provisions that the Leader of the Opposition is clearly supporting.

COLLINSVILLE MERINO STUD

The Hon. R.R. ROBERTS: I seek leave to make an explanation before asking the Minister for Education and Children's Services, representing the Treasurer, a question about the sale of the Collinsville Stud.

Leave granted.

The Hon. R.R. ROBERTS: In the House of Assembly on Wednesday 8 March 1995 the Treasurer made a statement in relation to why the contract signed between the South Australian Asset Management Corporation and a Mr Phillip Wickham for the sale of the Collinsville Stud had been terminated by SAAMC. In his statement the Treasurer said:

> A key term of the contract was that the purchaser by 31 January, at my insistence, had to provide written evidence by letter from his accountant demonstrating net worth in excess of $9 million, in other words, a financial capacity.

However, in a radio interview with the ABC's Michael Condon on Tuesday 28 March, Mr Phillip Wickham, the proposed purchaser, denied that the contract he had signed contained any such clause, and he went on to say:

> I did not have to convince the State Government that I had the money.

A meeting was held in the Treasurer's office on 24 January 1995, at which the key participants were the Treasurer (Mr Stephen Baker), an unidentified member of Mr Baker's staff, a Mr Andrew Woods of the South Australian Asset Management Corporation and Mr Phillip Wickham himself, at which the sale of the Collinsville Stud was discussed. At that meeting Mr Baker claims that he told Mr Wickham that—and I quote from *Hansard* of 8 March:

> I am absolutely adamant that Collinsville should remain a key South Australian breeding establishment.

However, Mr Wickham claims that the Treasurer told him—and I quote directly from Mr Wickham's radio interview on ABC of Tuesday 28 March:

> We will sell Collinsville to you on the proviso that you do not have a Chinese partner or do not sell Collinsville rams or semen to China.

Given the inconsistency between the Treasurer's recollections of these meetings and Mr Wickham's recollections, and given that Mr Wickham has called for them, will the Treasurer table the minutes of the meeting taken by the unidentified member of his staff and, if not, why not? Given the Treasurer's claim that the contract was terminated because Mr Wickham failed to fulfil a key term of the contract, and given Mr Wickham's claim that no such term exists in the contract, will the Treasurer table a copy of the contract between the South Australian Asset Management Corporation and Mr Wickham and, if not, why not? Finally, will the Minister representing the Treasurer ensure that the answer to these questions is provided before the Parliament rises at the end of next week?

The Hon. R.I. LUCAS: First, I seek leave to have incorporated into *Hansard* answers to two questions asked by the honourable member on this topic—one on 16 March and the second one on 21 March.

Leave granted.

In reply to **Hon. R.R. ROBERTS** (16 March).

The Hon. R.I. LUCAS:

1. The Treasurer has confidence that the board and senior management of Collinsville are managing the stud to maintain operating efficiency; service the clients of the stud and minimise costs without compromise to ongoing repairs and maintenance. Summary operating expenses have been reduced as follows:

	6/92	6/93	6/94
Property overheads	1 265 000	1 218 504	1 175 360
Admin & marketing	867 000	548 217	554 904
Total	2 132 000	1 766 721	1 730 264

2. The sale of Collinsville is likely to be concluded within the next 30 days or by 3 May 1995.

As indicated in a press release issued by SAAMC today, the tender process for the sale of Collinsville has concluded without acceptance of any bids as the tender prices were commercially unacceptable to SAAMC and to South Australia's taxpayers.

Under new arrangements announced today Collinsville has been placed on the open market for one month until 30 April 1995. Under the revised sale process, Elders acting on behalf of SAAMC will accept offers for the stud as well as guaranteeing a minimum sale price for Collinsville. If the open market process fails to generate bids above Elders' guaranteed minimum price Elders will purchase the entire Collinsville stud operations from SAAMC at the guaranteed minimum price.

In effect, via the agreement, Elders will effectively be guaranteeing a minimum price for Collinsville at a much higher return to the Government than was possible through the tender process.

3. None of the members of the management board of Collinsville has any family or business connections with any of the current tenderers for the stud which may constitute a conflict of interest.

In reply to **Hon. R.R. ROBERTS** (21 March).

The Hon. R.I. LUCAS:

1. The sale of Collinsville is likely to be concluded within the next 30 days or by 3 May 1995.

As indicated in a press release issued by SAAMC today, the tender process for the sale of Collinsville has concluded without acceptance of any bids as the tender prices were commercially unacceptable to SAAMC and to South Australia's taxpayers.

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Under the revised sale process, Elders acting on behalf of SAAMC will accept offers for the stud as well as guaranteeing a minimum sale price for Collinsville.

If the open market process fails to generate bids above Elders' guaranteed minimum price, Elders will purchase the entire Collinsville stud operations from SAAMC at the guaranteed minimum price.

In effect, via the agreement Elders will effectively be guaranteeing a minimum price for Collinsville at a much higher return to the Government than was possible through the tender process.

2. The sale of BankSA, SGIC and the other State assets mentioned in the honourable member's question (which are not under the control of SAAMC) will proceed on the basis of normally expected terms and conditions of sales of assets of these types.

Payment of a $50 cash consideration in respect of the sale agreement with Mr Wickham was received at Mr Wickham's insistence as consideration for entering into the contract, not as a cash deposit. A $50 note was placed on the table in SAAMC's offices by Mr Wickham at approximately 5 p.m. on 24 January 1995.

There was never any negotiation in the front bar of the Hilton or any other hotel.

3. Since inception on 1 July 1994 to 28 February 1995, SAAMC has recovered $1.655 million of residual debt of the former State Bank Group.

It is not intended to implement an investigation into the actions of SAAMC. As indicated, much of the media reporting on the Collinsville sale is and has been inaccurate. The Treasurer has fulI confidence that the SAAMC Board and management have been undertaking the disposition of the residual assets of the old SBSA Group in a proper and businesslike manner, so that South Australian taxpayers receive an appropriate return on the assets they have fully funded.

The Hon. R.I. LUCAS: I will be happy to refer the honourable member's questions to the Treasurer. I suspect that some of the answers are provided in the answers to the two questions that I have just incorporated. I also understand that the Treasurer has just issued a public statement in relation to the sale of the Collinsville Stud. I do not intend to go over it. In fact, I think a statement has been made by others associated with the Collinsville Stud and that it was embargoed until 2 p.m. I undertake to try to obtain a copy of the press statement for the honourable member some time later in Question Time, and that may throw some more light on the questions he has asked. I will nevertheless refer the

honourable member's questions to the Treasurer and bring back a reply as soon as I can.

KANGAROOS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister representing the Minister for the Environment and Natural Resources a question about kangaroo blindness.

Leave granted.

The Hon. T.G. ROBERTS: Currently a mystery virus is affecting kangaroos in New South Wales, Victoria and South Australia, running right into the South-East of South Australia. At the moment there is an information gap in respect of the cause of the virus, if in fact it is a virus. A lot of concern is being shown by friends of the kangaroos and friends of the environment at this time, because it is a debilitating disease. Blindness in wild animals generally leads to their death, if not from the disease itself, then from starvation and other hazards. It has certainly been of concern to me since the reports and particularly graphic photographs have been appearing in the press. Some time ago there was an outbreak of the blindness in New South Wales. The information I have received is that it appears to have followed the path of the waterways of the river systems, and it is conceivable that the disease is mosquito-borne or at least passed onto the kangaroos via insects, although that is not known either. The disease itself is called coroid blindness in which the retina of the eye becomes unstuck and which leads to total blindness in the kangaroos.

It seems to me that a cooperative approach in all States is required. It has appeared in Queensland, New South Wales, Victoria and now South Australia, and it is of some concern to me that the New South Wales outbreak did not lead to at least a recognition of the virus or the cause of the blindness. A cooperative approach could then have been put together via the New South Wales national parks and wildlife bodies, but that has not happened. I am concerned that four States may be working on a solution. All members would agree that a cooperative approach, using the Commonwealth's resources to provide that impetus, needs to be adopted so that the information that is now available can readily be put together. Then a prevention and treatment program, or at least an identification and prevention program, can be put in place, depending on what the virus is. Will the State Government cooperate and make an approach to the Federal Government to assist in coordinating a cooperative, four States approach, first to verify the cause of this debilitating disease and then to take steps to eliminate its cause, if that is practicable?

The Hon. DIANA LAIDLAW: I have no doubt that a cooperative approach is not only required but will be most urgent in addressing this problem. I have not had any briefing from the Minister for the Environment and Natural Resources today on this matter so I will refer the question to my colleague and encourage a prompt reply.

FLINDERS MEDICAL CENTRE

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister representing the Minister for Health a question about the closure and amalgamation of wards at Flinders Medical Centre.

Leave granted.

The Hon. SANDRA KANCK: I refer to a letter from the medical, nursing and clerical staff of ward 4D of the Flinders Medical Centre that was sent to a number of people and organisations, including, I believe, the Minister for Health. The Flinders Medical Centre provides health care to women of all ages who have a wide range of gynaecological problems, such as threatened miscarriage, pelvic pain, pelvic infection, sexually transmitted diseases, ovarian cysts, menstrual dysfunction, hysterectomy and a number of gynaecological cancers. Despite the wide range of specialist services being provided to women, the Government's cost slashing has resulted in proposals which would lead to assorted ward closures and amalgamations and which, according to staff, would result in surgical speciality being lost forever.

The staff of ward 4D outline three problems should the amalgamations and closures take place: first, care will be compromised to both sets of clients, that is, gynaecological and pre-natal and post-natal clients who require specialist services; secondly, the psychological damage to clients in cases of inappropriate ward amalgamation, that is, those women who have just lost a baby being put in the same ward as heavily pregnant women or newly delivered mothers with healthy babies; and, thirdly, in the case of inevitable blow-outs of the obstetrics department, the elective gynaecological surgery will be deferred including that performed on those with cancer, which will naturally lead to distress and increased risk to these clients. The staff of ward 4D have taken the extraordinary step of writing a letter because they say:

> It is. . . distressing for us as health professionals to stand by and watch the destruction of a well-run, efficient and necessary service, which will inevitably mean that women, especially those living south of Adelaide, will no longer have access to specialised care when they find themselves faced with miscarriage, hysterectomy or gynaecological cancer.

My questions to the Minister are:

1. Does the Minister agree with the staff of ward 4D that the 'particular needs of women' have been at best ignored and at worst trivialised? If not, why not?

2. Is the Minister concerned that the amalgamations and closures will have a negative impact on the specialised skills of health providers required for the different departments within gynaecological services?

The Hon. DIANA LAIDLAW: As the question is addressed to the Minister for Health, I will refer it to the Minister and bring back a reply.

RACISM

The Hon. M.S. FELEPPA: I seek leave to make an explanation before asking the Minister representing the Minister for Multicultural and Ethnic Affairs a question about racist comments made by the Treasurer.

Leave granted.

The Hon. M.S. FELEPPA: It has been claimed that the Treasurer (Hon. Stephen Baker) made the unfortunate comment to the possible purchaser of Collinsville Stud, Mr Phillip Wickam—who was quoted by my colleague earlier—that the stud would be sold to him as long as he did not have a Chinese partner. It would appear that some of the Premier's Cabinet colleagues do not share his interest in doing business with China or people of Chinese origin. The remarks attributed to the Treasurer may appear to be insignificant to some, but they have concerned quite a few people, including me. I would have thought that this type of remark by anyone, let alone a prominent politician of this State

Parliament, the Treasurer, were only memories of the past. My questions to the Premier in his capacity as Minister for Multicultural and Ethnic Affairs are as follows:

1. Will the Premier in his capacity as Minister for Multicultural and Ethnic Affairs consider investigating the veracity of the allegation that the Treasurer told Mr Wickham that he would not allow any Chinese business people to be involved in the purchase of the Collinsville Stud?

2. If the Treasurer did in fact make these remarks, will he explain why they were made and will the Premier ask him to apologise not only to Mr Wickham but also to the Chinese community?

The Hon. R.I. LUCAS: I will be happy to refer that question, but I must say I would be extraordinarily surprised if that is an accurate reflection of anything that the Treasurer has said in relation to this particular matter. I have known the Treasurer for a good number of—

The Hon. M.S. Feleppa: That is why I am asking you to check up—

The Hon. R.I. LUCAS: I thank the honourable member, because I realise he would not be wishing to make a political point of this. He wants the matter investigated. Let me say I would be extraordinarily surprised. I have known the Treasurer for many years prior to being in Parliament and since then. I do not think that anybody in this Parliament would wish to describe the Treasurer, even if they might disagree with his economic or financial philosophies in various parts of the Parliament—

The Hon. R.R. Roberts: And various other things.

The Hon. R.I. LUCAS: Maybe even various other things. Certainly, I have never been aware of anybody who would seek to portray the Treasurer as a racist or as someone who was seeking to make racist comments, so I would be extraordinarily surprised. I will certainly refer the issue as a matter of urgency to the Treasurer and I would be surprised if I did not have a response within 24 hours.

Might I suggest that there has been a long debate about whether or not overseas interests, whether they be Chinese, American, Canadian or whatever, should have control of our sheep studs. It may well be that the Treasurer was referring in effect to overseas purchasers, whether they be from China, America, Russia, Italy (with respect to the honourable member) or Japan, from my viewpoint. It might well have been a question in relation to overseas investment interest as opposed to an Australian based company, but I will certainly refer the honourable member's question to the Treasurer and bring back a reply as soon as I can.

SOUTH AUSTRALIAN ASSET MANAGEMENT CORPORATION

The Hon. T. CROTHERS: I seek leave to make an explanation before asking the Minister for Education and Children's Services, representing the Treasurer, a question about the South Australian Asset Management Corporation.

Leave granted.

The Hon. T. CROTHERS: A key participant at a meeting held in the Treasurer's office on 24 January 1995 between the Treasurer and the prospective purchaser of the Collinsville Stud, Mr Phillip Wickham, was a Mr Andrew Woods from the South Australian Asset Management Corporation. I understand that Mr Woods was a senior employee with the South Australian Asset Management Corporation and was involved in negotiations surrounding the sale of Collinsville Stud and that legal advice to the SAAMC in relation to this sale was provided by the firm of Finlaysons.

The Opposition has been advised that Mr Woods has recently been sacked by the SAAMC, as has the legal counsel provided by the law firm of Finlaysons. Given the seriousness of allegations being made about the sale of the Collinsville Stud, will the Treasurer indicate whether Mr Woods has been removed from the SAAMC and, if so, why was he removed? Will the Treasurer also indicate whether the legal counsel to SAAMC has also been dismissed and, if so, why? Will the Minister representing the Treasurer endeavour to ensure that an answer to this question is provided to this Chamber before Parliament rises at the end of next week?

The Hon. R.I. LUCAS: We are always happy to try to please. I do not know whether we can meet that deadline of the honourable member, but as always we will bend over backwards to assist. I will refer the honourable member's question to the Treasurer and see what we can do.

MITCHAM COUNCIL PARKING PAMPHLET

The Hon. J.C. IRWIN: I seek leave to make an explanation before asking the Minister for Transport a question about a council pamphlet on parking control information.

Leave granted.

The Hon. J.C. IRWIN: The City of Mitcham has published an information pamphlet about parking controls. There is no date on the pamphlet but, I assume, it was published sometime after the new national parking symbols were adopted. One item concerns parking on a footpath and states:

> It is illegal to park any part of the vehicle on any portion of a footpath. The footpath is defined as the total area between the kerb line and the abutting property boundary. Footpaths and nature strips are not designed to accommodate cars. Footpaths are created for the safety of pedestrians. Carriageways are created for motor vehicles.

I understand that the Mitcham council was advised by a previous Minister for Transport that it was an offence under section 61 of the Road Traffic Act to drive on a footpath. Council published a new pamphlet (which is not dated) in, I think, March this year, and it advises that parking on verge areas in all but certain prohibited streets is permitted. The new pamphlet states:

> Parking on the verge in the City of Mitcham is permitted provided the vehicle shall not—
>
> (a) materially obstruct the view of pedestrians or driver of another vehicle. . . ;
>
> (b) obstruct a pedestrian, driveway, road or other place used by the public. . . ; and
>
> (c) cause damage to any tree, shrub or other vegetation or any kerbing, drains, etc.

This was published despite the council's being advised that, if anything is published about parking on the verges, the publication must make very clear that it is an offence to drive onto the verge in order to park. My questions are:

1. Is the Minister aware of the Mitcham council's pamphlet and the public debate in that council area about parking on verges?

2. Will the Minister consider amendments to the Road Traffic Act which will enable councils to make local decisions about verge parking so as to remove the dilemma about having to drive on the footpath in order to park?

The Hon. DIANA LAIDLAW: There is no doubt that the Road Traffic Act is a very complicated piece of legislation and that is unfortunate because we have to live within the ambit of it every day of the week. I have heard of few more

ridiculous and confusing circumstances than the one the honourable member has just related with respect to verge parking in the Mitcham council area. I was not aware of these circumstances and I am prepared to look at an amendment to the Road Traffic Act to address this confusion. I undertake to bring back more detailed information for the honourable member as soon as possible.

CASINO

The Hon. T.G. CAMERON: I seek leave to make an explanation before asking the Minister for Education and Children's Services, representing the Treasurer, a question regarding the Casino complex.

Leave granted.

The Hon. T.G. CAMERON: I recently asked a number of questions regarding the $24 million investment—I think that is what the Government referred to it as—by the South Australian Government in the Casino complex. Some of Mr Baker's statements since then have both confused and clarified some aspects of the deal. Mr Baker said that no more taxpayers' money would be pumped into the Casino and other buildings in the complex. He is also reported as saying that the value of the complex would depend on the cash flow and that at this stage he did not have a clue about what was a feasible price. As reported in the *Australian*, a spokesperson for the Treasurer said that any move to put it on the market required the agreement of the two partners.

I asked whether the decision taken to acquire the one-third holding in the Casino was based on the need to bail out Southern Cross Homes or whether the acquisition of the shareholding maximised SASFIT's capacity to achieve a higher price for its shareholding? The Treasurer answered this question by stating that, at this stage, he did not have a clue about what was a feasible price. I hope someone does because $24 million may have just been poured into a black hole.

I also asked whether the deal was undertaken on purely commercial grounds or whether it was supported by SAMCO and SASFIT. It would appear that if those organisations did know they, too, are supporting a deal without having a clue as to the Casino's value now or when it is refurbished. Let us hope that they are better informed than the Treasurer. It would appear that, if SASFIT knew, it made no decision, along with Kumagai, about selling, and that raises further questions about the return the South Australian Government will get if the site is sold, let alone the cost of servicing the $24 million debt until it is sold.

I also asked the Treasurer what interest costs the Government would incur from BankSA by taking over the loan. We know that there is no current return to the Government from its investment because the Casino is not generating sufficient profit to qualify for the super profit dividend. One must ask, following on from the Treasurer's statement, if no more money is to be pumped into the Casino complex, whether the Government obtained an interest free loan from BankSA when the debt was rolled over, or whether it renegotiated the super profits clause in the contract with the Casino.

Current interest rates on Government debt would be in the range of 10 to 11 per cent, leaving an annual interest bill somewhere in the vicinity of $2.4 million to $2.6 million on that $24 million investment. If we do not have a clue as to the value of the site, how will anyone know, when and if the site is sold, what happened to the $24 million—or has it already gone down the plug hole? My questions to the Treasurer are:

1. As a matter of urgency, will he ascertain the current value of the site and its likely value which will fall in a range of values when the site is sold?

2. Was an independent value of the one-third shareholding obtained, or did the Government just buy it?

3. What is the current level of loans on the Casino complex?

4. Is there any value in the one-third shareholding that the Government bought from Southern Cross Homes?

5. What are the dividends payable to SASFIT and SAMCO for the past three years and the forecast dividend for the years 1994-95 and 1995-96?

6. Can the Treasurer assure the Council that the next time he spends $24 million, sending the State further into debt when we all know that the State cannot afford to fall any further, he will make an informed, commercial decision, and will he at least have a clue about what a feasible price or value of the asset is?

The PRESIDENT: Order! I remind the honourable member that his question had opinion punctuated right through it. It is generally accepted that we do not include opinion in prefaces to questions.

The Hon. R.I. LUCAS: I will refer those questions to the Treasurer in another place and bring back a reply.

PAP SMEARS

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Health, a question about smear testing for cervix cancer.

Leave granted.

The Hon. ANNE LEVY: Everyone knows that cervix or so-called Pap smears are available as a means of testing for cervix cancer, and many campaigns are under way to persuade women of the appropriate age group to have regular Pap smears. I understand that, while Pap smears are extremely valuable, they do give a certain number of false negatives. It can be extremely distressing when a woman is told that she is free of any signs of cervix cancer but is later found to have the signs of its development which had been missed in the Pap smear.

I stress that this is not a common occurrence, but false negatives are obtained using this technique. I understand that a new screening system called Papnet can be used instead of the normal Pap smear, and that the advantage of the Papnet technique is that the percentage of false negatives is very small. Obviously, this would greatly reassure people: to have a negative Papnet smear would be more reassuring than to have a negative Pap smear. At present, I understand that this technique is available only in Sydney and has not yet been made available elsewhere in Australia. My questions to the Minister are:

1. Will he ensure that the Papnet smear test is available for South Australian women as well as for those in New South Wales?

2. Will he investigate its use in the Pap smear program that is operating in South Australia whereby women are encouraged to come forward and have a free Pap smear?

3. Will he do all he can to ensure that the risk of a false negative being obtained is reduced by the use of the Papnet technique in South Australia?

The Hon. DIANA LAIDLAW: I am not aware whether the article to which the honourable member refers identifies why this Papnet technique is available only in Sydney and whether it is part of a pilot program that may be being conducted for national reference. However, the results to date to which the honourable member refers are not encouraging. I will refer the question to the Minister and bring back a reply.

NURSING HOMES

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister representing the Minister for Health a question about the assessment of nursing home standards.

Leave granted.

The Hon. BERNICE PFITZNER: In a recent article in the *Advertiser* a nursing home was deemed to have failed standards of quality set down by the Commonwealth Government. This appeared to be serious enough for the Commonwealth Government to withdraw funding for new patients to that nursing home. Apparently, 21 of the 31 standards of care, including providing adequate pain relief, maintaining healthy skin, helping patients to maintain continence, and providing dignity and privacy for residents, had been breached.

The Commonwealth Government assessment team visited the home in November 1994, but a letter identifying the problems was not sent to relatives and residents until March 1995. This could mean that some of the residents have been suffering pain and infected ulcers of the skin or lying incontinent in urine soaked bedding for three to four months.

It has always been a concern of experts in the field of nursing homes that when the previous State Government accepted the Commonwealth's offer to monitor nursing home standards there would be insufficient Commonwealth staff to do so regularly. In my residential area, the Eastern Metropolitan Regional Health Authority used to monitor nursing homes regularly, and at times there were reports showing that nursing homes were not up to standard. This monitoring activity was then delegated to Commonwealth officers.

The Hon. Carolyn Pickles interjecting:

The PRESIDENT: Order!

The Hon. BERNICE PFITZNER: Yes, this is about nursing homes.

Members interjecting:

The PRESIDENT: Order!

The Hon. BERNICE PFITZNER: We are talking about nursing homes not hospitals. This monitoring activity was then delegated to the Commonwealth officers following the passing of the Supported Residential Facilities Act 1992. Experts in the field have reported that this change has thrown the standards of care for nursing homes into deterioration mode. It is reported that nursing homes are requesting the usual licensing procedures and when these requests are directed to the Commonwealth office, which is charged with monitoring the standards, it is reported that the office not only does not know what to do, but does not know that it is supposed to be the authority for issuing licences and therefore monitoring standards. Under the new Act (the Supported Residential Facilities Act 1992) a State advisory committee was formed and this committee has concerns with the Commonwealth Government's monitoring procedures. I understand that some nursing homes are checked only once in three years—possibly due to the lack of staff. My questions to the Minister are:

1. When did the Commonwealth assessment team visit the nursing home in question before the November 1994 visit?

2. Why did it take so long for standards of care in that nursing home to be corrected?

3. What are the Commonwealth procedures for licensing and monitoring the standards of care for nursing homes?

4. What are the minimum and what are the maximum intervals for routine visits and monitoring of nursing homes in Adelaide by the Commonwealth assessment team?

5. What are the recommendations of our State advisory committee on the issue of monitoring standards of care in nursing homes?

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

OIL SPILL

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport a question about the Spencer Gulf oil spill.

Leave granted.

The Hon. M.J. ELLIOTT: My question relates to the oil spill which occurred at Port Bonython in August 1992 and my concern with regard to whether appropriate corrective measures have been adopted in the light of the spill. In December last year the Conservation Council of South Australia received a letter from the Minister for Transport regarding the spill following the council's inquiries about this issue. The letter dealt particularly with the cause of the spill and the funding of the clean-up. It said that the spill was not caused by human error, but was the result of mechanical failure. This reply has caused concern to the Conservation Council executive member, David Close, who has written to me about the matter. His letter, in part, states:

> I know, after reading the Crown Solicitor's report on the Port Bonython oil spill of August 1992, and consulting an experienced ship's officer, that the spill was caused basically by the fact that the tanker and the tug involved tried to berth in obviously unsuitable weather conditions (winds gusting to 28 knots and two to three metre waves).
>
> The tug (which comes under the Department of Marine and Harbors) neglected to take the obligatory and elementary step of lashing up to the tanker before trying to push it, and so drifted under the overhanging stern, when waves banged the tug's bow into the overhanging side and punctured an oil tank. The Crown Solicitor mentioned that the tug had once before damaged a tanker in this way, and that on this occasion the second tug on the scene, although better equipped for the job, declined to try pushing the tanker because it seemed too risky.

Mr Close in his letter also says that the Transport Minister's response on the incident to the Conservation Council gave quite a different impression of all these events. He said:

> It is particularly reprehensible because in October-November 1992 Di [the Hon. Ms Laidlaw] criticised the then Minister for Transport, Barbara Wiese, for covering up the affair.

My questions are:

1. What has the Minister for Transport done to minimise the risk of another oil spill in enclosed waters, such as occurred at Port Bonython in August 1992?

2. What has been done to prevent tankers from trying to berth in unsuitable weather?

3. What has been done to ensure that the organisation responsible for any future spill pays promptly and fully for

the resulting costs, such as costs of clean-up, rescuing oiled birds, compensating fishermen and monitoring damage?

The Hon. DIANA LAIDLAW: The honourable member will be aware that issues related to oil spills are essentially coordinated on a national basis now. There is a national response and there are national standards across Australia and there are various Acts and procedures that we all follow. Those procedures were put in train and tested only last week when there was an oil seepage off Kingston in the South-East. A defined, coordinated procedure is undertaken in such circumstances. I will obtain detailed information in response to the questions and bring back a reply.

KANGAROO ISLAND FREIGHT

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

Leave granted.

The Hon. BARBARA WIESE: On 23 March the Minister for Transport told the Council that the Government had reached a service agreement with Kangaroo Island Sealink and that the rate of subsidies to be paid to transport operators had been settled. My questions, in light of this information, are as follows:

1. What is covered by the service agreement negotiated with Kangaroo Island Sealink, including any guarantees that have been given by Sealink and the Government?

2. Will the Government be liable for any payments under the agreement?

3. Will the Minister table a copy of the Sealink service agreement?

4. Will the Minister table details of freight subsidies to be paid to transport operators using the Kangaroo Island Sealink?

5. Will the transport companies using the *El Baraq* qualify for a freight subsidy; and, if not, will the subsidy scheme applying to Sealink cease when the *El Baraq* is commissioned?

The Hon. DIANA LAIDLAW: The freight subsidy scheme will cease when the *El Baraq* or any other operator is doing business between the mainland and Kangaroo Island. Operators using the *El Baraq* would not be eligible for freight subsidies in such circumstances. The freight subsidies were agreed to by Cabinet and recommended by KPMG when it investigated the options for the Government to follow in terms of the future of the *Island Seaway* as one way to compensate transport operators who almost exclusively used the *Island Seaway* between Kangaroo Island and the mainland. Because further travel would have to be undertaken if they were now required to use Kangaroo Island Sealink, it was considered reasonable to provide a freight subsidy. A limit of $600 000 was put on that freight subsidy in the first year. It scales back at 10 per cent a year and would run out altogether in 10 years. I can provide more detailed advice to the honourable member on that subject. However, the scheme that has been approved by Cabinet was developed in association with transport operators on the island and others who use the island for freight purposes.

A meeting was held involving the Department of Transport, the council and, I think, 17 operators for the purpose of working out the details of the scheme. I will make inquiries about tabling a copy of the agreement. I signed the service agreement with Mr Les Penley last Friday. I do not recall any matter being commercially confidential or uncomfortable for any party, but I will have to assess that at this stage. Certainly the Government has nothing to hide in terms of its agreement with Kangaroo Island Sealink. It is one that the Government would enter into with other parties if they so wished: it is not an exclusive agreement in that respect. As to a number of other questions that have been asked about liabilities of payments, I will look at those matters this afternoon and overnight and bring back a reply for the honourable member.

HILLS ROAD ACCIDENT

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Transport a question about trees overhanging roads.

Leave granted.

The Hon. R.D. LAWSON: On the morning of Sunday 25 September 1994, Mrs Sylvia Bedford was driving a vehicle along the Lobethal to Mount Torrens Road. As she was driving along with her husband as a passenger on her way to church, a tall cattle truck came around the road from the opposite direction. The cattle truck clipped a tree and a substantial limb fell onto Mrs Bedford's car, killing her and, I think, injuring her husband. In an article published in the *Sunday Mail* of 26 March this year, Mr Bedford's legal adviser is quoted as saying that the Department of Transport had refused to take responsibility for the accident. The article mentions that a departmental spokesperson had claimed that trucks usually move to the centre of the road to avoid overhanging trees but because of heavy traffic that had not been possible.

Mr Bedford, on the other hand, pointed out that the section of road where this tragedy occurred was marked with a double line because it was on a corner, making it illegal for the truck to pull into the centre of the road even if there was room to do so. Mr Bedford is planning to take legal action against the nominal defendant and is further quoted as saying that it is important that someone take responsibility for this sort of thing to prevent it happening again. My questions are:

1. Will the Minister confirm that the Department of Transport has refused to take responsibility for this accident?

2. Will the Minister make inquiries to ascertain, first, what measures can be taken to avoid a recurrence of this tragic event and, secondly, what redress is or should be available to persons who suffer injury, death or damage to property in circumstances such as this if action against the nominal defendant is not available?

The Hon. DIANA LAIDLAW: The honourable member has asked an interesting series of questions. I recall this accident for a number of reasons: first, because Mr Bedford had recently retired from one of the agencies for which I was responsible and I knew him well; and, secondly, because of the freakish nature of this accident and the way in which the matter was brought to the general public's attention. A truck had hit a tree branch, which fell and happened to hit a car that was passing under it at that instance. We have many trees along many roads—both State national highways and local roads—and the honourable member poses a vexed question, which arouses much community interest, even when it is addressed in terms of tree branches and ETSA power lines. The issue in terms of road safety and overhanging branches becomes very complicated, and it is one on which there would be much community opinion, not only from a road safety perspective.

Certainly, the Department of Transport has advised me that it has refused to take responsibility for the accident, and I accept that position. I understand that Mr Bedford would not seek to be blaming any party if indeed he does take action. I understand that at this stage he is contemplating action and has engaged a lawyer but that he has not as yet taken such action. Whether or not he does, it will be an interesting test case.

SALES TAX

In reply to **Hon. M.S. FELEPPA** (15 February).

The Hon. R.I. LUCAS: My colleague the Treasurer has provided the following response.

By way of background I provide the following information. The Australian Taxation Office (ATO) has prepared a Draft Bulletin for comment on 'Sales Tax and Universities and Schools'. The Sunday Mail of 8 January 1995 reported that changes recommended in the Draft Bulletin could result in the cancellation of sales tax exemptions currently claimed by schools.

The intention of the draft ruling is to ensure that schools do not claim sales tax exemption where a teacher or student are primarily the exclusive user of the goods, or where goods are distributed to individuals in exchange for a charge, fee or levy.

I understand that advice received from the ATO suggests that there will be minimal effect on Government schools should the proposed changes be implemented.

Government schools are now encouraged to request the payment of 'composite' fees, which include a contribution towards a computer fee from parents and/or guardians rather than an individually itemised fee structure. By requesting fees in this manner and by advising parents and/or guardians in writing that the goods issued to students remain the property of the school, the payment of sales tax can be avoided.

The key issue here is whether the school retains the power to exercise 'control' over how the goods are used and who uses the goods. This concept is reflected in the sales tax legislation which provides for the exemption from tax of 'goods for use and not for sale by a university or school conducted by an organisation not carried on for the profit of an individual.'

Where goods purchased by schools are hired or leased to individuals, the school is deemed to have forfeited control. Accordingly, the goods cannot be described as being 'for use' and sales tax liability arises. Conversely, where goods are loaned free of charge to individuals on the basis of a composite fee and associated caveats as described above, the sales tax exemption can legitimately be claimed.

The loss of sales tax exemption on computers is likely to impact more heavily on private schools where, in many cases, individual students are allocated a lap-top computer. This strategy effectively results in the individual student becoming the exclusive user of the goods, and would appear to preclude the school exercising control over how the goods are used and who uses the goods. Under this scenario, sales tax would be payable under the proposed tax ruling.

The honourable member has asked whether the Treasurer will call on his Federal counterpart to have the Tax Office reconsider the tax exemption on computers on which a fee for use is charged and so avoid the burden on parents and, at the same time, help schools that are endeavouring to teach modern day use of computers to their students.

While the draft ruling is designed to curtail individuals obtaining a personal benefit through the improper use of an organisation's sales tax exemption, we believe that the loss of sales tax exemption is, in this case, an unintended consequence of the spirit of the Tax Office's decision, and one that has the potential to greatly inconvenience the provision of contemporary quality education in schools. Therefore, the Treasurer has written to his Commonwealth counterpart seeking his assistance in this matter. At the very least, we would expect that the Commissioner of Taxation will contact the Independent Schools Board and Catholic Education Office to explain the rationale of the ruling and provide advice on the restructuring of school fees and the use of school equipment to ensure the legitimate continuity of sales tax exemption on school computers.

SCHOOL GRANTS

In reply to **Hon. CAROLYN PICKLES** (14 February).

The Hon R.I. LUCAS: A list of grants to schools within each electorate was supplied to each of the local members prior to the release of any cheques. I seek leave to have the following list of all grants to schools read into *Hansard*.

The funding model developed utilised a base formula which took into account the current level of backlog, planned programmed maintenance/minor works expenditure, and recent or approved major works.

The backlog maintenance factor was generated for each school by adjusting the sum of the Department for Building Management's Building Land Asset Management System (BLAMS) data backlog and 1994 maintenance requirements, and then deducting any significant 1994-95 programmed maintenance/minor works allocation. This calculation was further adjusted for major work carried out in the last three years or approved major works expenditure. Schools which have been fully redeveloped/refurbished were excluded from any grant allocation. Schools which have been partially redeveloped were assigned a percentage from within the range depending on the extent of the redevelopment/refurbishment works.

Each school was then allocated a proportional amount of the available budget.

Changes in recent Occupational Health, Safety and Welfare (OHSW) legislation and regulations required the Department for Education and Children's Services (DECS) to provide appropriate facilities for the storage and handling of chemicals and the provision of appropriate dust and fume extraction in secondary schools.

The criteria used to develop a funding allocation for OHSW requirement were as follows:

- location of school with preference given to country area schools
- the opportunity which exists to generate funds from site rationalisation
- restructure of district education delivery
- future planned capital works

The effectiveness of the payment of a grant below $2 000 was questioned as below this figure it is unlikely that any meaningful backlog maintenance works could be achieved. Therefore a minimum grant of $2 000 was established for all schools eligible to receive a grant allocation.

Draft guidelines for the management and expenditure by schools of their Back to School (BTS) grant were provided to all local members and school principals. These guidelines were drafted specifically to require schools to contact their DECS Facility Officer prior to expenditure of the grant in order to promote the development of a preliminary asset management plan upon which project selections would be based.

Approval for any grant provided to schools is given by the Minister for Education and Children's Services, following recommendation from the Department for Education and Children's Services.

SOUTH AUSTRALIAN INSTITUTE OF TEACHERS

In reply to **Hon. CAROLYN PICKLES**.

The Hon. R.I. LUCAS: Further to my response regarding the South Australian Institute of Teachers I am informed that the Institute of Teachers indicated their determination to release details of confidential negotiations on Friday 10 February 1995. They sought feedback from their members on the proposed changes. As I indicated in my earlier response this was about four weeks before the agreed release date.

As the Department for Education and Children's Services (DECS) negotiating team believed that significant changes to staffing policy could be achieved following lengthy positive negotiations, the team members were very anxious not to undermine the chances of success. At the same time the negotiating group from DECS were conscious that I had not been informed in detail of the latest negotiations and the DECS circular outlining possible personnel policy and staffing changes. Any breach of confidentiality prior to my giving full support of the proposals could have not only jeopardised the possibility of significant changes but also would have been potentially damaging to more detailed future negotiations.

One of the major reasons put forward by SAIT for not delaying the release of the information was duplication of postage cost, an amount of $900.

A senior officer suggested that a co-operative release of the information would not only be appropriate but also a reflection of the atmosphere present during the negotiations.

The allocation of $900 in this context, with the potential long-term benefits to schools, teachers and students is justified.

FRINGE BENEFITS TAX

In reply to **Hon. R.D. LAWSON** (7 March).

The Hon. R.I. LUCAS: The Treasurer has provided the following response:

1. The State does pay fringe benefits (FBT) on vehicles provided to members of the Judiciary. Separate payments are made by the Courts Administration Authority and the Department for Industrial Affairs.

2. $138 248 was paid by the Courts Administration and $16 922 was paid by the Department for Industrial Affairs giving a total payment of $155 170. Please note that these payments relate to the FBT year ending 31 March, 1994.

3. The effect of the changes announced recently will increase the statutory fractions used to value car benefits by between 8.3 per cent and 16.6 per cent depending on kilometres travelled. Using the 1993-94 data the increased tax payments payable by the Courts Administration Authority will amount to approximately $14 000.

The Department for Industrial Affairs have estimated that the increased tax payments will be approximately $2 000.

COLLINSVILLE MERINO STUD

In reply to **Hon. R.R. ROBERTS** (16 March).

The Hon. R.I. LUCAS:

1. The Treasurer has confidence that the board and senior management of Collinsville are managing the stud to maintain operating efficiency; service the clients of the stud and minimise costs without compromise to ongoing repairs and maintenance. Summary operating expenses have been reduced as follows:

	6/92	6/93	6/94
Property overheads	1 265 000	1 218 504	1 175 360
Admin & marketing	867 000	548 217	554 904
Total	2 132 000	1 766 721	1 730 264

2. The sale of Collinsville is likely to be concluded within the next 30 days or by 3 May 1995.

As indicated in a press release issued by SAAMC today, the tender process for the sale of Collinsville has concluded without acceptance of any bids as the tender prices were commercially unacceptable to SAAMC and to South Australia's taxpayers.

Under new arrangements announced today Collinsville has been placed on the open market for one month until 30 April 1995. Under the revised sale process, Elders acting on behalf of SAAMC will accept offers for the stud as well as guaranteeing a minimum sale price for Collinsville. If the open market process fails to generate bids above Elders' guaranteed minimum price, Elders will purchase the entire Collinsville stud operations from SAAMC at the guaranteed minimum price.

In effect, via the agreement, Elders will effectively be guaranteeing a minimum price for Collinsville at a much higher return to the Government than was possible through the tender process.

3. None of the members of the management board of Collinsville has any family or business connections with any of the current tenderers for the stud which may constitute a conflict of interest.

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In effect, via the agreement Elders will effectively be guaranteeing a minimum price for Collinsville at a much higher return to the Government than was possible through the tender process.

2. The sale of BankSA, SGIC and the other State assets mentioned in the honourable member's question (which are not under the control of SAAMC) will proceed on the basis of normally expected terms and conditions of sales of assets of these types.

Payment of a $50 cash consideration in respect of the sale agreement with Mr Wickham was received at Mr Wickham's insistence as consideration for entering into the contract, not as a cash deposit. A $50 note was placed on the table in SAAMC's offices by Mr Wickham at approximately 5 p.m. on 24 January 1995.

There was never any negotiation in the front bar of the Hilton or any other hotel.

3. Since inception on 1 July 1994 to 28 February 1995, SAAMC has recovered $1.655 million of residual debt of the former State Bank Group.

It is not intended to implement an investigation into the actions of SAAMC. As indicated, much of the media reporting on the Collinsville sale is and has been inaccurate. The Treasurer has fulI confidence that the SAAMC Board and management have been undertaking the disposition of the residual assets of the old SBSA Group in a proper and businesslike manner, so that South Australian taxpayers receive an appropriate return on the assets they have fully funded.

WATERWAYS POLLUTION

In reply to **Hon. T.G. ROBERTS** (30 November 1994).

The Hon. R.I. LUCAS: The Premier has provided the following response.

1. The Premier and the Minister for the Environment and Natural Resources briefed the President of the Local Government Association (LGA) on 15 November 1994, prior to the Premier's public announcement on 24 November. At that meeting the LGA generally supported the Government position. The Local Government Association was invited to nominate two representatives to a committee to draft the instructions to Parliamentary Counsel for the stormwater legislation.

The Government, and in particular, officers from the Department of Environment and Natural Resources, has had extensive further consultation with the LGA and the Torrens and Patawalonga Steering Committees since November.

2. The levy will be a percentage of the capital value of each rateable property in the catchment area. The actual percentage rate will be determined by the Minister after consulting with councils in the catchment area, and will be the amount necessary to meet the approved costs of the Board for the following financial year. The Government anticipates that the levy will be in the order of .01 per cent to .02 per cent of the capital value of ratepayers' properties. For example, that would mean that a typical $100 000 house would have to pay a levy of $10 per year. In the Torrens catchment, a .01 per cent level on all rateable property would raise approximately $2 million.

3. The levy will apply to all rateable properties within a catchment where a Catchment Management Board is established. Boards for the Torrens and Patawalonga catchments are proposed to be established by 1 July this year. Other Boards will progressively be established in catchments where similar problems and opportunities present themselves. Catchments are proposed to cover the whole of the catchment area for the particular river system, not just the urban area. For example, the Torrens catchment will include councils such as Gumeracha, which fall within the catchment, but are outside of the metropolitan area.

4. All councils already use their own rate revenue for stormwater works, operation, and maintenance, and some participate in multi-council stormwater schemes. The catchment levy is intended to cover those works which the catchment boards plan and undertake, and there are provisions in the legislation to allow existing multi-council stormwater schemes to be taken over as the responsibility of the boards.

5. The immediate focus of the stormwater management proposals is in the metropolitan catchments. In rural areas, many catchments lie entirely within one council district, and there would be no need for a catchment board and levy in such cases, since funds could be raised as part of the ordinary rates. However, it is conceivable that even in such cases a council could decide to set up a board as a means of focusing attention on stormwater management planning and to provide a basis for setting a levy. Clearly, there may

also be a case for setting up boards in rural areas where catchments fall within more than one council area. The legislation has been written to permit boards to be established in rural areas.

COLLEX WASTE MANAGEMENT

In reply to **Hon. M.J. ELLIOTT** (7 March).

The Hon. DIANA LAIDLAW: The Minister for Housing, Urban Development and Local Government Relations has provided the following information.

1. A title search of the Land Information System has been undertaken that reveals that the parcel of land at Kilburn, which is the proposed site for a liquid waste treatment plant, is indeed owned by Collex Waste Management Pty Ltd.

2. The Minister for Housing and Urban Development is unaware of any other 'deal' associated with the site which grants Collex or any other associated company the use of the land.

3. The Minister for Housing and Urban Development is unaware of any negotiations currently under way regarding the site.

4. The Minister for Housing and Urban Development is currently investigating the planning issues associated with the proposed waste treatment plant. The Minister is considering the best way to resolve the issues which may include an option to amend the development plan. However, the Minister has not yet made a decision on this matter. It is noteworthy that Collex has lodged a new application for development approval for a revised scheme. Collex contend, in the new application, that they have addressed concerns that have been raised. Neither the council nor the Development Assessment Commission have yet formed a view on the matter.

PASTORAL ACT

In reply to **Hon. M.J. ELLIOTT** (14 March).

The Hon. DIANA LAIDLAW: The Minister for the Environment and Natural Resources has provided the following information.

1. The proposals in the amendments to the Pastoral Land Management and Conservation Act now put forward and relating to continuous tenure, rent determination procedures and Pastoral Board membership are matters of current Government policy and were undertakings made at the time of the last State election.

The other changes of a procedural nature have identified themselves during the operations of the 1989 Act and the opportunity has been taken to correct them while changes relating to the major issues are made.

The question of the relationship between the Pastoral Land Management and Conservation Act and the Soil Conservation and Land Care Act will be examined fully during a review of the latter Act which is legislatively required to take place by the end of 1995. The Minister is confident there will be ample time for interest groups to input into this process.

2. Comment on the current proposals was sought originally by 9 March. It has been decided to extend this to 31 March which should still allow the legislative timetable to be met.

3. The interest groups already contacted are those with a legitimate interest in those parts of the Act that are under review. The only other groups that have had regular input into pastoral lease administration are the outback tourist operators and the off-road vehicle clubs. There is no proposal—as there was in 1989—to amend the access provisions of the pastoral legislation and these groups have therefore not been asked to comment.

AGED PERSONS, OUTPATIENT SERVICES

In reply to **Hon. M.S. FELEPPA** (23 February).

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

1. Recommendation 13.1 of the Audit Commission Report proposed that:

> Mechanisms should be put in place to decrease the level of outpatient services by encouraging consumers to seek more services from private practitioners operating in the community.

The Commissioner for the Ageing responded in May 1994 to a number of the Audit Commission's proposals, highlighting concerns which he believed they raised for older South Australians. The response was communicated to the Government, through the Minister for the Ageing.

Comments on older people's use of hospital outpatient services, incorporated in the Commissioner's response and quoted in his Annual Report for 1993-94, related to Recommendation 13.1. The comments did not reflect or oppose any policy of the Government at the time they were made.

2. The answer to the previous question establishes the context of the Commissioner's concern about the Audit Commission's recommendation to decrease the level of outpatient services.

LOCAL GOVERNMENT REFORM

In reply to **Hon. M.S. FELEPPA** (21 March).

The Hon. DIANA LAIDLAW: The Minister for Housing, Urban Development and Local Government Relations has provided the following information.

1. Yes.

2. The Minister has recently agreed the current program for reform of the Local Government Act with the Local Government Association. The topics to be examined in the first half of this year relate to structural change and accountability. Papers covering management practice and reporting requirements for Councils and controlling authorities, access to meetings and information, the professional conduct and role of members and officers, and allowances and benefits for elected members will be made available for community and Council comment in April. These papers will cover the specific areas mentioned by the honourable member. Further details are available in the March 1995 Progress Statement on Local Government Legislative Review which is now being distributed and which will be forwarded to all members.

POSSUMS

In reply to **Hon. M.S. FELEPPA** (8 March).

The Hon. DIANA LAIDLAW: The Minister for Primary Industries has provided the following response to Question 1.

1. The question raises a number of issues:
   - the possibility of 'health scares'
   - the risk of endangering native species and
   - the welfare of the animals in 'confinement'.

The main substance of the question relates to the safety and wholesomeness of the meat and the health regulations governing the slaughter of these animals.

The issue of endangering 'native species' is a matter for the Tasmanian authorities responsible for preservation of wildlife and native species. In fact, the possums involved are of mainland origin and the Minister's advice (from the Tasmanian Department of Agriculture and Fisheries) is that the possum meat industry (and the markets) have been developed under appropriate conservation and hygiene controls.

The processing plant is licensed by AQIS for export. The operation is being carried out under a statute-based quality control program in Tasmania and under mutual recognition there are no grounds for rejection or opposition under meat hygiene legislation.

Under the current Food Act regulations in South Australia (which are based on the existing National Food Standards Code, Standard C1) possum meat is not classed as meat for human consumption.

However the new Standard C1, which has been gazetted nationally following approval by the Federal Minister for Health, includes possum meat as food for human consumption. The Minister's advice from Nick Rose, Manager, Food Standards Section of the SA Health Commission, is that in view of the imminent change of the SA Food Act regulations to accommodate the new Standard C1, the SA Health Commission has no objection to the import of possum meat legally produced in Tasmania.

The Minister for the Environment and Natural Resources has provided the following response to Questions 2 and 3.

2. Possums are not farmed in Tasmania but are harvested from the wild under permits issued by the Tasmanian Department of Parks, Wildlife & Heritage.

3. The Tasmanian Department of Parks, Wildlife & Heritage estimates that the size of the Brushtail Possum population in Tasmania is in the order of 3-4 million.

DELFIN PROPERTY GROUP

In reply to **Hon. SANDRA KANCK** (14 March).

The Hon. DIANA LAIDLAW: The Minister for Housing, Urban Development and Local Government Relations has provided the following information.

1. The issue of whether the taxpayers have foregone any income from Golden Grove joint venture between the Delfin Property Group and the Urban Land Trust is purely hypothetical. Negotiations took place over ten years ago which have resulted in not only a substantial

profit for the State but also the development of a project which is now regarded nationally as the benchmark for excellence in urban and community development.

It is worth noting:

- the arrangements were the subject of an intensive investigation by a team of senior Government officials in 1984.
- all matters associated with the Golden Grove Development Act were the subject of a Select Committee of Parliament prior to the authorisation of the Act in 1984. This Act specifies the infrastructure for which the State is responsible. It was consistent with arrangements for most developments in South Australia at the time.

The Minister has been advised by SAULT that the final income from allotment sales is projected to be approximately $334 million by the time the project is completed in 1999. Other income is approximately $33 million, making a total of $367 million.

This is offset by development costs of $280 million leaving a total profit for the joint venturers of about $87 million.

As the joint venture is based on a 50 per cent share to each partner, SAULT and Delfin should each receive about $43.5 million in profit distributions by the time the project is completed in 1999. Each partner has already received about $30 million in profit distributions.

At the completion of the project SAULT will have received a total of $63.5 million being both profit distribution and land payments. Delfin will have received $43.5 million by way of profit distributions.

The land was purchased by the SA Land Commission and SAULT between 1973 and 1983 for about $10 million. The projected overall return to Government will be $63.5 million.

The legal arrangements entered into between SAULT and Delfin involve the payment by the joint venturers, that is Delfin and SAULT, to the land owner being SAULT of $20 million for the land over the life of the project on a per hectare basis as the land is developed. As the project is projected to produce a total of about 10 000 allotments, the land payment equates to approximately $2 000 per allotment.

The current overall average allotment price at Golden Grove is $44 000.

No. (At the premium end of the market, a 1 699 square metre allotment has been marketed for $75 500).

2. The cost of subdivision at Golden Grove is no higher than for any other development. Civil works undertaken by the joint venture are done by private contractors following a tender process. Suggestions that development costs are $10 000 per allotment do not take into account the specific site conditions or the additional expenditure associated with a project the scale of Golden Grove.

3. An offer for land at Golden Grove was made by the Hickinbotham Group to the joint venture in March 1985, about four months after the joint venture was established. The offer was for 100 acres, which is approximately 40 hectares, for $1 million. The offer was not accepted by the joint venture as the joint venture considered that the division of broadacre land into 'superlots' for development by a number of developers was inconsistent with the Government's intentions for the area and also the framework within which the joint venture arrangements were negotiated.

4. The land at Seaford Rise and Regent Gardens is not sold into the joint venture. The joint venture pays the land owners, being the Urban Land Trust and the Housing Trust, a percentage of the revenue received from each lot sold.

In addition to payments for the land, the Government receives 50 per cent of the profits from the Seaford Rise and Regent Gardens joint ventures.

5. No.

DRIVERS' LICENCES

In reply to **Hon. ANNE LEVY** (16 March).

The Hon. DIANA LAIDLAW: The Registrar of Motor Vehicles records those members of the public who have indicated a willingness to be considered as an organ donor in the event of their death.

Any conditions relating to the use of organs are not recorded on the driver's licence. In practice, the next of kin convey to the medical profession any conditions on the use of organs from a deceased person.

A 'Donor Card', which is available to all donors, allows for more specific donorship details to be recorded. The donor card, when completed, is carried with the driver's licence in the wallet provided by the Registrar of Motor Vehicles, as a guide to the medical authorities and the next of kin.

As indicated on the donor card, a donor is encouraged to discuss with their immediate family their wishes to become a donor and to indicate to them any limitations they may place on the use of their organs, after death.

In all cases, the donor's next of kin will be consulted prior to the removal of any organs from the donor.

TUNA FARMS

In reply to **Hon. ANNE LEVY** (7 March).

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

The management of tuna farming operations off Boston Bay near Port Lincoln is the responsibility of the Minister for Primary Industries. Operators of the tuna farms are subject to licence conditions aimed at ensuring that any entanglements of marine mammals or other large animals, most notably sharks, are monitored and reported.

It must be noted that the farms have installed a particular type of protective netting based on the best available information at the time. As any industry develops it needs to adjust its operations in accordance with new knowledge, based on sound monitoring results.

The Minister is pleased that industry is acting responsibly in this matter by providing reports and clearly the number of entanglements reported suggest that further investigation is needed. It would appear that different netting should be used to overcome the apparent problem.

This matter will be pursued through the Aquaculture Management Committee, the body responsible for overall management of fish farming activities.

MOUNT BARKER ROAD

In reply to **Hon. ANNE LEVY** (16 March).

The Hon. DIANA LAIDLAW: A study using the latest statistics for 1994 shows that commercial vehicle accident involvement on Mt Barker Road is significantly higher than on other SA roads.

However, it is not the commercial vehicles themselves that are at fault. Rather, it is the very large 'dynamic loadings' that Mt Barker Road's poor geometry is imposing on the commercial vehicles. This is seen clearly at Devil's Elbow where Adelaide-bound articulated commercial vehicles driven in a very responsible manner are observed to be on the verge of jack-knifing.

The only effective solution to the problems experienced on Mt Barker Road is to construct a road on a completely new alignment. The Government has made repeated representations to the Federal Government for funding for this project in the 1995-96 Federal Budget.

For the rest of the State, the 1994 statistics show that 4 per cent of the vehicles involved in crashes were commercial vehicles compared with 7 per cent on Mt Barker Road. This suggests that the level of risk of crash involvement with a commercial vehicle is lower for the rest of the State. Hence the situation on Mt Barker Road cannot be generalised to the rest of the State.

Contrary to the argument that commercial vehicles pose a greater safety problem, the following involvement rates (per 100 million kilometres travelled) show that commercial vehicles in fact have a relatively lower rate in South Australia:

Number of vehicles involved in crashes per 100 million kilometres travelled.

Semitrailers	143
Buses	353
Commercial trucks	540
Passenger vehicles	559
Motorcycles	781

CHEMICAL SPILL

In reply to **Hon. T.G. ROBERTS** (8 March).

The Hon. DIANA LAIDLAW: The Minister for the Environment and Natural Resources has provided the following information.

1. Softwoods Holdings Ltd, trading as CSR Softwoods, was issued a Notice under Sections 55 and 56 of the Water Resources Act on 1 March 1995 requiring the following range of clean-up and preventative actions at their timber treatment plant on Millicent Road, Mt Gambier:

- convert the drainage bore which allowed up to several thousand litres of CCA to accidentally spill into the unconfined

groundwater aquifer, into a bore to be used as a source of water for making up the CCA solution to process strength for timber treatment (this was aimed at ongoing extraction of groundwater which could be contaminated with CCA);

- establish bunding around the existing CCA pressure cylinder to provide 120% containment capacity, excluding any sludge volume which may accumulate within the bunded area from time to time (this was aimed at avoiding groundwater pollution problems caused by any similar accidents at the site in future);
- ensuring that any vehicle travelling into and around the drip pad area, where timber is allowed to stand for three days immediately after treatment with CCA, does not lead to ongoing contamination of other areas on the site (it is likely that vehicles with CCA contaminated tyres have caused small ongoing quantities of CCA to be transported to other areas where rainfall and runoff to drainage bores has led to elevated levels of copper, chromium and arsenic in groundwater monitoring bores on the site).

In addition, the company has been asked to investigate the nature of cavities in the limestone walls of drainage bores located near the CCA pressure cylinder to help determine where further observation bores should be drilled to allow sampling of groundwater which has been potentially contaminated by the CCA spill on 22 February 1995, and to undertake sampling and analysis of water in the new bores for copper, chromium and arsenic according to sampling frequencies recommended by the Office of the Environment Protection Authority.

Following the commencement of the Environment Protection Act in May this year the company will also be required through licensing under the new Act to undertake ongoing monitoring of groundwater underneath the site and perform such improvements in the design and management of their CCA timber treatment process as necessary to ensure that rainfall draining off the site into the groundwater system is producing water with CCA concentrations no higher than drinking water standards.

2. The Softwoods Holdings Ltd site, like most parts of Mt Gambier, is directly underlain by soil and sedimentary strata which allow for ready movement of rainfall and runoff into subsurface layers and ultimately the unconfined aquifer. Therefore, it is susceptible to contamination from accidental chemical spills from industrial sites, stormwater runoff from roads and other hard areas, and general percolation of rainwater carrying pollutants from soil surface and subsurface into the aquifer. The unconfined aquifer which occurs at much deeper levels below ground is not susceptible to pollution from these type of sources in Mt Gambier because it is overlain by a blanket of clay and other material which does not allow for ready downward leakage of water from the unconfined aquifer.

The CCA spill at Softwood Holdings Ltd discharged into a drainage bore containing karstic features which allowed for ready movement of the CCA into underground cave systems. This has made recovery of the CCA and monitoring of its impact on groundwater quality difficult. However, due to the vast quantity of water present in the unconfined aquifer the rate of dilution will be very great. The likelihood of groundwater below the site eventually reaching Blue Lake and the travel time for any copper, chromium and arsenic contamination to get into the lake is very difficult to predict due to the complex nature of the hydrogeology of the area.

Overseas research and water monitoring in the Mt Gambier region indicates that:

- the copper in CCA is unlikely to migrate far in groundwater due to the formation of chemical complexes with organic matter in stormwater and carbonates in limestone;
- chromium in CCA is likely to be quite mobile in groundwater; and
- arsenic in CCA is quite mobile but some forms may be absorbed and/or form chemical complexes with organic matter and a wide range of materials in clay and limestone.

Softwoods Holdings Ltd has been monitoring groundwater quality, including copper, chromium and arsenic concentrations, for five years at various locations around their site and, as indicated in the Minister's answer to the previous question, will be required to intensify the monitoring in the vicinity of the bore where CCA was accidentally discharged on 22 February 1995.

Industrial chemicals such as CCA have never been detected in the Blue Lake. This may be ascribed to the high dilution and/or natural chemical attenuation processes which the Minister has briefly outlined. However, there is no room for complacency about the potential for pollution of the Blue Lake and the unconfined aquifer in general. Groundwater monitoring at specific industrial sites in Mt Gambier, across the unconfined aquifer within the region and in Blue Lake itself will be continued by this Government and where necessary remediation will take place or alternative water supplies arranged.

ORGANOCHLORINS

In reply to **Hon. T.G. ROBERTS** (22 February).

The Hon. DIANA LAIDLAW: The Minister for Housing, Urban Development and Local Government Relations has provided the following information.

1. Yes, the Government has received advice that there are concerns that the effectiveness of the alternatives to organochlorins have not yet been proven under South Australian conditions.

2. Yes, the Government has received advice that further research is required to determine the performance of chlorpyrifos and physical barrier systems on reactive soils.

3. The Minister has been advised that no scientific studies have been carried out in South Australia on the effectiveness of these chemicals, however, organochlorin chemical barriers, applied in accordance with the relevant Australian Standard, (CA 43 and AS 2057), have been used for the protection of buildings against termite attack as required by the Building Regulations in South Australia since 1974 and for 10 years prior to that date.

The performance of organochlorins is apparently not affected by the pH level of the soil.

4. Alkaline solutions are known to affect the breakdown of organophosphates. Further research is required to determine how effective Chlorpyrifos is on the highly alkaline soils of South Australia.

Protection of structural members from termite attack in new buildings is a requirement of the current legislation, therefore the building industry needs to find reliable alternatives that satisfy this requirement.

The options are currently being considered by the Building Advisory Committee and the Department of Housing and Urban Development will be issuing further advice on this matter prior to 30 June 1995, after which organochlorins will not be able to be used.

ECOCITY

In reply to **Hon. T.G. ROBERTS** (16 March).

The Hon. DIANA LAIDLAW: The Minister for the Environment and Natural Resources has provided the following information.

The land proposed for the Halifax EcoCity project was used by the Adelaide City Council for many years as a depot. It was subjected to activities such as tar handling and distillation, waste incineration, fuel and hazardous chemical storage. As a result, the site has been contaminated and, in its current state, would not be suitable for residential purposes.

The Environment Protection Authority (EPA) has not undertaken any assessment on the site. However a preliminary assessment of contaminants was undertaken by consultants acting for the council. The report identified contaminants such as heavy metals, hydrocarbons and polycyclic aromatic hydrocarbons (PAHs).

As both land owner and polluter, the council has sole responsibility for any clean up of the site to make it suitable for future use, be it residential or for some other purpose.

The Minister understands that council has now sought registrations of interest from consultants with a view to developing a plan of action that will achieve remediation of the site to residential standards. The EPA is working closely with the council to facilitate that process.

Future use of the land will depend very much upon the consultants' findings.

OCCUPATIONAL HEALTH AND SAFETY

In reply to **Hon. T. CROTHERS** (23 February).

The Hon. K.T. GRIFFIN: The Minister for Industrial Affairs has provided the following response:

1. I agree that prevention is less costly than cure, in terms of human suffering, financial costs, lost production and other factors.

Since the election of the Liberal Government in December 1993, there has been a concerted effort to provide strategies which will improve health and safety in the workplace.

Specific programs have been developed by WorkCover and the Department for Industrial Affairs (DIA) to achieve a reduction in work-related injury, disease and fatalities in the private and public sectors.

The Government has adopted an even-handed approach to consider the legitimate interests of workers and employers by using a combination of educative and enforcement methods to achieve improved OHS standards in the workplace.

WorkCover has adopted a range of strategies encompassing incentives (such as the Safety Achiever Bonus Scheme); a new legislative framework to clarify duties for minimising the risk of workplace hazards including the new consolidated OHS regulations; awareness programs, including the Stop The Pain campaign; targeting high risk groups (including small business and the mining and quarrying industry with the Quarrysafe program); education and training programs aimed at small employers and health and safety representatives; and information and guidance through establishment of an Information Resource Centre.

The DIA provides Statewide cover in relation to enforcement of regulatory requirements in relation to OHS and public safety matters. There are three offices in the metropolitan area and regional offices at Berri, Mount Gambier, Port Pirie and Whyalla. As well as having regulatory functions, inspectors also provide valuable advice on the legislation and how to comply with it, and this plays an important part in the whole prevention strategy.

2. The process of increasing and enhancing the effectiveness of the Occupational Health, Safety and Welfare Act is an ongoing one, and should not be seen as a process of enforcement alone. I have already addressed some of the education and information processes which play a vitally important role in enhancing the effectiveness of the legislation.

On 23 February 1995 in the Legislative Council, the Attorney-General tabled my statement regarding the implementation of the new consolidated and hazard specific regulations under the Act which will play a vital role in enhancing the effectiveness of the legislation.

As to the activities of the inspectors of occupational health and safety, DIA inspectors conducted more than 20 000 workplace visits during 1993-94 across the spectrum of health, safety and related legislation. During 1994-95, activities will include 1 500 'help visits' to worksites aimed at clarifying the requirements of legislation under new regulations.

Legislative changes brought in by the current State Government have facilitated the flow of information between WorkCover and the DIA by reducing confidentiality requirements, and considerable effort has been made by the two agencies to share information which will speed the process of identifying poor performers. Also, data now being made available on individual employers is more relevant and capable of use by DIA inspectors than had been the case previously. As a result, using WorkCover data in relation to employers with a poor health and safety performance, and using departmental knowledge, DIA inspectors are targeting 150 companies for comprehensive safety audits.

The DIA investigates between 20 per cent and 25 per cent of workplace injuries with a view to establishing what preventive action needs to be taken. This accident investigation rate is high in comparison with other States and countries.

DIA inspectors also attend workplaces to investigate other dangerous occurrences such as structural collapses, dangerous substances spills and gas escapes. Departmental officers also follow up complaints under the legislation and attend to requirements associated with licensing, registration and statutory inspection of plant and equipment.

The DIA does not confine its activity to places traditionally designated as industrial work sites. For example, there is an active program involving 'truck stops' which is carried out in conjunction with the Department of Road Transport and police. This program in particular is designed to ensure that the transportation of dangerous goods and substances is carried out in a safe and proper manner.

In all of the foregoing, inspectors give directions, advice and information and, if necessary and appropriate, they issue Improvement or Prohibition Notices. They may also take evidence with a view to legal action. I recently met with the inspectors and DIA management to confirm my support for their activities in the field.

3. The Government is committed to ensuring that within the resources which are available, proper and significant recognition is given to the critical importance of ensuring that there is an inspectorate capable of carrying out its functions to ensure compliance with safety requirements in the workplace. As you are aware, all agencies have been requested to meet savings required. However, it is critical that work which is done to achieve savings is undertaken in the context of strategic planning processes and the attainment of critical outcomes. I am aware of the crucial role which will be undertaken by staff in regard to the targeted audits and help visits which will be undertaken in conjunction with WorkCover and the expectation of inspectors in relation to working with industry to achieve the implementation of the consolidated regulations. The department will continue to review the operational policies and procedures under which inspectors operate so as to maximise efficiency and effectiveness. I have already addressed such measures as enhanced information flows between DIA and WorkCover and new approaches to pro-active work such as targeting workplaces for occupational health and safety audits. The department is currently looking at increasing its use of information technology as a further means of improving compliance with the legislation, recognising that enforcement is an important element, but not the only element, in achieving compliance and, as a result, safer and healthier workplaces.

4. The provisions under the Occupational Health, Safety and Welfare Act as amended from 1 July 1994 are as they were over the whole period from the implementation of the Act in late 1987 through to December 1993. That is, that the maximum fine is $100 000. The most recent conviction is that of BHP following injuries which occurred to workmen at the BHP Steelworks in Whyalla in April 1991. The overall penalties of $102 000 were higher than any previous case in South Australia. The penalty of $42 000 for one of the breaches of section 19 of the Act was also the highest single penalty which had been awarded by the Industrial Relations Court under that section.

While prosecutions and penalties in themselves do not lead to safer workplaces, they are an important part of an overall strategy to ensure that employers and employees protect the safety of workers and other persons who are present at workplaces. Advice will be sought from the tripartite South Australian Occupational Health, Safety and Welfare Advisory Committee on the adequacy of maximum penalties under the Act.

DISCOUNTING

In reply to **Hon. T.G. CAMERON** (8 March).

The Hon. K.T. GRIFFIN: The South Australian legislation which provides consumers with redress against retailers who advertise large but illusory discounts off the 'normal' or 'recommended' retail price of goods is the Fair Trading Act 1987, in particular sections 40, 56, 58g and 61c. Section 58g is probably the most relevant.

It is usual, when such advertising occurs, for the 'normal' or 'recommended' retail price to be a grossly inflated price, which does not actually apply to consumers in the real market, and for the trader to then offer a large discount, based on that price, leaving a new price often not greatly different from the normal market price.

Section 40 of the Fair Trading Act 1987 makes it an offence for any statement of price or condition of sale relating to discounts, trade-ins or other allowances, to not set out in a prominent position and in clear and legible figures the price at which the goods can be bought for cash.

Section 56(1) prohibits misleading or deceptive conduct in trade or commerce in general.

Section 58g prohibits the making of 'false or misleading representations with respect to the price of goods or services', or in connection with the supply or possible supply of goods or services or their promotion.

Section 61 prohibits the making of representations about part only of the price of goods or services without also specifying the cash price of the goods or services.

I consider that these provisions, taken together, provide remedies against deceptive discounting.

One successful prosecution under section 58g to which I draw attention is that in the case *Corcoran v Northern Tyre Sales Pty Ltd* (Adelaide Magistrates Court, 18 March 1993). In that case, tyres were advertised for sale at '33⅓% off the retail price of the entire Yokohama Range'. The 'retail price' was much higher than the real retail price. The defendant was convicted.

Remedies under similar provisions are available against corporations under the Trade Practices Act 1974 (Commonwealth).

FIRE PROTECTION

In reply to **Hon. J.C. IRWIN** (16 February).

The Hon. K.T. GRIFFIN: On 5 October 1992 the Australian Broadcasting Authority was established as a new regulatory body for the broadcasting industry with the enactment of the Broadcasting

Services Act 1992. With the introduction of the Act, primary responsibility for regulating program content and for responding to complaints about programming issues now rests with the broadcasters themselves. The Act sets out Parliament's intention that groups representing the various sectors of the broadcasting industry develop codes of practice to replace the program standards formerly promulgated by the ABA's predecessor, the Australian Broadcasting Tribunal.

The commercial television and radio industries have developed their own codes of practice to cover the content of the programs they broadcast. The codes deal with such matters as program classifications, accuracy and fairness in news and current affairs, advertising time on television and program promotions. The codes also include procedures on how the stations are required to respond to complaints.

With respect to the question of whether programs such as 'Fire' can be prevented from going to air, the ABA's powers are limited by the Act. Under section 129 of the Act, the ABA is prohibited from determining a program standard that requires a program to be approved by the ABA before it is broadcast, other than children's programs.

The ABA has not conducted any research into the imitative effects of programs. However, with respect to 'Fire', five complaints have been received by the ABA to date. All of these complaints focussed on the level of sex and nudity contained in the program. The program is broadcast at 9.30 p.m. and has been classified 'M' (Mature). This would limit the likelihood that children would form a substantial part of the viewing audience.

CORROBORATION WARNINGS

In reply to the **Hon. ANNE LEVY** (23 February).

The Hon. K.T. GRIFFIN: I am not aware of any recent cases in which trial judges have directed juries that it is dangerous to convict on the uncorroborated evidence of alleged victims of sexual offences. Such a direction would amount to an error in law. A trial judge is not allowed to give a warning to a jury which conveys the idea that an alleged victim of a sexual offence originates from a class of witnesses the law regards as suspect.

However, there may have been cases in which a trial judge, because of the particular fact and circumstances of the matter before the court, warned the jury about acting on the evidence of the complainant in the absence of some corroborative or supportive evidence. Such a direction involves no error in law.

At common law it was established that in cases of sexual offences the trial judge should, as a matter of practice, warn the jury that it is dangerous to convict on the uncorroborated testimony of the complainant. The historical justification for the rule was based upon the unsatisfactory generalisation that the experience of judges of earlier times had shown that victims of sexual offences sometimes told stories which were false and difficult to refute.

The common law rule was abrogated in this State by the enactment in 1984 of s34i(5) of the Evidence Act. That sub-section states: 'In proceedings in which a person is charged with a sexual offence, the judge is not required by any rule of law or practice to warn the jury that it is unsafe to convict the accused on the uncorroborated evidence of the alleged victim of the offence'.

Although there is no longer a legal obligation on a trial judge to give a corroboration warning in sexual cases, the judge is left free to give, in the performance of his or her function of providing assistance to the jury on matters of fact, any proper warning or caution in relation to acting on the evidence of the alleged victim which the circumstances of the case appear to require. The evidence of complainants in sexual cases is subject to comment on credibility in the same way as the evidence of alleged victims in other criminal cases, but to comment only.

The trial judge is free to frame the caution or warning in such terms as he or she sees fit. The only constraint will be the usual one of doing what is fair in the circumstances of the case. The Judge may warn the jury that it is unsafe to convict on the uncorroborated evidence of the complainant or word the advice in any other way which commends itself to the judge. The warning is given not because suspicion attaches to the evidence of alleged victims of sexual offences, but by reason of the particular facts in the case.

In framing the warning, it is an error for a trial judge to convey the idea that complainants in sexual cases are regarded as a class of suspect witnesses. Furthermore, the trial judge is not permitted to convey to the jury that his or her warning has the weight of the law behind it, and was not merely a piece of advice as to the evaluation of the complainant's evidence which the jury was free to accept or reject.

At common law there is a rule, either of law or practice, which is independent of the rule relating to sexual cases, that a judge must warn a jury of the danger of acting upon the uncorroborated evidence of a young child. The enactment in 1984 of s34i(5) did not abolish the application of this rule to sexual cases where the case for the prosecution was based upon the uncorroborated testimony of a young child.

However, in 1993 s12a of the Evidence Act was enacted. This section provides: 'There is no rule of law or practice obliging a judge in a criminal trial, to warn the jury that it is unsafe to convict on the uncorroborated evidence of a child if—

(a) the child gave evidence on oath; or

(b) the child's unsworn evidence is assimilated to evidence given on oath under section 12(2)'.

It should also be pointed out that under s12(3)(b), if a person is charged with any offence (sexual or non sexual) and denies the offence on oath, that person cannot be convicted on the uncorroborated evidence of a young child (a child under the age of 12 years) unless the child has given sworn evidence or has given unsworn evidence which pursuant to s12(2) has been assimilated to evidence given on oath.

GULF ST VINCENT FISHERY

In reply to **Hon. R.R. ROBERTS** (9 March).

The Hon. K.T. GRIFFIN: The Minister for Primary Industries has provided the following response:

No, the department will not return half the fees to the Gulf St Vincent prawn licence holders.

WORKERS REHABILITATION AND COMPENSATION (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Workers Rehabilitation and Compensation Act 1986. Read a first time.

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

That this Bill be now read a second time.

This Bill represents a further crucial stage in implementing the Government's commitment to reform of the South Australian WorkCover system. The Bill represents a consolidation of the Bill introduced by the State Government into this Parliament on 1 December 1994 (the Workers Rehabilitation and Compensation (Benefits and Review) Amendment Bill 1994), as the Government has proposed to amend that Bill by amendments placed on file in the Legislative Council on 23 March 1995 and outlined by the Minister for Industrial Affairs in another place on that same date. The Government's Bill of December 1994, as varied by its proposed amendments, has been introduced in this consolidated fashion in an endeavour to assist the progress of Parliamentary debate on this important area of public policy.

As foreshadowed by the Government last December, the Government has consulted widely with the community and with key interest groups in relation to WorkCover reform and in particular its proposed policy initiatives contained in the amending Bill of 1994. This consultation has been a planned program during which the Government has raised critical policy issues essential to the survival and reform of WorkCover and argued the case for fundamental structural changes to the system. Over this period the Government has received submissions and views from workers, employers,

union, industry bodies, the legal profession, the medical profession, rehabilitation providers and other participants in the current scheme.

Since the Bill of last December the Government's commitment to reform has been reinforced by the fact that even during this four month period the WorkCover board has announced that its liability to 31 December 1994 had increased by $76 million to $187 million, and by the fact that the WorkCover Board has announced that levy rates imposed on South Australian industry will have to be increased by a further $40 million from July this year to levels 80 per cent above our national competitors unless significant structural reform is made by the Parliament.

The Government's reform proposals in the 1994 Bill have been grossly misrepresented by some vested interests in the community. The Labor Party in particular has demonstrated massive irresponsibility by playing on the fears of injured workers and by choosing to ignore this legacy of debt caused by Labor's own inept management.

During the past three months the Government has ignored this politically motivated fear campaign. The Government has however listened to the genuine views of employers, workers and the private views of some union officials, as well as others in the community who have drawn attention to some of the more contentious aspects of the Government's policy proposals but otherwise endorsed their objectives. The Government is disappointed that despite the private views of some Trade Union officials, the peak trade union body in South Australia has not been prepared to submit constructive proposals for legislative reform during this consultation period. As a consequence of this process of consultation this Bill modifies some of the Government's policy proposals for WorkCover reform.

These modifications address the more contentious aspects of the Government proposals, introduce a range of additional policy issues justifying amendment by this Parliament and clarify areas of the Government's original policy intention. In adopting this approach the Government has retained the central objective of structural reform. The key areas are benefit level, second year reviews, lump sum payments, the review process, claims administration and workplace safety and prevention.

It is in the area of benefit levels that Government proposals have been most contentiously debated within the community. The Government Bill maintains the principle that the South Australian WorkCover scheme will only be nationally competitive if key elements of its legislative structure, such as benefits levels, are consistent with the standards in other State and Federal jurisdictions.

In order to address the more contentious aspects of the Government's proposed benefit structure but to maintain this objective, this Bill makes a number of important modifications. This Bill provides an alternative package of benefit level changes which maintain the principle of increasing benefits for seriously disabled workers but reducing benefits for long term, partially incapacitated workers to a standard which more closely reflects interstate and national practice. Specific transitional provisions in this Bill are designed to protect benefit levels of existing claimants on the scheme but to allow existing workers with total incapacity to access the Government's proposed higher benefit level entitlements.

Additional policy issues which this Bill specifically addresses include rehabilitation and return to work plans, medical and paramedical costs, medical protocols, legal costs and employer, fraud and levy underpayment. These additional policy issues improve the balance of the overall package of reforms being proposed by the Government. Importantly, the Government's objective is to ensure that the WorkCover scheme will still achieve targeted cost savings and alleviate its financial haemorrhaging and avoid the need for further levy rate increases.

The introduction of the Bill is a further important step in bringing about a balanced, fair and affordable WorkCover scheme for South Australia. As outlined in the second reading speech to the 1994 Bill, it is the responsibility of the community to recognise the serious context in which these policy reform initiatives are being pursued and to ensure that the reform outcome for which this Government has a mandate is implemented. The Government formally acknowledges the assistance of all interested groups, particularly industry bodies, some members of the trade union movement and some legal practitioners for their input and assistance during this period of consultation and review of the Government's WorkCover reform agenda, which has now given rise to the introduction of this Bill. I commend the Bill to the Council and seek leave to have the detailed explanation of the clauses incorporated in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

Clause 1 is formal.

Clause 2: Commencement

The measure will come into operation on a day or days to be fixed by proclamation.

Clause 3: Amendment of s. 2—Objects of Act

It is necessary to amend section 2(2) of the Act to extend the operation of this section to persons exercising administrative powers, especially in view of proposed reforms relating to Review Officers.

Clause 4: Amendment of s. 3—Interpretation

This clause relates to new definitions required on account of this Bill.

Clause 5: Substitution of s. 4

It is intended to revise the provision relating to average weekly earnings. The key concept is basically to provide that a disabled worker's average weekly earnings will be worked out by dividing gross earnings for the last 12 months (the 'relevant period') by the number of weeks for that period. However, an adjustment will be made if a worker's earnings have been affected by the relevant disability, or if the worker is an apprentice or under the age of 21 years (with an expectation of increasing remuneration). Various contributions and payments made for the benefit of a worker will be disregarded. It is also intended to retain a prescribed maximum and a prescribed minimum, as defined under the new section. A relevant consideration under the definition of 'prescribed maximum' will be the number of ordinary hours of work fixed by a relevant award or enterprise agreement. If there is no relevant award or agreement, the prescribed maximum will be ascertained by multiplying the worker's average hourly rate of remuneration by 38. However, the prescribed maximum for a worker will not be able to exceed twice State average weekly earnings in any event.

Clause 6: Substitution of s. 6

This clause will revise the rules as to the territorial application of the Act. The key will be whether or not there is a nexus between the worker's employment and the State. There will be a nexus if *(a)* the worker is usually employed in this State and not in any other State; *(b)* the worker is usually employed in two or more States, but is based in this State; or *(c)* the worker is not usually employed in any State (as defined), but is employed (for some time) in this State or has a base in this State and is not covered by a corresponding law. A worker will be usually employed in a particular State if 10 per cent or more of his or her time in employment is (or is to be) spent working in the State.

Clause 7: Amendment of s. 28—Rehabilitation advisers

This amendment will remove the restriction on the disclosure of information by rehabilitation advisers.

Clause 8: Insertion of new s. 28A

This clause gives statutory recognition to rehabilitation and return to work plans. A plan must be prepared if the worker is (or is likely to be) incapacitated for work for more than three months. Consultation will occur with the worker and the relevant employer. The

employer who has a work force of 20 or more employees may be required to participate in the plan and, in particular, to appoint a rehabilitation co-ordinator to assist in the worker's rehabilitation and return to work.

Clause 9: Amendment of s. 30—Compensability of disabilities

This amendment relates to the key concept that a disability is compensable under the Act if it arises from employment. A disability will now be taken to arise from employment if it arises out of or in the course of employment, and the employment is the sole, or a major, cause of the disability.

Clause 10: Amendment of s. 32—Compensation for medical expenses

These amendments relate to compensation for medical costs under section 32 of the Act. New provisions will recognise the concept of treatment protocols for particular disabilities. Any published scale of costs must be based on the average charge to private patients for the relevant service, not exceeding the amount recommended by the relevant professional association.

Clause 11: Amendment of s. 35—Weekly payments

These amendments relate to the benefits paid to a worker who is incapacitated for work. Benefits will initially be paid according to 100 per cent of notional weekly earnings for total incapacity, or 100 per cent of the difference between notional weekly earnings and the weekly earnings that the worker is earning, or could be earning in suitable employment for partial incapacity. Partial incapacity will be treated as total incapacity for the first year unless the Corporation establishes that suitable employment is reasonably available to the worker. The payment of benefits at the 100 per cent level will be reduced after one year, so that a totally incapacitated worker will be paid at the level of 85 per cent (the Act currently provides for 80 per cent), and a partially incapacitated worker will be paid at the level of 75 per cent for the second year and 60 per cent thereafter. After the end of the first year, the availability of suitable employment will be conclusively presumed.

Clause 12: Amendment of s 36—Discontinuance of weekly payments

These amendments relate to the circumstances where payments may be discontinued. The concept of mutuality is recognised.

Clause 13: Repeal of s. 37

The issues addressed by section 37 of the Act are now to be subsumed into the concept of mutuality under section 36.

Clause 14: Amendment of s 40—Weekly payments and leave entitlements

It is intended to require the employer to make payments for annual leave as appropriate. Weekly payments under the Act will not apply to the extent that the employer makes a payment for annual leave.

Clause 15: Substitution of s. 42

Clause 16: Repeal and substitution of Division 4A

It is intended to replace the commutation provision, and the provision allowing for lump sum compensation for loss of future earning capacity, with a new Division relating to redemption. A redemption will relate to a liability to make weekly payments or to pay for medical expenses. It will be a capital payment, paid under certain specified conditions. The amount of the payment will be determined by agreement. A matter will be able to be referred to a conciliator if agreement cannot be reached.

Clause 17: Substitution of s. 43

This clause sets out a new scheme for the calculation of lump sum compensation for non-economic loss. The extent of a permanent impairment will be calculated according to approved principles. An assessment of impairment and non-economic loss will be undertaken by two medical experts and any disagreement will be referred to the Tribunal.

Clause 18: Amendment of s. 46—Incidence of liability

This clause repeals various provisions relating to payments of compensation by employers on behalf of the Corporation. These provisions have never been applied.

Clause 19: Amendment of s. 53—Determination of claim

A new provision to be inserted in section 53 of the Act will require the Corporation to investigate a matter raised by an employer when a claim is lodged under the Act.

Clause 20: Substitution of s. 58B

It is intended to revise section 58B of the Act relating to an employer's duty to provide work to a worker who has been disabled in his or her employment. The provision will only operate if the worker wants to return to work. The concept of suitable employment is retained (in greater detail). Certain exceptions will apply to the operation of the provision. New section 58C will require an employer to give 28 days notice of a proposed termination of employment of a worker who has suffered a compensable disability. Certain exceptions will apply, including that the termination is on the ground of serious and wilful misconduct, or that the worker's rights to compensation have been exhausted.

Clause 21: Insertion of s. 62A

This clause effectively transfers existing section 98A of the Act so that it will now appear as section 62A (consequential on later amendments).

Clause 22: Insertion of s. 69A

This will allow the Corporation to defer the payment of a levy by an employer in certain cases.

Clause 23: Repeal and substitution of Part 6

This clause provides for the repeal of Part 6 of the Act, and the substitution of new Parts dealing with reviews and appeals. New Part 6 is concerned with a new form of administrative reviews to be undertaken by Review Officers. A panel of Review Officers (the 'Review Panel') will be established by the new Part. New section 81 will provide that proceedings before a Review Officer will be in the nature of an administrative review. There will be no automatic right of appearance before a Review Officer. It is proposed that the Corporation will, on receiving an application for review, give notice to any person who is directly affected by the relevant decision. The person will be invited to make written submissions within seven days after the date of the notice. The Corporation will be required to attempt to resolve the matter by agreement. If a resolution is not achieved, the application must be referred to a Review Officer (together will all relevant material). The Review Officer will not conduct a formal hearing. The Review Officer will be required to resolve the matter within a certain time period. New Part 6A relates to appeals. The Workers Compensation Appeal Tribunal will continue. New conciliation proceedings will be available. The Tribunal will be required to call a conference of the parties before a matter proceeds to hearing with a view to determining the matter by agreement.

Clause 24: Insertion of s. 107A

The Corporation will be required to provide an employer with reports on request. A request will need to be accompanied by the prescribed fee.

Clause 25: Amendment of s. 109—Worker to be supplied with copy of medical report

The Corporation or an employer must forward reports from a medical expert to the worker. It is intended to require that the report be so forwarded within seven days.

Clause 26: Amendment of s 120—Dishonesty

The provision for dishonest practices is to be revised and the penalty increased.

Clause 27: Repeal of Schedule 3

This is a consequential amendment on account of new provisions relating to lump sum compensation for non-economic loss.

Clause 28: Transitional provisions

This clause sets out the transitional provisions that are to apply on account of the enactment of this measure.

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That Standing Orders be so far suspended as to enable the second reading debate and consideration in Committee to proceed forthwith.

The Council divided on the motion:

AYES (11)

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

NOES (8)

Cameron, T. G.	Crothers, T.
Feleppa, M. S.	Levy, J. A. W.
Roberts, R. R.(teller)	Roberts, T. G.
Weatherill, G.	Wiese, B. J.

PAIRS

Pfitzner, B. S. L.	Pickles, C. A.

Majority of 3 for the Ayes.

The PRESIDENT: Order! As there is not an absolute majority, the motion is lost.

Motion thus negatived.

The PRESIDENT: The adjourned debate be made an order of the day for—

The Hon. K.T. GRIFFIN: The next day of sitting, Mr President.

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That the order made this day for the Workers Rehabilitation and Compensation (Miscellaneous Provisions) Amendment Bill 1995 to be an Order of the Day for the next day of sitting be discharged and for the order of the day to be taken into consideration forthwith.

Motion carried.

The Hon. M.J. ELLIOTT: The Bill before us is different in some regards from a Bill that the Government introduced late last year, although it contains a number of elements of that old piece of legislation. Back in January, I said that I could not support nor even seek to amend the Bill that the Government had introduced because I believed that it was so bad in essence that it could not be reconstructed by way of amendment. I was also gravely concerned that it sought to solve the debt problem by one mechanism, that is, by reducing benefits or by taking people off benefits. That was the Government's only way of reducing debt.

I had a view that it was possible to reduce some of the debt and liability of WorkCover without reducing benefits and without removing genuinely injured workers from benefits. Nothing in the Government's Bill that was introduced last year gave any real potential for those other issues to be addressed. The Bill that is now before us is, in many regards, a bad piece of legislation, but at least it starts to focus on some other areas where savings can be generated, without making victims of existing victims.

I note that the Government is claiming that there has been a great deal of consultation in recent months. I find that intriguing from a Government that was champing at the bit for the original Bill to be voted on soon after Parliament resumed this year. The consultation that has taken place since January would not have occurred if the Government had had its way, yet, somehow or other, it is trumpeting that it has gone through a massive consultation process, which it had no intention of doing. Of course, I have had the opportunity to achieve a good deal more consultation.

I must say, it has been an enormously difficult issue to work with: it is probably as difficult an issue as you could get in this Parliament. It is, unfortunately, a direct conflict between employers and employees. Rather than employers and employees seeing this as something they need to work out together, it has been allowed to become a point of conflict, and the line of attack that the Government adopted only accentuated that conflict. The damage it has done industrially in this State is enormous. We have confrontation between employer and employee and, if that comes into this Parliament, we have a direct conflict between Labor and Liberal.

It is the sort of issue the two Parties use for product differentiation. These days the Parties are similar on so many other issues that they need industrial relations matters occasionally to show that they are very different. To show that product differentiation, they tend to go to the extremes, with the Liberal Party doing what the employers ask 100 per cent and the Labor Party doing what the unions ask 100 per cent, neither Party appreciating that there is a need to recognise the views of both sides.

I noted that the Minister said that there were some individual union officials who disagreed with the UTLC line and believed that something had to be done. Let me tell the Minister I have certainly come across some union officials like that: I have also come across quite a few employers who were very distressed by how extreme the Government had been in terms of what they were seeking to do. It is fair to say that the employers' chamber was not always representing the views of all employers any more than perhaps the UTLC was necessarily representing the views of all union members. They were both in their trenches and sniping away. Trying to consult with both those groups was an enormous task. A number of round table meetings were held with the UTLC, the employers' chamber and other persons, and it would be fair to say that we could have met forever and never reached consensus on a number of matters of importance.

That is most unfortunate, because ultimately the good of both groups is dependent upon each recognising the other's point of view, but I found that those meetings were at least a testing of the issues. With both groups being present at the same time, one claim could be met with a counter-claim, and it was possible to explore the issues by that process. It was not until quite late in the piece that the Minister suggested round table meetings with both employer and employee representatives. I understand that both groups went away and had further discussions.

To some extent, the focus was on matters that have not been contained in the legislation. Certainly, the unions have been arguing—and I agree with them—that, if we get safety right, costs automatically go down because there are fewer accidents; and employers, if they were not focusing on this Bill, would say, 'Yes, that is true.' I hope that that coming together that has happened on a few occasions recently will continue, because this is about the interests of these two groups: it is not about the interests of lawyers, doctors, rehabilitators or a lot of other people whose beaks have found their way into workers' compensation, sometimes for good reason and sometimes not.

The Hon. R.R. Roberts: Fingers as well.

The Hon. M.J. ELLIOTT: We will stick to their beaks for now. The Minister wished to claim some sort of Government mandate in relation to this issue. Anyone who takes the time to read the Liberal Party policy, which I have found useful on a number of matters, will find its policy instructive on this issue. The Government quite clearly said that it sought to reduce the cost of workers' compensation. It also clearly said—and I do not have the policy with me but, if members doubt what I say, I will happily bring it in tomorrow and read from it—

The Hon. R.D. Lawson: You carry it with you at all times.

The Hon. M.J. ELLIOTT: Well, it is a very heavy and lengthy document, but quite clearly it says that there will be no reduction in benefits. It could not be any clearer than that. As I said, I think the Government should be kept to its word. By all means, seek to reduce costs, but—

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: I wouldn't be in this place if it weren't for the actions of certain people which I will discuss tomorrow.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: We'll discuss that tomorrow; I'm quite happy to do that.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: Yes. Well, dirt from certain other political Parties had a lot to do with the reason I am here—and you know that, too.

An honourable member interjecting:

The PRESIDENT: Order! The honourable member should deal with the matter at hand.

The Hon. M.J. ELLIOTT: It wasn't dirt against me; it was dirt against someone else.

Members interjecting:

The PRESIDENT: Order! The honourable member will ignore the interjections.

The Hon. M.J. ELLIOTT: They really should behave themselves. I should have thought that the Government was in for an ambit claim with the Bill, but looking at some of the amendments that it has brought forward it appears that there is still a fairly significant ambit in the clause relating to benefits—and I have said that I will have no part of it.

Recently, the Minister has made much of the debt and unfunded liability of WorkCover. I think it would be fair to say that most members of the public and the people who report this issue to the public do not understand the difference between the debt and the unfunded liability. At this stage, the unfunded liability is not a debt, but it could translate into a debt if current trends continued.

The following is an example of an unfunded liability. If an injured worker is being paid compensation, the only debt you will have involves what that person will be paid for the next week, but if that person remains on WorkCover for the next two years there is a liability for those next two years or for however long it is. So the unfunded liability is an extrapolation of what payments may or may not be made, and that assumes that current conditions continue to apply. That means that current levels of unemployment, and so on, must apply indefinitely before the unfunded liability turns into a true debt. The unfunded liability has been prone to significant fluctuations in the past, although it is fair to say that the direction of the current fluctuation and the fact that it seems to be continuing must be a cause for concern for any honest person. I think that anyone who says it is not a matter of concern is dishonest.

So, the unfunded liability is not a debt of $187 million but a liability which will accrue over the next couple of decades if current trends continue. We simply cannot extrapolate into the future with any certainty at all regarding economic matters. Having said that, when one looks at WorkCover related issues I think it is fair to say that within the system there are ways in which we can make it work much better and which will generate savings. If anyone has taken the time to look at the unfunded liability, they will find that the principal reason for the reassessment of the unfunded liability was the actuary's changing his mind about what the return to work rates were likely to be over time. Because the actuary has changed his assessment of what the return to work rates will be, the unfunded liability has blown out.

The Government tried to suggest that the previous Government had attempted to hide this or misconstrue things in some way. That is just political point scoring. The fact is that it is the same actuary: the actuary made the decisions, has changed his mind about the return to work rate and said that in his belief 15 months ago, or something like that, there was no unfunded liability. He has now reassessed what he believes the return to work rates are and, substantially because of that (although that is not the only reason), he has suggested that they are much greater.

The Hon. A.J. Redford: Purely coincidental.

The Hon. M.J. ELLIOTT: Unless the honourable member is alleging that the actuary working for WorkCover is not independent, and if he suggests that he would be suggesting that this new figure was politically motivated, and I am sure he is not doing that. I hope the honourable member is not suggesting that the Minister would have influenced this $187 million figure. So, I will ignore that interjection. If return to work rates have been the major cause of the unfunded liability blow-out, then members do not have to be too much of a genius to work out that fairly minor changes in return to work rates can have substantial effects in reducing unfunded liability. On my understanding, an improvement in the return to work rate of only 2 per cent is sufficient to have an effect of around $25 million annually. In terms of attack on unfunded liability, that alone would probably be enough to wipe out all the unfunded liability and some.

The Government was aiming to save $80 million with the previous Bill, although any honest assessment would show that it would have saved more like $140 million or $150 million. We would probably have had the cheapest and most draconian scheme in Australia if the Government had achieved that. It talked about a target of $80 million, and that would not just have removed the unfunded liability but would have taken WorkCover back down into the very low 2 per cent figures. So, if an $80 million saving does that, then clearly a $25 million saving would more than wipe out the unfunded liability in the longer term. So, a relatively minor change in return to work rates will solve the bulk of the unfunded liability problem and any—

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: Well, I will get to that in a second—further improvement in the unfunded liability will significantly reduce the cost. Starting from that basis, the question is asked: what can one do to improve return to work rates? One point on which I found consensus between both employers and employees was that rehabilitation and return to work programs are not working terribly well. As a consequence of that, I have amendments on file. I cannot say that the Government has in its Bill mark 2 picked up the concept of return to work plans, because the concept already exists but has no force in law. I propose that return to work plans should apply to all workers if the injury is likely to keep them away from work for more than three months and may apply to any other worker as well. We would be looking to an individualised return to work rehabilitation plan applying to each worker which would seek to maximise the rehabilitation and the ability to return to work for that worker, and it would contain obligations on employers and employees.

An example of the types of obligations is that in New South Wales any employer with more than 20 employees must have a person who acts as a rehabilitation contact person with the claims managers. They act as a go between and have the principal role of ensuring that any injured workers on that work site are being handled appropriately. Those types of things are present in other jurisdictions, and Victoria also has quite tight rules. Those types of matters can come into our return to work plans, which will be underpinned by regulations. The regulations that I propose will be promulgated after discussion with both employer and employee and rehabilitation groups. So, in relation to how rehabilitation is to be carried out, we are looking at protocols which meet the general agreement of those three groups. There will need to be agreement by employers and employees as regards the obligations placed on them and rehabilitation providers and also as regards whether or not the proposals are workable.

There is no doubt that rehabilitation in South Australia has often started too late. I have had a number of complaints about the appropriateness of forms of rehabilitation given to some workers—for instance, the differentiation between industrial and vocational rehabilitation. Some rehabilitation providers have been keen to train people for careers totally different from those they had had, when there was a realistic possibility that those persons could have been rehabilitated back to an occupation similar to the one in which they were already involved. That has decreased somewhat over time, but such problems have been raised with me by people, even within the union movement, who have felt that inappropriate rehabilitation has been provided to workers.

While return to work plans put obligations on employers and employees, the obligations would be reviewable. Not only would there have to be consultation about the regulations with key groups representing employers and employees, but the individual employer and employee can seek a review in relation to an individualised return to work plan if they feel that an unreasonable obligation has been laid upon them. However, if obligations have been put in place, it is expected that both parties will comply with them.

The next important area that I shall be seeking to address relates to section 35 of the principal Act. That section relates to the worker's entitlement to receive workers' compensation. Section 35 was looked at quite closely by a select committee in 1991-92. Amendments were moved in this place by Ian Gilfillan in 1992, in relation to section 35, which sought to address issues surrounding the second year review. It was most disconcerting. I know that Mr Gilfillan was concerned that the all-Party select committee having come to a joint agreement and recommendation, when we came back to the House, Labor ran in one direction and Liberal ran in another, taking different positions from that which the select committee had agreed. Ian Gilfillan was moving the committee's position, but he found that neither of the other Parties was prepared to support it, both wanting to shift further in the other two directions from that which he was moving.

The essence of the second year review amendment, which was moved by Mr Gilfillan and which I will be moving in a slightly amended form, is that until two years the onus is on the corporation to show why partial should not be deemed total, and after the second year the onus would reverse and it would be for the employee to argue about the availability of work in the circumstances and so on. That is at the very core of the amendment. There are two extremes which surround that. The Liberal Party's original view was that partial should not be deemed total.

The Liberal Party's view basically was that, if a person had a partial incapacity and if they could not get a job, it was entirely a labour market responsibility and as such they should be entitled only to a partial compensation—the difference between how much they could earn in a theoretical job and how much their average weekly earnings were, less 20 per cent, would be paid. However, the Minister's amendments probably would mean that they would actually get nothing and be thrown out of the scheme totally. So, that is one extreme—a person injured at work would get almost nothing, despite the fact that the injury is the reason why they can no longer get work. Even Government departments have said that they are going to employ people but, when the person has filled in the medical form and answered 'Yes' to the part of the form which asks whether they have been on WorkCover, the person has suddenly found that the job has been refused.

So, it really is a load of nonsense for the Government to say that it is simply a labour market problem, because unfortunately the very mention that a person has ever been on WorkCover can almost make them unemployable, and the sorts of campaigns the Government has run over the past couple of months have not helped that one bit: it has made these people less employable than they were before, and the Government has a lot to answer for in that regard. The other extreme is that, if you cannot get a job, you are entitled for 'partial' to be deemed 'total' absolutely.

I do not accept either, but having not accepted those two extremes it is then a matter of trying to come up with a form of words which recognises that having a WorkCover injury can in itself make you unemployable, even though the level of incapacity might be relatively low. A person on a low level of incapacity, particularly a person in a manual occupation, is quite employable. Obviously they had a job at the time they were injured, or else they would not be a WorkCover recipient. So they had a job; they were capable of holding down a job but, for reasons of language, low education or whatever, this person may have been restricted in the range of jobs available. However, the moment they have an injury—particularly an injury to the back, leg or something like that—they could immediately find themselves completely out of the job market, and it is not because of the job market situation itself: it is because that injury has shifted the person from being employable to being unemployable.

The same level of disability affecting two different people can have quite different results. One only has to look at Hawking, the astronomer/physicist in the United Kingdom, who is totally unable to use any part of his body but his lips now; yet he is still employed and is considered one of the world's leading physicists. He has a disability at one extreme of the range, yet he is still employable. I would argue equally that some people on very low levels of disability can be unemployable because of that relatively small disability. The problem we have is trying to come up with forms of words that recognise those variations, and to realise that we do not have a black and white situation. In fact, right through WorkCover the situation is not black and white although some people want to paint it that way.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: I am saying that if the employee can demonstrate that, as a consequence of their incapacity or disability, they have been locked out of the job market and if they can show that jobs are not available for them, that should be deemed sufficient for 'partial' to be deemed 'total'.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: There are plenty of opportunities to go to court in this legislation. The honourable member would have to realise more than most that adopting black and white positions probably means you do not need courts at all, but you are going to wrong a lot of people in the process. The moment you try to put in some level of interpretation, clearly it is going to happen somewhere, and the courts are clearly one of the options.

I have also addressed clauses 36 and 37, involving substantial amendments and a total rewrite of clause 37. As I have structured clause 36, it talks about discontinuance or reduction of weekly payments in much the same way as the provision has always done. It refers to the situation existing if workers consent to discontinuance or reduction; if their entitlement ceases or is reduced, for example, by the worker returning to work; if weekly payments have been made in

error; and if the worker is without the corporation's written consent resident outside the State or outside the State for more than two months in any continuous period of 12 months: in all those circumstances there can be a discontinuance or a reduction but, as currently provided, all those matters are subject to review. A worker can seek review of a decision under the clause. I will be covering the actual review procedures in proposed new clause 37A.

Clause 37 picks up a concept which the courts are already treating to some extent, namely, the concept of an obligation of mutuality, but it seeks to go beyond just obligations between employer and employee and to look at a recipient's obligation in relation to the scheme as a whole. If we are going to give rights relating to the receipt of workers compensation for injuries at work—and I am prepared to defend those rights to receive such benefits— there is also an obligation placed on a number of parties, including the recipients, and that obligation in my mind is that recipients would do all in their power and take all reasonable steps to maximise their prospects of rehabilitation and return to work.

It seems to me that, if a person is not prepared to do that, in breaching that obligation they are putting themselves in a position where their rights could be placed in jeopardy. As I see it, putting them in jeopardy could initially mean a suspension of payments. I refer, for instance, to a requirement to do something under the Act, under a return to work plan or whatever else—a matter concerning which the people concerned had a right to have reviewed at a prior point: if they then did not conform with the requirements in an unreasonable manner, they are putting themselves in a position where their payments could be suspended until they rectified the breach.

Breaches can vary from relatively minor to major, which I suppose is one of the things that made the drafting of this clause and certainly its final form most difficult. It seems to me that, where workers persistently breach their obligations, they should not be able to keep on reviving their rights to receipt of payments. If a person makes an honest mistake here and an honest mistake there, no-one will complain about that, but where people are really setting up a pattern breaching reasonable requirements—and that is what this would entail—they could put themselves at risk of having their entitlement cancelled. I draw the distinction between the cancellation and the suspension.

I have proposed that any cancellation would require a minimum of three breaches. It is not meant to be along the same lines as the Californian legislation which says that it is three strikes and you are out, because that is three strikes absolutely.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: Clearly not: that is why I said it. Three is sufficient. I am saying that you would need at least that many, but it does not mean that because you have committed three breaches you would be instantly removed. I am saying that three breaches, of which the corporation has given notice under the section (and there may be other breaches concerning which it has not), are sufficient to establish that the worker has persistently breached the recipient's obligation, unless the worker can establish a reasonable basis on which the breaches should be excused. A reasonable basis, it could be argued, was that they were trivial, happened over a 20 year period, and so on. Some people would argue that one very severe breach would be enough, and one of the difficulties I had in the drafting was how to distinguish between a severe and a minor breach. That was not easy.

As with clause 36, the review procedures would be in all respects the same as those under the old clause 36. Having taken a quick look at the amendments drafted for me, I find that they are not quite as instructed, but that is life. I will tackle that one later—certainly before this Bill goes any further. I also have a requirement in clause 38 for an annual review of entitlements to weekly payments.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: It would be required that there would be at least one a year. There might be others, but there would be at least one a year. The next significant issue—I will leave minor ones to the Committee stage—is the redemption of liability. We had debates on commutation about this time last year, and I took the view that in general terms, if commutation was to occur, a true and genuine commutation is to get the value of the weekly payments brought up front: that is what commutation means on any normal understanding of the word. Prior to that debate last time a number of people came to me expressing concern about the sort of things happening: that people on high levels of incapacity were taking commutation; that these large sums of money were a bit like winning Lotto at the time; and that, unfortunately, a number of people with severe disabilities had very quickly used up the commutation amount and were then on some form of benefit.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: You can argue that it is their choice, but it appeared to be happening relatively regularly. What is worse (and it relates to this to some extent) is that a number of lawyers were out hunting for business in this area. I draw a distinction between where a worker wanted to commute and sought out legal advice and some lawyers who were actually seeking out people who were injured and advising them that they should commute.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: In this regard, whilst you say these are matters of free choice, some lawyers were not doing some people a favour by their actions. It is an unfortunate fact of life, but it was happening. So, commutation was being sought. Where you have commutation which is not true commutation—where you have something that gives you less than the real value of your weekly payments—in a number of cases you are not being done an enormous favour at all. If any argument is generated in courts about what the quantum should be, the difference in the quantum of what you are offered and what you receive often disappears in legal fees, anyway.

The Hon. A.J. Redford: It is always a matter of judgment.

The Hon. M.J. ELLIOTT: It is a matter of judgment, but a number of concerns surround this commutation area, particularly when it is not genuine commutation. Nevertheless, having said all that, I do think that some people who are on compensation would really like to be off it. Some people try to generate a picture of people living in the lap of luxury on WorkCover and having a truly wonderful life. I can tell members that a lot of people on WorkCover do not feel that way at all. I have spoken to any number of disabled workers, and I have not formed the impression that they all have this truly wonderful life, and many of them would like to be rid of it.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: Some of them can be, particularly when they are being attacked in the newspapers on a regular basis, because they are treated as the lowest of the low. What is the most degrading of the lot is that in the community there a general picture that anybody who is on WorkCover is up to no good, is abusing the system and is a person with whom you would really not want to associate. They are treated to that regularly in the media and it is no wonder that some of them would like to be out. So, in those circumstances, the question of commutation or even something less than commutation may perhaps be attractive. The question is whether we want commutation to be available to everybody. I have not been convinced that a person with severe injuries should be encouraged out of the system for a lump sum which would be well short of true commutation. On the other hand, there must be many people on relatively low levels of disability who, if they received a smaller redemption sum, could perhaps get on with their lives. This argument has been put to me by some people in the union movement, and this whole issue of redemption will need more discussion than we will give it over the next couple of days.

It would be fair to say that my amendment has finally taken a fairly conservative view now, suggesting that we may offer a redemption sum of $50 000, which will be indexed, to people with relatively low levels of disability. It would not be a matter of simply offering it and it having to be accepted. At this stage I am saying that, where a worker and a corporation can agree on a redemption, it may occur. I was asked why I went for a fixed sum. I think that $50 000 is probably pretty close to the figure that a large number of people on these lower levels of disability might expect to get via a commutation. I was seeking as far as possible to get it out of courts and tribunals and wherever else, where we start arguing over quantums and start introducing new costs into the system.

I guess I could be persuaded about both the quantum and the particular percentage that I have included in my amendment. However, recognising that there is a very large number of WorkCover injuries after two years at about the 10 per cent level, I think that a large number of people could be covered by this clause, even as it stands. Although they are on relatively low levels of disability, I think a lump sum commutation of $50 000—something which will at least clear the major debts they have at that time and which will allow them to get on if they so choose—would be acceptable. It should also be noted that this will not be forced upon them and they will still retain the weekly entitlements that the Act allows. It is not a matter of taking something away: it is a matter of saying, 'Here is something you may seek if you wish to.' Yes, it may be less than the commutation sum, but on the levels of disability we are talking about here I think in most cases it would probably not be too far off the mark. However, at the end of the day, if they wish to take it and the corporation wishes to accept their request then they could be happy and, of course, WorkCover will save some money in the process.

Some people have said to me that by doing this I am putting some sort of a prize here, but I would argue no more so than commutation being seen as a prize to start off with, and in fact in some cases a commutation figure will be more. In any case, I am sure that the corporation would refuse to offer a redemption figure greater than a commutation figure. I do not see it as being a prize to be waited for, and it needs to be recognised that a person will need to have been in receipt of payments for more than two years and some fairly rigorous tests will be applied. I do not believe that it should be easy for a person to get through those tests to win a prize at the end of it, if people wish to put it that way.

I have not as yet addressed some of the Government's specific amendments. There was one other of mine that I have not referred to, that is, a schedule, of which I gave notice earlier today. Many issues have been raised over the past couple of months, issues which are not covered by either the Government's Bill or my amendments and which I think deserve further attention. I think the best way of looking at those is to try, as far as possible, to remove them from the Party political process and refer them to a parliamentary committee. I have had drafted an amendment to the Parliamentary Committees Act, which would establish a standing committee on occupational safety, rehabilitation and compensation. That committee would have an opportunity to do a number of things, including looking at the workings of the current legislation.

I have had some complaints about whether or not occupational health and safety is being adequately addressed at this stage. The committee would have a chance to look at that. I have had arguments put to me that questions of common law should be considered. I have not been supportive of common law being reintroduced, but I note that when common law was removed it was removed as part of a larger agreement. If the Government wishes to persist in wanting to cut back on rights and entitlements then it cannot expect common law not to be on the agenda.

I have not addressed common law in the past couple of months, frankly because I did not have time to do it, just as I did not have time to address a number of other issues that were raised. I feel that the general context of the legislation is not being substantially changed from its original intent when it was passed back in the mid 1980s. If the Government persists in undermining this legislation, common law will be back on the table very quickly. In any event, the issue has been raised and the standing committee could look at it.

It could also play an important role in monitoring claims management and other issues about which there has been a great deal of complaint. The monitoring process will be very important. I found claims management to be one of the most difficult areas in a difficult suite of issues because, before the election, the Government indicated that it would put claims management into the private sector. In my discussions with various individuals, some quite strong cases have been put forward which would suggest that claims management will not produce the efficiencies that have been suggested.

In respect of up-front costs, I imagine it will always be somewhat difficult to work out what claims management costs in the private sector, because many insurance companies want claims management as part of their product range. To some extent, it could be a bit like soft drinks or milk in a supermarket—it is a loss line. There are certain lead items that are run with, but they are sometimes sold at a loss to get people through the door. As workers' compensation will be in the hands of a relatively small number of insurance companies, that is a way of getting people through their doors and to sell them other products. But it will still be paid for. If it is not paid for directly through the levies, if there are inefficiencies in private sector claims management, the costs will be spread through the other insurance products. That is exactly what supermarkets do with their loss leaders.

There is potential for inefficiencies in the private sector. There is potential for losses there to be buried in a company's

overall product mix so that it is not immediately apparent to the users. So, to some extent, accountability in respect of costs will disappear because employers will see the cost of the levy but they will not see the other costs carried inside the system and which are externalised, unless they are externalised from the workers' compensation system itself.

The Hon. A.J. Redford: Is that so bad?

The Hon. M.J. ELLIOTT: It is bad in that, if you are trying to run a business and an efficient economy, you really need to know the costs of any particular operation. I am saying that costs associated with the WorkCover operation will not be apparent up front to the employer. They will be paying their levy, and they will see what that costs them. However, because there is an element of cost cross-subsidisation, when they pay their fire insurance and all the other forms of insurance, they are still paying it. It is bad, because it provides wrong messages about what the system really costs. This whole issue of wrong messages needs to be addressed in the legislation more generally. If you simply hunt lower levies, levy costs in isolation, which is what the Government has done, you fail to send other important messages to employers about safe workplaces and the need to improve safety to get costs down. That is a false message which creates false economies. I would quite happily debate that further, but it has sidetracked me away from the issue of private sector involvement.

A number of concerns have been raised about the down sides of private sector involvement, along with the suggestion that, because claims managers work in the private sector where the principal client is an employer, claims management could be biased. Some employers complain that claims management is biased towards workers, and I guess that employers are hopeful that claims management will be biased the other way, that is, towards the insurance companies. Whether or not that bias occurs will be reliant on the level of monitoring that is carried out and the level of scrutiny of what happens when the various insurance companies are challenged. If some insurance companies are finding that, on review, they are failing more often than others, it tends to suggest that their claims managers are up to no good.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: They don't carry the legal cost—WorkCover does. That is another thing worth thinking about. WorkCover will carry the legal costs, the cost of investigation, and the cost of any medical examinations that are required by the claims managers. The claims managers make the decisions, but they do not bear the costs themselves. Again, unless monitoring is very tight, they will generate costs back into the system. One must recognise that there are potential down sides there.

On the other hand, when I have talked about the history of claims management with employers and employees, claimants and people who are on WorkCover benefits right now, they do not look particularly kindly on the claims management that has been carried out by WorkCover. I do not know why things are the way they are. I can only tell the Council that the overwhelming information I am getting from ordinary people is that, in general, claims management has been done poorly by WorkCover. I get reports that it is changing things, and in another year or two things will be really good. I will not knock that. For nine years now, we have had a workers' compensation scheme in South Australia which the Democrats supported from the outset (although we put some constraints on it at the beginning which the Labor Party complained about). Just to get the record straight, let me state that we have always tried to run a middle path on this issue. The initial legislation was delayed for some time because of the committee that Ian Gilfillan set up to look at this area very carefully. It has had nine years to get its act together in some of these areas. Unfortunately, for whatever reason, it does not appear to have done so. While I have made plain to people on both sides of the argument to whom I have spoken that I have some very real concerns about how claims management will work with private claims managers, the claims management record until now has not been good.

It is at this point that I look at what the Government said it would do. I do not feel absolutely bound by every promise the Government made at the last election but, if the Government wants to break a promise, which it has tried to do with this Bill, it has to have a good reason. When I want to oppose a promise, which I suppose I have done in this place on a few occasions, I have to have a very good reason. In relation to claims management, there are some good reasons not to outsource it, and there are some good reasons why it should be outsourced. On balance, because the Liberal Party indicated before the election that it would do so—it was an issue of some significance; it was not largely ignored—I fall on one side and agree to outsourcing.

Having said that, I believe that the agreement would be subject to a number of matters that I have discussed with the Minister, such as review by parliamentary committee and close monitoring of performance criteria. A range of issues is covered under the regulations whereby reports must be made to WorkCover about a company's performance in certain areas. I believe all that information should be publicly available so that the public, employers and employees can look at the performance of these companies and have a clear idea about how they are performing in a whole range of areas so that there cannot be any potential for a politically inspired cover-up of the performance of either all or some of the companies.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: The whole range of areas.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: It has not: it probably should. I wish to debate other matters but I will have a chance to refer to them later; they are still the subject of discussion between the Minister and me, and as this matter will not be voted on until tomorrow it is best that some of that detail be left until then. However, it is relevant to this discussion and is one of the major reasons why I want to see a standing committee established under this legislation which will keep a close monitoring eye on outsourcing and which can come back to this Parliament if it is not satisfied.

One other aspect I have not debated is that outsourcing should be subject to a sunset clause so that if it fails in three years Parliament will have the opportunity to say, 'You had your chance.' Or if it succeeds Parliament will say, 'Okay, it can continue.' That sort of time frame is not unreasonable so, to that extent, my support for outsourcing is qualified even more.

I now refer to key areas in the Government's Bill. The Government proposes substantial changes in relation to average weekly earnings, the sum effect being to reduce benefits. I found it quite disturbing that the Government tells us it is offering 85 per cent to those with greater levels of incapacity, but it is 85 per cent of average weekly earnings. What was not said in many of the press releases was that 'average weekly earnings' was being redefined so that 85 per cent of the new average weekly earnings would be less than

80 per cent of the old average weekly earnings. One must watch all the time, because that sort of thing is missed by people who are not familiar with the legislation in its greater detail. A general attack on average weekly earnings is, in effect, an attack on benefit levels. I do not believe that, in most of the Government's proposals, there has been any justification for the change.

The Government proposes amendments in relation to rehabilitation which are somewhat similar to those moved by me. Some matters of detail are different but we will get a chance to discuss that in Committee. The Government has included an amendment to section 30 which was not in the Bill that was introduced last year but which has a very profound effect. It is a redefinition of section 30, in particular, the addition of new subclause (b), which refers to a disability arising from employment if the employment is the sole or the major cause of the disability.

On my understanding, this test is probably the harshest test in Australia. I have been provided with some examples of where the current definition purportedly is causing a problem. I note that only about 10 per cent of those examples emanate from South Australia and 90 per cent from other jurisdictions, because those other jurisdictions essentially have a clause that is similar to the existing one. The Government has inserted this amendment since its last draft and suggests that it is not as harsh for workers. I submit that in this very major regard it is.

The Government proposes to amend section 32 regarding compensation for medical expenses. I have not had a chance to read what was put on the table today to see how much that has changed from the amendments the Government circulated during the week before last. I was told that there would not be any substantial changes, so I will debate them on the assumption that there has not been, but I do not know for sure, because I have not had a chance to read them. The proposed amendment to section 32, which relates to medical expenses, brings into the legislation for the first time protocols regarding medical treatment. I think these are fairly important; in fact, the payment of a medical practitioner will be dependent upon the treatment being given according to protocol. It is a way of trying to give some direction to the sorts of medical services that should be provided.

I believe that two protocols have already been drawn up, but they do not have any force in law at this stage. If my recollection is correct, one relates to stress and one to back injuries. They are purely advisory and have been drawn up after a great deal of consultation. With further amendment, I have some sympathy with the notion of protocols, but if there are to be protocols I would like to see them brought about by way of regulation so that this Council will have the capacity to disallow them if they appear to be disadvantageous to a particular group, whether it be an employer, an employee or even a doctor.

There should also be the requirement that those protocols be drawn up following consultation with professional associations which represent medical service providers and employer and employee associations as well. This must occur following adequate consultation so that rehabilitation and medical treatment will be carried out in an agreed fashion. The goal is to ensure that we give the best possible treatment and increase as much as we can the potential for a rapid return to work by and rehabilitation generally of an injured worker.

In my view, the Government's proposed amendments to section 35 are quite ruthless. Whilst they claim to give 85 per cent of workers' notional weekly earnings to those most injured, those on a lower level of incapacity would face 75 per cent for the second year and 60 per cent thereafter.

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: Yes, plus deeming of work. In fact, there are a number of attributes which make this clause unacceptable. I will leave the detail of this clause until the Committee stage tomorrow.

In relation to the amendments to section 36 of the Act, the Government has picked up the notion to which I refer in my proposed new section 37 regarding recipient obligations. It has picked up that notion here and treated it in exactly the same fashion as all other reasons for discontinuance. I have chosen to treat that issue separately from the others in a number of ways, to which I have already referred. The Government has also set about creating a rather long list of reasons for discontinuance, several of which are inappropriate in this place. Nevertheless, it is the overall treatment of clauses 36 and 37 which I have sought to deal with in a different manner.

The Government has also addressed the issue around redemption, and in this case it is seeking totally to abolish commutation and LOEC (loss of earning capacity) payments. It was interesting that when I did an early draft of the Bill the Government offered to have its actuary look at it. Then the actuary said, 'Getting rid of LOEC will cost so many million dollars, so your Bill is not a very good one.' I thought that was pretty rich, considering that both employer and employee groups were saying that they thought LOEC payments should be abolished. Now the Government is proposing to abolish LOEC but, when I suggested it, I was told that it created a new burden on WorkCover. The fact is, as I understand it, that LOEC is under some threat, anyway, for other reasons which I will not explore now. But LOEC has been criticised and does not seem to have any support from either employer or employee bodies. In fact, it is very much out of favour.

The Government is seeking in the place of both commutation and LOEC to bring in redemption. Its form of redemption is the commutation you have when you are not having a commutation, because there is no amount; it is whatever is agreed to between the two parties. There is no actuarially derived figure and, as such, it is capable of creating many of the problems to which I referred earlier when I spoke about redemption.

Union groups generally are interested in exploring redemption further. I was hoping that I would have come to a position where we had final agreement on how redemption would work. However, the union groups simply are not at that position yet, and that is why I have taken a fairly conservative position in relation to redemption. I suspect that they might go for something more than what I am currently proposing, but I also understand they have some concerns with the Government's current model of redemption. Anyway, that is where things stand at this stage.

I now refer to section 43 of the Act, which relates to lump sum commutation. I am still seeking some numbers from WorkCover Corporation in relation to the way in which this lump sum commutation will work. I will make a few comments about lump sum compensation generally before I come to the specifics. There is no doubt that there are some anomalies in relation to lump sum compensation as it currently works under section 43 of the Act. The first anomaly relates to where a worker has multiple injuries.

Currently, they are simply additive: two fingers are worth exactly twice as much as one finger, and three fingers are

worth three times as much as one, and so on. As they are additive, not only does that create anomalies in terms of how much individual parts are worth compared to a single injury, in some cases of similar severity, but also it creates another game which unfortunately is played by a few lawyers who say that they have a legal obligation to find these things. They consider what claim of any sort they can get because it will be additive. The sexual dysfunction claim is a recent one that has been chased. Most lawyers privately say that this has got out of hand but, because it is there, they have an absolute obligation to advise their clients about it.

The Hon. A.J. Redford: If they don't, they get sued.

The Hon. M.J. ELLIOTT: That is right; that's what I said. However, we are in this ridiculous position. Basically, the more of these things that can be found the more they will add on in an arithmetic fashion. Of course, with luck, with many minor things adding up in an arithmetic fashion, one can take oneself over the magical 55 per cent level and its implications. I am not criticising the 55 per cent level and I am not criticising if something is claimable. However, I believe that the simple addition procedure is not the way to go. I am not aware of any other compensation schemes that use it. The Government sought to change this last year. Some members will recall that about nine months ago we voted on—

An honourable member interjecting:

The Hon. M.J. ELLIOTT: This was in relation to a regulation, not a Bill. By regulation the Government sought to rectify it, but it obviously had not done its homework because the regulation had some crazy anomalies within it which the Government had to acknowledge when they were pointed out. I said to the Government at the time that in principle I did not disagree about there being a need for a change, but I disagreed very much with what it was trying on. I told the Government to go away and try to fix it up, but it never came back with anything different, other than what we are now seeing in this amendment.

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: That is the truth of the matter. The amendment in this Bill is the first attempt to address it since that regulation which, as I said, contained some clear and unjustifiable anomalies. There were other ways of fixing it, and I made some suggestions at the time, but they were not picked up. That is the first problem.

I referred to another problem, which was this rapid growth in the number of claims for sexual dysfunction which has raised its head in recent times. Those are the only two problems of any significance of which I am aware relating to section 43 and the schedule. They are capable of amendment, one by regulation and the other within the Act, in a fairly simple way.

Instead, the Government has chosen to go with the Comcare guide. A week ago I sought some figures, which I received yesterday, and that therefore reduced my opportunity to analyse them. I wanted to see the consequences of changing from the third schedule to Comcare with a whole series of injuries. WorkCover provided examples, and I will read some into the record. If members are interested, I shall be happy to give them copies for their own study later.

In relation to the lumbar spine, under the third schedule a 20 per cent loss would be adjudged to give a lump sum of $15 932, whereas under the Comcare guide the same injury would be adjudged to be a 10 per cent loss but would generate a total of $18 758, so that is claimed to be higher compensation.

In relation to an injury to the thoracic spine, a 40 per cent loss in the third schedule giving a lump sum of $23 168 would, under the Comcare guide, be adjudged to be a 20 per cent loss but a lump sum of $30 770 would be payable. So, that is a little over $7 000 more. An injury to the lumbar spine with sciatica, with a loss of 12 per cent in relation to the back and 13 per cent in relation to the leg below the knee, would qualify for a lump sum of $18 183 in the third schedule and under the Comcare guide, with a 15 per cent loss relating to the spine and zero per cent for the leg, a total benefit of $22 009 would be payable. They have also given figures for shoulder, shoulder and neck, wrist, back and ankle, and hand, and, in each case, the figure for the Comcare guide is higher.

On the second page of the table they have provided they list injuries which are more complex in their treatment, and you get the other result, where Comcare gives less. An injury to an arm, which is adjudged to be 85 per cent arm, 10 per cent disfigurement and 60 per cent supplementary payment because it has gone over the 55 per cent, would give a total compensation of $144 000. Under Comcare, the same injury would give $66 000, and that is a good deal less than half. A different arm injury, consisting of 36 per cent arm, 25 per cent disfigurement and 9 per cent supplementary payment, goes from $62 000 under the current WorkCover arrangements under the third schedule down to $23 000 under Comcare. That pattern seems to be repeated with the more complex injuries. So, it appears that, on the face of it, Comcare seems to be more generous with less complex injuries, which I suppose are probably the more common ones, but significantly less generous—in most cases giving between two thirds or down to a half of what the third schedule gives—with the more complex injuries.

On reading this table, I believe that Comcare is going to give small increases in some cases and is going to be giving quite significant decreases in relation to the less common, more complex injuries. So there would be winners and losers, and how the totality of the sum would work out I have no idea at this stage. However, I note that the Government has been advised that it would save about $1.1 million a year by the changeover, and it is claimed that most of that would happen by a saving in legal and medical costs, but how that $1 million saving is produced and whether or not it is at the expense of injured workers or because the medical and legal matters are less complex, I do not know. On the face of it, it appears to me that the Comcare guides are probably easier to work with, recognising that most medical practitioners are not as familiar as they should be with WorkCover and third schedule requirements, and so on. I was also given by a lawyer an analysis of the impact of a single injury.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: I am going to quote him, although other people might dismantle his argument.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: He will stand or fall on his figures; I simply do not know. I have a letter written by a person who had spoken to me on behalf of the Law Society, but I am not quite sure whether it is written in his own right, so I will not name him. In his rather lengthy submission he says:

> The effective maximum levels of compensation that can be granted to workers will be massively reduced. An obvious example arises in respect of loss of function of the cervical spine. Under the current section 43 the maximum compensation a worker can receive for this impairment is 80 per cent of the prescribed sum. Under the Comcare guides the maximum a worker can receive (after allowing for pain and suffering) is 26.56 per cent of the prescribed sum. That

is as a result of the formula set out in the (1994) proposed section 43. To achieve that level of benefit would require not only a total loss of function of the neck but also require:

Continuous and severe pain preventing activity which is uncontrolled by medication.

A constant focusing by the worker on their condition whereby they are ruled by their emotions, where symptoms predominate over thinking, an inability to cope where activities are severely restricted and treatment is of no real help.

A loss of amenities whereby they are dependent on others for assistance, have difficulties relating socially to anyone, have an inability to undertake any satisfactory or rewarding activities.

A loss of life expectancy of between one to 10 years.

This person claims that if all those things happen one could then make the maximum claim of 26.56 per cent as distinct from 80 per cent under the old scheme. The quote finishes, as follows:

A prescribed sum for an injury occurring in 1994 is $96 200. An assessment for total loss of function of the cervical spine would therefore entitle a worker injured in 1994 with the disability set out above to compensation of $25 550.72 [that is the maximum]. At common law a disability of that type would entitle an injured worker to a pain and suffering payment in the region of $250 000. It can therefore easily be seen that if the Comcare guidelines are used the 'quid pro quo' of the abolition of common law claims for pain and suffering has been completely undermined.

I put that on the record. If the figures are wrong, the Government has the opportunity to rebut them.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: We might be just talking about it but the numbers involved are not trivial, although the Government claims there are few savings in it. The Government claims that there are not any significant savings in this. There are savings in some areas, which I have acknowledged and which should be tackled. I refer to the area of sexual dysfunction and the area of multiple injuries. I have expressed a preparedness to look at those two issues, and it seems to me that that can be done in the context of the current section 43 and does not necessitate the Comcare guidelines. The Government would have to convince me absolutely that the Comcare guidelines are not producing sufficient reductions in benefits to workers. It has not convinced me to this stage. The Government has two options. One option is to convince me that there is not a significant cost. The second option is to address section 43 in the way I have suggested as to sexual dysfunction and the regulation. The issue can be looked at by the standing committee in more detail than is possible at this stage.

They are all the issues that I intended to cover in the second reading. I suppose that members in this place must be thankful that I have not had time to prepare my speech because I have been too busy working on the amendments. I gave a commitment in January that I was prepared to see some change. The change would not be driven just because of the need to save money but, nevertheless, I recognised that there were some potential savings there. When I set about doing it, I did not set about trying to produce a particular sum. It was more a matter of what I was convinced was fair and reasonable. There are significant components of the Government's Bill that are not fair and reasonable and, as indicated, those components will not have my support. I support the second reading.

The Hon. A.J. REDFORD: Since I was elected in December 1993 I have discovered that WorkCover is the most confused and difficult issue with which I have dealt. The debate on WorkCover has been emotional and difficult from whatever perspective it has been approached. The issue has raised passions in the community which are genuinely held by all stakeholders. Indeed, in some quarters the debate has been marked by self-interest groups marking positions from which they will not budge. There has been an absence of rational thinking and discussion in some quarters in the headlong rush to protect a position or to entrench a change. Sectional interests have clouded judgment and views on the issues that are before this Parliament. Unfortunately the topic of workers' compensation in this State has become a political football, focused not on the issue of an affordable and fair system but on who can get the most political mileage and, to a large extent, who can shift the enormous cost of work-related injury onto whom.

Workers' compensation should be simple and understandable: it is not. The whole issue of workers' compensation and rehabilitation can come down to two points: first, the shifting of the cost of work-related injury; and, secondly, the reduction of the cost of work-related injury and the form of rehabilitation and occupational health, safety and welfare, including efficient management. This Bill and its amendments deal principally with the former. By shifting the cost of work-related injury it is really a question of who pays, and on any analysis there can be only three payers: first, the system—the Government or the community; secondly, the worker; and, thirdly, the employer.

The intention of Governments over the past 10 years has been that the cost to the community and Government should largely be constant. This is reflected in the requirement of the current Act that the system be self-funding. As such the principal focus has been on the balance between the worker and the employer. There is no doubt that in any system of compensation the worker and the employer have to bear the cost of work-related injury. No system on the grounds of justice, practicality or desirability can place the whole of the cost of work-related injury onto either the worker or the employer. This Bill, with the system that currently exists, is a reflection of an attempt to find an appropriate balance between the two. My personal examination of this whole issue has been frustrated to some extent by insufficient and inconsistent claims and information. In saying that, I make no direct criticism of anyone: it is quite clearly a difficult issue which must be confronted. My contribution is not definitive. I seek merely to go on record on a number of issues which concern me.

The history of workers' compensation, and to a lesser extent rehabilitation and occupational health and safety, commences in 1884 in Germany, when Bismarck introduced workers' compensation to the world. By 1900 workers' compensation programs existed in 11 countries. In the next 100 years over 136 countries in the world had a workers' compensation system of some type. In May 1887 the United Kingdom brought in workers' compensation legislation which was extended in 1906. South Australia was the first State to introduce a Workmen's Compensation Act, in 1900. The Act was limited in that it covered only workers in factories, shipping, railways, electricity, water, mines, engineering and building work. The South Australian Act was replaced with a new Act in 1911, based on the latter United Kingdom legislation. This was followed by amendments each year from 1918 to 1927, and the Act was eventually revised and consolidated into the Workmen's Compensation Act in 1932.

A major new Act was introduced in 1971 which was substantially amended in 1973 and completely restructured workers' compensation in South Australia. The Act was regularly amended, and in 1978 the Byrne Committee was

established by the then Labor Government to look into the whole area of workers' compensation, rehabilitation, occupational health and safety. It also considered the removal of the worker's right to common law actions.

Between 1980 and 1985 premiums increased at the rapid rate of an average 22 per cent per annum. It is important to note that this occurred in the context of an historically high inflation rate. Following extensive consultation between employers and unions, new legislation was eventually considered by Parliament in 1986 and led to the commencement of WorkCover in 1987.

Despite recommendations, the common law system was initially retained. As a consequence of this, the issue of compensation ignoring rehabilitation and occupational health and safety relied substantially on three factors: first, common law compensation for damages caused as a result of fault on behalf of the employer; secondly, compensation to a worker irrespective of the cause of the injury; and, thirdly, social security. The new Bill was applauded, because there would be an increased emphasis on occupational health and safety and also on rehabilitation. These ideals and hopes were lofty indeed but they perhaps excluded more pragmatism and experience than they should have.

In relation to occupational health and safety, it was felt that prevention of injury by improving work systems and imposing heavy penalties and standards on employers would reduce the number of work related accidents. The objective was and still is admirable. In relation to rehabilitation, the object was to get workers back to work as quickly as possible, and this object was sought to be achieved by a number of means. A growth industry was created in the area of rehabilitation. The objectives of the Liberal Government in the area of worker safety are simple and twofold: first, it must be cost effective; and, secondly, it must be fair. The worker safety policy issued by the then Liberal Opposition in December 1983 stated:

> A Liberal Government will restructure the administration of workers' compensation, health and safety to guarantee to employees a safety, compensation and rehabilitation system which ensures equity and fairness, promotes a shared responsibility for safety and rehabilitation and achieves international standards in administrative efficiency and cost.

It went on to say a number of things, including:

> To encourage employers and employees to adopt as a matter of the highest priority a shared vision for the prevention of work related injuries and diseases.
>
> To ensure that equitable compensation benefits and rehabilitation services are available to all people who are genuinely injured at work.
>
> To ensure that premiums paid by employers are equitable, affordable, responsible and competitive with those applying in other States.

In addition, the policy went on to require that WorkCover be self-funded and commercially organised; that it have a more efficient, consistent and effective administrative procedure; that it be financially viable (and I stress that) by placing a greater emphasis on and facilitating rehabilitation; that it be recognised that successful claims management and rehabilitation required a team effort; and, finally, that the accrued benefit rights of individuals injured at work would not be jeopardised by retrospective legislation in the Parliament.

The policy went on to make a number of statements in the compensation area; for instance, that an audit be required before the board assumed any expanded operation; that WorkCover may tender out to the private sector insurance companies some or all of the collection of levy fees and the management of claims administration; and that the WorkCover scheme continue to be operated on a fully funded basis. In addition, the review process would be modified so that it was quick, consistent and fair to those who wished to challenge the claims management decision making process.

It is also important to note that the Liberal Opposition at that stage (bearing in mind that as it was in Opposition it did not have all the information at its fingertips) stated:

> The board will be required to achieve nationally competitive levy rates for South Australia, recognising the commitment to achieve this by 1993-94 in the Labor Government's industrial development statement published on 22 March 1991. It is also noted that WorkCover has now given assurances—

and I ask members to note that—

> that this can be achieved by 1997-98 without reducing benefit levels. The objective of this Liberal policy is to accelerate this process so that South Australia achieves competitive levies much closer to the time promised by Labor, without reducing benefits for those injured at work.

I remind members that is predicated on the basis of WorkCover assurances given in 1991 to both the previous Government and this Parliament. More specifically, the policy went on and stated a number of things which included restriction of clients' journey accidents, allowing opportunities for working directors to participate in the scheme, increasing penalties in the area of fraud and a review of the administration of the Government Workers' Compensation Office. It is quite clear that the public expectations were the same as those of the then Liberal Opposition, and the expectations on behalf of the public were quite rightly very high.

My biggest concern in relation to this whole topic relates to the management of the system. Whether or not the system is inherently unmanageable or, alternatively, is poorly managed is something that I simply cannot answer. Whether WorkCover is to be a statutory corporation or a department is an important issue, assuming that Governments should be involved at all in this area. It is my view that WorkCover should be under the direct control of the Minister. The current administrative system puts the Minister, and ultimately the Government, in an impossible situation. There is a view that the Minister should have as little control as possible. That is why WorkCover was established as a statutory authority.

Indeed, the Democrats—and I have heard the Hon. Michael Elliott's contribution—support that view. However, the simple fact is that the Australian Democrats are singularly unable to understand how our system of responsible Government works and how they are playing a major part in undermining that system. So as to remind the Australian Democrats, I point out that one of the strongest advantages of the system of responsible government in the Westminster system is the fact that a Minister is accountable to the Parliament for the conduct of his department. If a Minister losses the confidence of the Parliament, or at least his relevant House, then he resigns or he is dismissed. He is the subject of daily questioning in relation to the administration of his department, but not so with WorkCover. Why? Because of the Australian Democrats' position that WorkCover should be an independent statutory authority not accountable to any individual but accountable to Parliament.

The fact is that by introducing legislation in such a way WorkCover has become an institution that is accountable to no-one. It has become a political football and of late has become an opportunity for the Hon. Michael Elliott to grandstand and seek maximum publicity. To put it another

way: when Parliament, as it has in the case of WorkCover, seeks to minimise the control of an institution by a Minister then that Minister can hardly be said to be responsible for the performance of that institution. If something goes wrong the responsibility must be with Parliament. Given the Democrats' position in having the balance of power, then the responsibility must in real terms lie with them. My belief is that the electorate, which is becoming increasingly more sophisticated, will come to understand that.

In looking for accountability in responsibility, who is to be held accountable and responsible? In strictly legal terms, WorkCover is an independent authority: it is not directly accountable to the Minister; it is a statutory authority and its principal obligation remains the implementation of the Act as amended. Parliament's responsibility in supervision to date has left a lot to be desired. For example, where is the definitive answer as to how to achieve the basic and fundamental objectives of WorkCover? Where was the Hon. Michael Elliott when WorkCover announced its losses and continuing losses? I sit in the Parliament and I have yet to hear one word of concern on his part about those issues.

A number of amendments relating to the general management have been made since the WorkCover legislation was introduced. I remind members that section 66(8)(b) of the Act requires the WorkCover Corporation to establish and maintain sufficient funds to satisfy the corporation's current and future liabilities in respect of compensable disabilities attributable to traumas occurring in a particular period from levies and also to make up any insufficiency in the compensation fund arising from previous liabilities and expenditures or reassessments of future liabilities. In other words, the corporation must strike levies so that the system is self-funding and that future liabilities are taken into account. It is not to be run at a loss and there is no expectation that any shortfall in costs is to be made from the taxation dollar.

There are have been real concerns regarding WorkCover and its management ever since it was first introduced in 1986. I have grave concerns about the unfunded liability of the organisation. The WorkCover Corporation, despite amendments to the Act in almost every year since its introduction, continues to have considerable unfunded liabilities. This can be clearly illustrated by a chart prepared by the Parliamentary Library. I have prepared a summary of the amendments, and, at the time of the amendments, the estimate of the unfunded liability as appears in the annual reports, and I seek leave to have this incorporated into *Hansard*.

Leave granted.

Summary of amendments

FINANCIAL YEAR	NAME OF ACT	DATE OF ASSENT	UNFUNDED LIABILITY
1986/87	Workers Rehabilitation and Compensation Act (No. 124 of 1986	24.12.86	Not Applicable
1987/88	Workers Rehabilitation and Compensation Act Amend. Act 1987 (No. 106 of 1978)	17.12.87	Not Applicable
	Workers Rehabilitation and Compensation Act Amend. Act 1988 (No. 39 or 1988)	24.8.88	
1988/89	Statutes Amend. (Workers Rehabilitation & Comp.) Act 1988 (No. 97 of 1988)	15.12.88	-18
1989/90	Workers Rehabilitation and Compensation Act Amend. Act (No. 34 of 1990)	26.4.90	-151
1990/91	Workers Rehabilitation and Compensation (Misc. Prov.) Act Amend. Act 1991 (No. 4 of 1991)	21.3.91	-135
1991/92	—	-	-97
1992/93	Statutes Amendment (Public actuary) Act 1992 (No.69 of 1992)	19.11.92	+5
	Workers Rehabilitation and Compensation (Misc.) Amend. Act (No. 84 of 1992)	3.12.92	
	Statutes Amendment (Chief Inspector) Act 1993 (No. 1 of 1993)	25.2.93	
	Workers Rehabilitation and Compensation (Review Authorities) Amend. Act 1993 (No. 52 of 1993)	20.5.93	
1993/94	Workers Rehabilitation and Compensation (Admin.) Act 1994 (No. 49 or 1994)	16.6.94	-111

The Hon. A.J. REDFORD: We note from the chart that in the 1989 financial year, there was an unfunded liability of $18 million. This blew out to $151 million in 1990. This was a staggering growth of some $133 million in one year or an increase of nearly 750 per cent. The annual report of WorkCover Corporation to June 1991 showed an unfunded

liability of some $135 million. In January 1993 the WorkCover annual report was tabled showing that an unfunded liability for the financial year ended June 1992 was some $97 million.

In 1993, following a series of recommendations from a joint select committee, extensive amendments were made to the Act. In early December 1993 the annual report for the period ending June 1993 showed no unfunded liability. Indeed, it showed a remarkable turnaround of some $102 million, leading to an excess of assets over liabilities of some $5 million. Coincidentally, the last State election took place shortly after the release of that annual report. I must say it has a real State Bank smell. In January 1994 the annual report showed that there was an unfunded liability of $111 million for the year ending 30 June 1994. This was an unexplained downturn of some $116 million. In reality, in a two year period, the position has fluctuated by some $213 million, and quite frankly, that is cause for some grave concern.

A press release from the Minister for Industrial Relations, issued on 8 March 1995, indicates that the unfunded liability is continuing to grow at the rate of $12.6 million a month, or over $150 million per annum. On my calculations at the end of March, the unfunded liability could be as high as $170 million by the end of this financial year. To put the issue into some perspective, one needs to consider what $12.6 million per month really means. It is approximately $3 million per week or $400 000 per day. During the course of my speech, we have lost a further $12 000. Indeed, the Hon. Michael Elliott has been sitting on this matter since early this year, and I believe his procrastination has cost the State's employers $24 million, and that is growing at an increasing rate. When that is contrasted with the performance of past Labor Governments or the head in the sand mentality of the existing Labor Opposition, it pales into insignificance. However, $24 million is a lot of money.

Of great concern has been the nature of the qualifications that are now starting to appear in annual WorkCover reports. In the annual report for the 1991 year under the note, 'Outstanding claims liability', the following appears:

> The financial statements include a provision for an actuarial estimation of future liability for outstanding claims. This provision provides for unsettled claims, whether reported or not, which have occurred since 30 September 1987 and for which a liability extends over future years (potentially in excess of 40 years in some cases).

To determine the magnitude of this provision, the corporation obtained two independent actuarial valuations for outstanding claims. These were obtained from Mr R. Cumpston of John Ford and Associates (Melbourne) and Mr D. Finnis of Tillinghast. Their certificates were published as appendices to the financial statements.

Following an internal assessment—whatever that may mean—of the two actuarial valuations which recommended provisions for outstanding claims of $657.8 million and $672 million, the board of WorkCover decided to adopt the mid point of these recommended provisions of $664.9 million. Why it did this has never been explained. The appendices to the notes state:

> Our estimate for these liabilities of approximately $658 million is gross of all expected recoveries and includes an allowance of $60 million for future administration costs related to outstanding claims. Due to the long-term nature of many liabilities and the relatively small amount of relevant experience, substantial uncertainty remains as to the adequacy of this amount as a provision for future outstanding claims payments. In arriving at our estimate, we have assumed the inflation rates of 5 per cent per annum for future claims payments with the expectation of common law claims for which an effective 10 per cent per annum rate has been chosen. All future payments have been discounted using an expected rate of return on investment of 10 per cent per annum. . . The weighted average duration of future payments is estimated to be 6.7 years.

That was Mr Finnis. On the other hand, Mr Cumpston is quoted as saying:

> In estimating the provision needed for reported and unreported claims outstanding at 30 June 1991, we have assumed benefits inflation at 6 per cent per annum, investment earnings at 10.8 per cent per annum, and administrative expenses of 8 per cent of claim payments in all future years. We have assumed that two-year reviews will result in an average 15 per cent reduction in weekly payments and that weekly payments will thereafter reduce to 15 per cent per annum. Of the total provision of $672 million, $210 million is in respect of payments likely to be made in 1991-92. The weighted average expected term for settlement is 74 months. . . The economic recession may be increasing payment levels. There is thus considerable uncertainty about the provision needed for outstanding claims.

It is important to draw the attention of members to the statement made by the Joint Select Committee into the Workers Rehabilitation and Compensation System tabled in this place on 27 May 1993, at page 32, where it states:

> Some submissions drew attention to the imprecision of actuarial assessments based on forecasting and large unknown forces and suggested that the estimated gap may be even greater. . . The level of unfunded liability during 1991-92 dropped to $97 million, an improvement of 27 per cent over the $135 million of the preceding year. The scheme liabilities as at December 1992 are $706 million, with assets at this time of $680 million leaving a shortfall of $26 million or 96.25 per cent fully funded. This means that the scheme is effectively fully funded, but the corporation expects to secure the 100 per cent funding objective ahead of its original target date of 1995.

So much for the predictions. I invite members to contrast the statement made on page 37 of the joint select committee's report with the statement of Mr Cumpston in 1991 when he said, 'The economic recession may be increasing payment levels.' The joint select committee stated:

> The joint select committee notes the actuarial advice that approximately 50 per cent of the reduction in claims can be attributed to the effect of the recession in the early 1990s. The committee recommends that, as the South Australian economy improves, WorkCover continues to take a conservative business view and to plan for possible future lower returns on its investments and increased claim numbers and other pressures on the scheme.

One must wonder why the joint select committee noted the actuarial advice that half the reduction in claims could be attributed to the effect of the recession whereas Mr Cumpston stated that the economic recession may result in increasing payment levels. It does not add up. There appears to have been no reason given by the committee either supporting its position or refuting Mr Cumpston's statement.

By the year ending 30 June 1993 John Ford and Associates were no longer to be seen. WorkCover had decided to use the services of Tillinghast exclusively. In the annual report to 30 June 1993 the following was stated:

> Due to the long-term nature of many of the liabilities and the relatively small amount of relevant experience, any estimate of long-term liabilities is uncertain and may be considerably higher or lower depending on unforeseen changes to the underlying scheme conditions. We have assumed an inflation rate of 4 per cent per annum for future claims payments. The scheme's investment fund has been restructured to achieve an average rate of return of 9 per cent per annum over the long term. We believe this is appropriate for discounting all future expected payments as it is the rate the WorkCover Corporation anticipates it could earn if sufficient funds are available to meet claim liabilities as they fall due.

Twelve months later, for the year ended 30 June 1994, the same group presented a considerably longer report, which states:

> The estimation of the number of late reported claims and future claims payment is subject to significant uncertainty. The level of uncertainty reduces from year to year as additional claims experience develops for the scheme. An element of additional uncertainty was however introduced by the effect on the scheme of benefits of the December 1992 amendment to the 1986 Workers Rehabilitation and Compensation Act. There is also a degree of uncertainty surrounding future claim inflation and investment returns on the assets underlying the liabilities. We have assumed an annual average rate of return of 9 per cent on the scheme's investment fund. Our estimate of the liability for workers' compensation claims and recoveries outstanding as at 30 June 1994 are shown below:

Gross liability for claims outstanding (excluding claims administration costs)	$750.1 million
Future claims administration costs	$56.3 million
Recoveries	$62.4 million
Liability net of recoveries	$744 million

For the first time we hear of 'late reported claims'. The additional uncertainty posed by the 1992 amendments was not referred to at all in the 1993 annual report. There is no attempt to quantify that uncertainty. Does that account for the $140 million difference? The figures are far too significant to be dealt with as glibly as they have been in the annual reports. If we, as members of Parliament, are to be held responsible, I believe we are entitled to a better explanation.

Another issue is the amount attributable to future claims administration costs. In 1991 they were estimated at $60 million and in 1994, $56.3 million. Adjusting for inflation, that is a reduced estimate of about $16 million. There has been no explanation as to why there was such a reduction. If, on the one hand, legislative amendments increase uncertainty, why, on the other, was there such a reduction? Indeed, the total estimated liability by the actuaries has hardly altered. If that is so, why are we losing money at the rate suggested by WorkCover? Has the rorting released publicly by WorkCover always been there? If so, why has it not been identified earlier? Why has Parliament not dealt with it earlier?

WorkCover has provided the Minister with some interesting figures as part of the current round of legislative amendments. Some of the highlights include: legal expenses have increased from $5.7 million in 1992 to $12.6 million in 1994; commutations have increased from $700 000 to $17 million in the same period; weekly payments have increased from $108 million to $132 million in the same period; lump sum permanent disability payments increased from $27 million to $45 million; and common law payments increased from $5.1 million to $12.8 million. I am not sure why that has occurred, because there is no administrative explanation. I seek leave to incorporate in *Hansard* a schedule provided by WorkCover in relation to claims duration and the average cost per claim.

The PRESIDENT: Is the table purely statistical?

The Hon. A.J. REDFORD: It is purely statistical.

Leave granted.

CLAIM DURATION	APPROX. NOS	COSTS SINCE 1987	AVERAGE COSTS/ CLAIM
No time lost	250 000	$3 million	$300
Less than 12 months	63 000	$300 million	$5 000
More than 12 months	8 000	$800 million	$100 000

Source: WorkCover

The Hon. A.J. REDFORD: When one considers these figures, it is quite clear that the real financial problem pertaining to WorkCover lies in the area where claims duration exceeds 12 months. WorkCover claims that 3.5 per cent of all claims account for about 43 per cent of all claims expenditure. It goes on to suggest that many claims which receive income maintenance actually involve relatively minor levels of incapacity. Nearly half the claims on income maintenance at three years involve 10 per cent or less incapacity. Therefore, there is a steadily increasing claims tail, and this is the major contributor to the current unfunded liability. I do not dispute that fact in any way, shape or form: my absolute concern is with the manner in which this claims tail has been and continues to be dealt with.

The fact is that the average cost per claim of a claim exceeding 12 months is $100 000, amounting to $800 million worth of costs since 1987. On my calculations, 68 per cent of claims fall into that category. If one takes a broad brush approach to the total liability of the corporation ($687.7 million in 1994), it will be seen that 68 per cent of that is attributable to claims that have a duration of longer than 12 months. If that is the case, $465 million worth of WorkCover liability falls into that category. If the average cost of claims exceeding 12 months were reduced to $75 000, our liability would disappear. What concerns me is why WorkCover will not commute more often. If we can reduce the average cost to $75 000, our problems are solved. Why do we not ask the workers themselves? I do not think that anyone would disagree that this is the area which needs to be considered the most carefully in any reform of WorkCover law.

I suggest that, if the average cost of such a claim is $100 000, a lump sum payment or a ceiling on lump sum payments of less than that would have a dramatic effect on the total of the unfunded liability of the corporation. My colleagues in the legal profession inform me that nearly 100 per cent of their clients who are long-term income maintenance recipients would jump at the opportunity to finalise their claims and entitlements by taking a capital tax free payment. Sadly, either WorkCover is unaware of this or, for reasons best known to itself, it refuses to respond to the workers' demands. Long-term income maintenance recipients are crying out for the opportunity to get out of the WorkCover system nightmare with some dignity and some prospect of a future without bureaucrats.

The position of exempt insurers continues to intrigue me. South Australia has the largest number of exempt employers in the country. In the Comcare system there are four exempt employers; in Victoria, 21; in New South Wales, 51; in Western Australia, 14; and in Tasmania, 22; South Australia has the highest in the land at 54 exempt employers. In addition, Government departments and authorities are also excluded in South Australia. When one considers the number of health care organisations or Mitsubishi, BHP, Bridgestone and the like, which are self-insured or exempt, it can hardly be said that they are in the low risk area. Indeed, in the cases mentioned they are in the high risk area. If I am correct in that assumption, it is trite to say that, if the self-insureds were not managing their system correctly under the current guidelines, enormous pressure would have been placed by them on the current system, and the press would have been inundated with complaints. To date, I have not seen any evidence of such pressure: indeed, they have been conspicuously silent, and I wonder whether this might provide us with some clue in relation to the management of WorkCover.

I have also made inquiries from various private insurers about income protection and maintenance. The following two examples are illustrative. The coverage is for 24 hours a day,

seven days a week for both sickness and accident. The cause of the sickness or accident does not have to arise out of employment. In both examples there is a waiting period of one month. The premium to protect an income of $30 000 per annum against both sickness and accident until the age of 65 for a 40 year old is $1 190 and, in respect of an annual income of $23 000 for a 30 year old to the age of 65 for both sickness and accident, the premium is $540 per annum. Based on an average WorkCover premium of 3.8 per cent, the premium in the respective cases is $1 146 (or $44 higher if you go to WorkCover) and $869 (or $320 if you go to the private insurance company).

Whilst these cases are illustrative only, they highlight the comparative differences between WorkCover and the private sector. I appreciate that WorkCover has different responsibilities and does not have the capacity to refuse cover, but the differences between the financial benefits offered are quite substantial. Private insurers indicate that the factors that influence premiums in relation to work related schemes include: first, sex; secondly, waiting period; thirdly, benefit payment period; fourthly, the type of employment; and, fifthly, the premium protection. I believe that WorkCover, as a public monopoly, has an absolute duty to explain and justify the differences. As a parliamentarian supposedly responsible for WorkCover's performance, I have never received any explanation in any quantifiable or independent way. How can I or any backbencher in this place be held accountable in the way envisaged by the Act in the absence of that information?

In relation to the legal profession, there is a universal mistrust of the role of lawyers in the system. Quite frankly, I deplore some of the criticism that has been made of my professional colleagues by my political colleagues. There seems to be some viewpoint within certain quarters that an attack on the legal profession justifies reform of the law. Submissions by the Law Society on this topic have been dismissed on the ground that lawyers are arguing for a position of self-interest. That has been the case from the very inception of the scheme. I remind members of a series of predictions made by the Law Society over a period of time in relation to the no fault system which we currently have in South Australia. First, Mr von Doussa QC (now Justice von Doussa of the Federal Court) stated in the *Law Society Bulletin* of July 1983:

> The board would have exclusive functions of processing and paying claims, settling disputes, setting and collecting premiums (insurance through the general insurance industry would no longer occur) and controlling rehabilitation of workers. The Minister said these proposals would cut administration costs by 60 per cent and premiums by 30 per cent. The society remains strongly opposed to the abolition of common law damages. Whilst a case exists for compensating those who are not entitled to common law damages this should not be done at the expense of those who are entitled. The society believes that any scheme along the lines of those presently operating in different places. . . will not give any long-term saving to the community. On the contrary, it is likely that any such scheme and the costs of the bureaucracy that will administer it will quickly become so expensive that benefits will not be maintained in real terms.

I draw members' attention to the fact that prior to the promulgation of this scheme there were approximately 60 people involved in this industry in the employ of insurance companies. WorkCover has approximately 700 employees covering pretty much the same work as the previous 60 employees, in addition to also providing almost a quasi-judicial system. However, this highlights some of the inherent inefficiencies in the system. I do not blame the individual employees for that but I blame the system in which they have to operate. Benefits are not being maintained in real terms just as Justice von Doussa QC predicted. In 1986 the then president of the Law Society, Terry Worthington QC, said in the January edition of the *Law Society Bulletin*:

> The Workers' Rehabilitation and Compensation Corporation is to be the sole authority responsible for administration of the Act. Included in that body's role would be the responsibility of funding the three-tiered system of review and appeal which initially will involve a review officer employed by the corporation and thereafter rights of appeal to a Workers' Compensation Appeal Tribunal.
>
> The cost savings set out in the white paper are largely illusory and appear to be based on assumption rather than on fact. To establish a new bureaucracy to replace insurance companies will be costly, bearing in mind that it will assume the existing functions of private insurers as well as new functions. The white paper on published costings does not show that this system will be more cost efficient.

The *Law Society Bulletin* of July 1986 stated:

> After making allowance for an assumed likely cost increase of 12 per cent in the present workers' compensation system to upgrade existing benefits, the report discloses that the proposed scheme will result in a cost increase to insured employers of 28 per cent and a massive 51 per cent cost increase for self-insured employers. As has been pointed out, these estimates are conservative since a fairly optimistic view is taken in the report of the impact of rehabilitation on the new scheme.

I remind members that this optimistic review of rehabilitation has dogged consideration of these issues since it was first considered in 1986, and again we have the Hon. Michael Elliott coming into this place today saying that rehabilitation is the answer. The fact is that we have been banging our heads against the wall for 10 years on this topic and I have not seen any marked improvement as a consequence of this greater focus on the issue of rehabilitation. I remain to be convinced that rehabilitation is the answer or the panacea to all our problems. I continue quoting the *Law Society Bulletin* as follows:

> This is the disastrous scenario which we have warned about publicly since January and in correspondence and submissions to the Government since September 1985. When the white paper was released in August 1985 a 44 per cent cost reduction was trumpeted as the saving. After the Bill was released cost reductions were revised to a saving of approximately 30 per cent. There has been trenchant criticism of the Bill ever since, and now we find, as expected, that there will be no cost reduction. The calculation of cost on which the Bill has been based is inaccurate by between 60 per cent and 80 per cent. We have consistently maintained that the new scheme has not been properly thought out not only in costing but in many other respects that have already been raised.

It is easy to see, when examining some of the claims by various proponents of the WorkCover scheme, such as the Hon. Frank Blevins or the UTLC and its ilk, that their predictions were wrong, particularly in the light of the Law Society's position. It is easy to go out and 'lawyer bash' and play the 'shoot the messenger' game, but a careful analysis might show that the Law Society has provided a strong, robust and well thought out dimension to the existing debate.

Only today I picked up the *Adelaide Review* and saw this article by the Chief Executive Officer of WorkCover. Criticising the Editor over an article in the last edition on the issue of WorkCover in his letter to the Editor he says:

> . . . I would like to observe you have presented a particularly biased view without any regard to alternative views on the purpose of these payments. Understandably, your views totally reflect that of the lawyers who so actively seek to expand lump sum payments, as these are their lucrative honey-pots to ensure they receive their 'entitlements' under the scheme (but don't worry about the workers).

Frankly, I have had a gutful of Lew Owens running around bashing the legal profession and not dealing with the arguments that it has put forward. Lew Owens has come into

this place and gone to the media over and over again and bashed the legal profession, saying that it has a self interest. The fact is that the time has come for Lew Owens to deal with the issues and the arguments put forward by the Law Society and not run around denigrating the whole of the legal profession, of which I am a member, with a view to seeking some short-term political aim. Everyone here must remember that he has come to this place 10 times and asked us to change legislation 10 times, and 10 times we are still looking at losing $12 million a week. It is time that Mr Owens, who has had his way in his arguments against the legal profession, put up or shut up and dealt with the issues rather than with the people who put them.

Frankly, the fashion to dismiss them just on the grounds that people have some interest in an issue is really not the way to deal with them. If this Parliament dismissed every argument on that basis, there would be little to say in this place. All the debates on retail tenancies, industrial relations, the environment, and so on, would be pretty short indeed if we dismissed every single argument from an interest group based on the fact that they came from an interest group.

I now turn to the topic of benefit levels and, in particular, I want to place some emphasis on the issue of common law. It is quite clear that certain elements within the previous Government, the UTLC and employers have some hostility towards the question of common law. However, it is important to note that South Australia is the only State in Australia that has abolished common law claims in relation to work related incidents, and that again was done at the instance of the WorkCover Corporation. It has been suggested that, because the cost of labour in South Australia is low, we should not worry about having any reform of the system.

The intellectually and ideas bankrupt ALP has embraced this view with some fervour. However, to do so essentially is to ignore the fundamental and economic demand for micro-economic reform and world competitiveness so often embraced by the Federal Labor Government.

Just as the Commonwealth must achieve micro-economic reform and world's best practice, so must the South Australian Government make necessary micro-economic reform and at least achieve Australia's best practice. The ALP argument on this issue is like saying that we do not need waterfront or transport reform because our primary producers and miners are economically efficient. That sort of attitude is what has brought our primary producers to their knees. If something was peculiar to South Australian workers and employers in the area of rehabilitation or occupational health and safety, perhaps there could be some merit in that argument. However, it is my view that there is no peculiarity to South Australia on these issues.

It is important that we compare the initial weekly benefit levels as provided in each of the States in Australia, and I seek leave to have incorporated in *Hansard* a table setting out the initial weekly benefits. I give you, Mr President, my assurance that it is purely statistical in nature.

Leave granted.

Initial Weekly Benefit Levels—Interstate Comparisons

SA	NSW	VIC	QLD	WA
First 12 months 100% notional weekly earnings to maximum of $1 256.20	First 26 wks workers current weekly rate to a maximum of $1063.50	95% of pre-injury earnings to a maximum of $612.00	Award rate for first 39 weeks	100% award rate or, if no award, normal weekly rates of pay

Source: Secretariat Needs of Workers Compensation Authorities

The Hon. A.J. REDFORD: The source of that table is the *Secretariat for the Needs of Workers Compensation Authorities in Australia*. I might add that I had some difficulty some time ago in getting proper figures from the WorkCover Corporation. However, it is important to note that South Australia is the only State in Australia which has abolished common law claims, as I said earlier. It is also important that we note a number of other differences between our current system and that which operates in the rest of Australia. In fact, it has been suggested that WorkCover has one of the highest worker benefits of any comparable international scheme. The scheme is an open-ended pension-based scheme for workers until retirement age with no workable mechanism to review their disabilities and get them off the scheme. In fact, it is an open-ended pension scheme.

It has been suggested by WorkCover that the high level of pension payments leads to major rorting and abuses of the scheme. However, I believe that proper claims management would also reduce the level of rorting and abuse. In any event, no other workers' compensation scheme in Australia has an open-ended pension-based scheme and, in fact, schemes of this nature have been specifically rejected in other States of Australia. In addition, South Australia is the only State that does not have any contribution made by the Federal social security system. There has been no suggestion by the Commonwealth that South Australia receive some benefit or some acknowledgment because of this misguided altruism.

I also draw members' attention to some of the developments that have occurred on this issue in other States. In the past 12 months, New South Wales has broadened the criteria under which compensation has been available; Victoria has achieved the third stage of a four stage plan; Queensland has made what can only be described as some housekeeping changes; and Western Australia has increased benefits. I think many of the problems can be put down to the area of claims management.

On this score the hypocrisy of the Australian Democrats in relation to proposals to outsource claims management was astounding, although I was pleased to hear the contribution earlier of the Hon. Michael Elliott in this place. However, he still has a singular inability to understand what are the strengths of responsible government. That something like this might be put in the hands of a standing committee is really just passing the parcel with no real effect.

While we lose about $400 000 a day, I remind the Council of what the Hon. Mr Elliott said when this legislation was introduced in Parliament in 1986, as follows:

> I do not accept that [private insurance companies] may not have a role. WorkCover in Victoria has, as I understand it, tendered out the various components of its schemes. . . The insurance industry has

a great deal of expertise in various areas covered by the proposed Bill.

The Hon. Mr Elliott also said it was his view that tendering out of the various components of the scheme, including rehabilitation, paper work and investment, ought to be considered. Indeed, he asked the relevant Minister whether the Bill would allow tendering to occur and whether the Government had contemplated that. That included the claims management problems which were anticipated and which continuously have been criticised by the Law Society and members of the Law Society for some time.

I quote from the Law Society's submission of 3 February 1995, where it says:

> The scheme is marked by a great inefficiency in claims management with excessive reliance on bureaucratic methods often applied in an arbitrary way. This approach has led to considerable additional expense due to the unnecessary prolongation of dispute. The Law Society previously has identified this matter in a number of submissions especially in the Law Society's response to the 'discussion paper released by WorkCover in October 1994'.

I would be delighted if Mr Lew Owens, rather than accusing the legal profession of feathering its own nest, dealt directly and specifically with the Law Society's submission so that we in this place and those responsible for administering the scheme can make an informed decision. We all know that the Hon. Mr Elliott will never have to administer anything from a position of responsibility in this place. All he has to do is become involved in the legislative process. If one looks at the legislative process which has dogged WorkCover over the past 10 years, his contribution has been quite unremarkable. Indeed, the whole of the contribution by the Australian Democrats has been unremarkable—it has been lamentable.

Let us look at section 35 and the manner in which it has been drafted. The Supreme Court has been extremely critical of the drafting of section 35, and in that regard I draw members' attention to the following quotations:

> *James v WorkCover*: per Millhouse J
>
> I must say that in reading section 35 it has all the indications of a section drafted probably hastily and under pressure, agreed as a compromise at a conference of managers of the two Houses of Parliament. Otherwise, for example, why should two different but similar phrases such as 'suitable employment that the worker has a reasonable prospect of obtaining' and 'suitable employment for which the worker is fit, is reasonably available' have been used? Why not use the same phrase in both places? Even one phrase would be difficult enough to construe.
>
> When I looked in *Hansard* I found that I was right. There had been disagreement on the clause between the Houses: it did not go to a conference. Hasty drafting does not make any difference of course to the responsibility to try to work out what Parliament intended—it just makes the job a bit harder!

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

The Hon. A.J. REDFORD: Before the break I was dealing with a number of criticisms made by the Supreme Court of the WorkCover legislation currently in existence. In a case of *Pashalis v WorkCover*, Justice Perry made the following comment:

> I cannot, however, refrain from observing that this court has been plagued over the years since the enactment of the Workers Rehabilitation and Compensation Act 1986 with appeals which turn upon questions of construction of the Act. In almost every case the court has been obliged to endeavour by one means or another to surmount problems occasioned by poor drafting.

Justice Millhouse in the same case said:

> I also entirely agree with my brother Perry about the poor drafting of the Workers Rehabilitation and Compensation Act 1986. Perry J has expressed himself with his usual restrained courtesy. I may be a little blunter. The sections which we have had to construe in an attempt to reconcile and make sense of them look to me like a compromise worked out in the middle of the night between managers of the two Houses with little consideration for drafting. That may be an excuse for their confusion. If I am wrong, then the sections are simply badly drafted without any excuse. Be that as it may, it is about time Parliament jerked itself into gear and took the time to decide what meaning it intends in these sections and amended them to make that meaning clear. Indeed Parliament should scrutinise the entire Act with a view to making it simpler, clearer, more comprehensible.

In the same case Justice De Belle said:

> This is but another instance of the need for an urgent overhaul of this legislation, if for the only purpose of providing some internal consistency. While it is often amended, little attempt is being made to resolve upon a scheme that is internally consistent. Important legislation of this kind affecting both the rights of workers and the legitimate interests of the corporation should not be allowed to falter because of Parliamentary inactivity.

At this juncture I might say that there has been Parliamentary activity, but it has been ill directed and to my mind *ad hoc*. It is all well and good for the Hon. Michael Elliott to continually make comments about the legal profession and the judicial system at large. Indeed, on many occasions he has been supported by his colleague the Hon. Sandra Kanck. However, it is time he, in particular, cleaned up his own act and looked at this issue properly and impassionedly and the evidence of that to date is minimal.

I also direct the same criticism to the WorkCover Corporation and its Chief Executive Officer. I have seen nothing from his office which has dealt with the internal inconsistencies in the drafting of this legislation. There are also numerous other criticisms of claim management. I suggest that many genuine people who go onto income maintenance become invalids and then it is almost impossible for them to get out of the system. It has been suggested that the reason why there are so many long-term claimants is that WorkCover has invariably paid claims for income maintenance over a long period. Once the worker sinks into the system it is not difficult for him to find a sympathetic GP or specialist who will accept his subjective complaints. It has been suggested that the reason long-term claimants remain on income maintenance far longer than they ought is due to faulty claims administration. Those criticisms have not been answered.

Many examples have been given in other speeches on this topic of rorting the system which in my view indicates a poor claims management and a poor quality review system. The well reported cases that have been publicised in this matter indicate a poor claims management system. In some of the so-called rorts that have taken place, nobody who has looked at the system objectively and applied the law as it should be could possibly suggest anything other than poor claims management.

I now turn to two issues which occurred to me over the break regarding some of the comments that have been made, and I will deal first with the legal profession. WorkCover has reported that legal expenses have increased from $5.7 million in 1992 to $12.6 million in 1994. WorkCover has then made the quantum leap and said, 'Aha! The lawyers are rorting the system. It's not WorkCover's or anybody else's fault; it's those lawyers out there who are rorting the system.'

I invite Mr Owens and the WorkCover Corporation to consider what happened two years ago when we got rid of common law. Two years ago, when this Parliament removed the right for workers to claim at common law, the workers were given six months within which to lodge a claim. Quite

properly and rightly, in the interests of protecting their clients, the legal profession went out and advertised and said to all those people who may have had work related injuries, 'If you don't issue a claim within six months you will lose your right altogether.' In my view they did that quite properly and in the interests of their clients.

The net effect was that a bubble went through the system: there was an enormous increase in the number of common law claims, simply because people sought to protect their rights by issuing their proceedings within that six month period. I would suggest to Lew Owens that that substantial jump in legal expenses resulted from the legislative changes that were made two years ago when the common law right was removed. In the absence of any explanation to the contrary, I would suggest that any bubble that went through the system might be an explanation for the increase in legal fees.

Further, legal fees that apply under the current administrative review type of system would not be anywhere near as high if there were no need for any appeals; in other words, if the review process worked in the first instance there would be fewer appeals. I know that this is anecdotal, but a number of my colleagues have complained about the quality of decision making that takes place generally by lay people, thereby increasing the number of appeals and obviously increasing legal expenses. So, simply to run out and say that lawyers are rorting the system ignores the truism that all lawyers do is represent their clients and that their duty is to represent their clients in the best manner possible.

I return to the question of commutation and lump sums. There seems to be a real shying away from the use of lump sums and commutation. The Hon. Mr Elliott made the comment that lump sums tend to under-compensate people. If one accepts that and if the worker wants a lump sum, why should he not be entitled to that lump sum? Why should he not be able to say, 'I want a lump sum; I want to get out of this system'? That is the first point. The second point is that there is a substantial saving to WorkCover because of the way in which our tax system operates. If a worker receives a lump sum commutation in respect of both his income maintenance entitlement and his medical expenses, that is tax free.

If the payments are made on the basis that they are tax free, it means that WorkCover has to pay out less money. For example, if a worker received $100 000 in income maintenance, he would pay tax on the normal scale of taxation applicable to the income over the period he receives his $100 000, and I suggest that would be in the order of $30 000. However, if he commutes and receives a sum of $60 000—and that covers both income maintenance and medical expenses—that is tax free, and at the end of the day he is in precisely the same financial position as he would have been in otherwise and WorkCover has saved $40 000. The only loser in that situation would be the Federal Government and its income tax receipts. Quite frankly, the Federal Government is big enough and ornery enough to look after itself.

I turn now to another topic that has occupied the mind of WorkCover and many other people in the system, and I refer to the topic of stress. Reference has been made to the James case. On a number of occasions Parliament has attempted to legislate stress out of the system. In my view any moves in that direction are doomed to failure. Stress has been one of the most significant problems in relation to WorkCover. However, when one looks at the question of stress one cannot avoid the truism that stress always was, is and always will be a subjective rather than an objective issue. For example, a person who breaks a bone can clearly see an objective injury. However, if someone suffers a stress injury then, first, that stress injury cannot be seen; secondly, one relies entirely upon the word of the worker; and, thirdly, people are liable to suffer stress in as many differing ways as there are human beings.

I am not suggesting for a minute that stress does not exist. However, the numerous attempts that have been made by this Parliament to marginalise the issue have all failed, because courts from time to time do receive genuine stress claims and in those cases will always seek to get around the legislation. Quite frankly, to legislate it out of existence will be a futile act. I am pleased to see that the Government's new Bill has not sought to differentiate between stress and non-stress injuries.

However, there can be no justification for a public sector rate of stress three times that of the private sector. Stress has almost become an industry in itself, particularly with certain elements in the public sector. It is my view that those in the public sector, and particularly the public sector unions, have refused to accept that there is a problem. If stress can be said to arise out of an employer/employee relationship, it invariably would arise as a result of employer negligence. It is hard to imagine a genuine stress injury arising out of employment unless there were some employer negligence. I believe there should be some debate on whether stress should be excluded altogether from the WorkCover regime at the same time as giving workers the right to make a common law claim for stress. If we did that, stress as a work-related injury would disappear in almost the same way as RSI has over the past few years.

The topic of stress was dealt with extensively by my colleague the then shadow Minister of Labour, the Hon. Legh Davis. I wholeheartedly agree with his view that, by picking the right people for the right job, stress can be eliminated. So, at the end of the day, genuine stress claims are an employer issue and something that can be very simply dealt with within the common law system. I suggest that we need to visit that particular topic further. It is my view that the role of some public sector unions in this area has exacerbated some of the problems. However, I will not go into detail on that now as I do not think that that will advance the debate at all.

I believe that the new Bill will be effective in reducing liability in a number of ways quite different from the initial proposals of the Government. It does away with the sliding scale based on the Comcare principles, and obviously that would have introduced some unfairness into the system. Another reason is that I do not believe that the ComCare system can possibly be related to the broad nature of employment that this Act seeks to cover. I am quite happy to go into that when we reach the Committee stage.

The new legislation assumes that there will be an availability of work. This is a different approach, and I await with some interest the comments of members opposite on that topic. However, it is my belief that the bottom line is that WorkCover is an institution that has failed. The current system means far less to workers than the previous system. Despite constant assurances by WorkCover to governments, it has continued to return to this place on an annual basis seeking quick fixes. I would be most interested to know what the total premium income was under the old scheme, that is, pre-WorkCover, in comparison to what it is now. I would be most grateful if the Minister could provide me with an answer to that question, if that is at all possible.

The system must be a failure if it does not deliver benefits to injured workers. That has to be considered carefully and rationally. It is my view that the long term entitlement to income maintenance rewards people for long term disability. In other words, it entrenches sickness and illness. That is not an adverse criticism of or reflection on those unfortunate enough to sustain injuries at work but a considered observation. The new legislation is predicated on full or near full employment. It may be that that is unrealistically optimistic in so far as rehabilitation outcomes are concerned. The fact is that the Keating economy, since 1986, has been somewhat internationalised, and the result has been that this country will probably never again see the full employment such as we saw in the 1960s. For my part, we need to carefully consider that.

I also disagree with the suggestion made by my parliamentary colleague the Hon. Michael Elliott that there ought to be a standing committee. I do not believe that a standing parliamentary committee overseeing WorkCover would either be practical or work. What we need to do is look very carefully into two areas. First, we need to look at what the premium levels are compared with the benefit level—involving comparisons with interstate and previous experiences; and that ought to be done independently. Secondly, we need to have a very close look at the administration of the Act. That should be done independently from the political process and it ought be done independently of WorkCover itself.

If we ignore the administrative problems in this system and are forced to continue down the path of reducing benefits—and that in effect is what WorkCover has done to us—we run the real risk of unions seeking to grab back what they perceive to be their losses by either negotiating top-up claims through enterprise agreements or seeking award claims to cover their losses. If they do that through the federal system, it is my understanding that this Government may have difficulty in stopping that process. In other words, the whole issue would be handed over to a federal body with even less control, reducing the influence of South Australia. I know that this process has already started. I note that, in addition, some unions are offering free insurance to their members so they are covered by journey accidents. In fact, I welcome that initiative on the part of those unions who are seeking to represent their members.

However, employees need to be very careful—and I cannot emphasise this strongly enough—that any so-called gains that they may achieve in this Bill through taking away benefits may possibly be taken back through some other means such as award restructuring. If this does occur, I hope that the WorkCover board and administration do not use that to avoid the responsibility and task of ensuring that we have a good, fair and efficient system of claims management.

In closing, I believe that the mass system as envisaged by WorkCover versus the desires of individual workers inevitably will lead to conflict. The question is how you deal with that conflict. There must be a pragmatic and compassionate approach. It is my view that the whole topic has been, unfortunately, hijacked by people who have political objectives to feather their own nests or to advance their own causes. I hope that the Hon. Michael Elliott will not become one of those. I have looked at a number of issues: exempt employers, private insurers, benefit levels and claim management and, quite frankly, I feel that I have been a sheepdog running around a mob of sheep looking for that flyblown sheep in the middle. Whilst I keep running around the outside, I have not seen precisely what the problem is but I do know that there is something wrong. With the information available to me I have looked at WorkCover from every possible angle, and all I can say is that I believe there is something rotten in the state of Denmark. I support the second reading.

The Hon. T.G. ROBERTS: I think the something rotten was part of the honourable member's contribution, not the cheese in Denmark. The problem the honourable member outlined was one of those problems that faced the select committee I sat on in 1990, which was set up to look at some of the difficulties the WorkCover Corporation was facing at that time. One of the problems the committee found was that different people were analysing the structure, the formation of the figures and, particularly, the structure of the financial assessments that had been made by the actuaries and interpreting those facts and figures differently. As the honourable member pointed out, there was some $232 million differential from time to time between the actuarial assessments, which makes it very difficult for anyone who wants to look closely at the structure of any organisation (whether it be a private company or a company such as WorkCover) to be able to work out exactly what is wrong, because the actuarial figures were being constantly contested.

They kept moving from time to time to accommodate the political arguments of the day, whether they be from the previous Minister or, as the honourable member pointed out, where WorkCover went into a balanced position, or where we are now asked to consider that $187 million is the budgeted figure for the unfunded liability. I suggest that, if we are going to get a starting point as to whether the WorkCover structure is adequate for the requirements of employers, unions, working people generally and the South Australian taxpayer, the position will be a difficult one. The Democrats have suggested that there be a standing committee of Parliament to look in an ongoing way at the administrative program that will be put in place if the Bill before us is passed in both Houses.

The contribution that members made in the disallowance procedure for WorkCover some time ago and some of the contributions that were made when the original Bill was before the Council set out the difficulty that the Government has. Contributions were being made on our side of the Chamber that if the proposals being put forward by the Government to try to correct, if that is the term to use, some of the difficulties that WorkCover as a corporation was trending towards (that is, an unfunded liability that was blowing out and, as I said, the actual figures were being contested) was the way we were heading, then the contributions we made from this side of the Chamber said that we were moving there too quickly, unprepared, and that the Government was not paying due attention to the evidence being supplied but was running on an agenda of promises made to vested interests prior to the election in 1993.

At the time I made my contribution I thought that it was not a good premise on which to start drawing together legislation. I thought that the legislation had to be much more considered, and that the real problems facing WorkCover should not have had a political and philosophical flavour to it: it should have had a balanced interest in relation to all parties that make up the process of WorkCover administration. One not only had to make a value judgment as to how that would work in the future but also one had to ensure that the balanced interests of all those people who were involved in WorkCover and its objectives were adequately considered.

The Hon. Mr Redford has certainly put a case on behalf of those people in the legal profession—who are one vested interest in relation to how the WorkCover legislation is to be administered—and whether natural justice can be administered through the legal system to adequately represent injured workers. The trade-off that was made in the 1986 Bill to balance some of the pressures on the WorkCover negotiators in relation to common law was, on reflection, a mistake by the trade union movement. On reflection, I do not think that has helped anyone at all.

I suspect that the system put forward on the suggested trade-off that some of the benefits that would flow from an incorporated body, using a management structure that was envisaged in the 1986 recommendations, convinced people that there would be no need for common law rights to apply because there would be a balanced assessment as to how to set forward principles around prevention of injuries in the workplace, around recognising dangerous situations in the workplace, of not having a confrontationist approach and laying blame as to how accidents are caused, and to then balance the interests of treating and rehabilitating injured workers, and to maintain a job or a profession for those people who are injured on the job.

That was all to be done in a managed and civilised way, using all the vested interests and their negotiating skills to bring about outcomes that kept the legal, rehabilitation and medical practitioners' costs low, and that the benefits would then flow at low premiums. It was to rehabilitate injured workers and get them back to work so that they were able to carry out their day-to-day duties. Unfortunately, with the changing nature of work and the professional pressures that were brought to bear from the day that the 1986 WorkCover Bill was enacted the system was under pressure. South Australia has had workers' compensation legislation since 1900 when the first Workman's Compensation Act was introduced. It was based on the European model, which was probably worked out in the 1860s and the 1870s.

I think Marx and Engels probably brought some pressure to bear on the German industrial system to make sure that workers were looked after during the middle and the end of the Industrial Revolution. Those sorts of initiatives travelled via Europe into the industrial systems in Australia and America; indeed, they travelled all around the world to most developed nations. Workers' compensation became a social tool for balancing some of the imbalances that were inherent in the early part of the Industrial Revolution when young children and old people had to work in dangerous Dickensian factories and mills that were prone to cause people injuries and death.

The nature of work has changed considerably; and the nature of systems to take into account the changing nature of work must also change. The Workers' Compensation Act is one of those Acts that cannot stand still: it must change with the changing nature of work. I was of the view that the occupational health and safety legislation and the introduction of WorkCover was a balancing act that was evolving slowly towards providing protection for workers in a changing workplace. Work has changed considerably, even over the past five years, to a point where many of the principles associated with the protection of working people have changed. The evolutionary process through which WorkCover was proceeding was developing to a point where, had it been left to its own devices to bring about organisational changes in administration and the way in which prevention, treatment and rehabilitation was occurring, many of those costs, if managed properly in a cooperative way, could have been maintained and controlled.

Unfortunately, as the honourable member said, WorkCover became a political football. The Hon. Mr Elliott pointed out that, with two vested interests making assessments on WorkCover, both at either end of the consideration scale, the twain was ne'er going to meet. I am not quite sure whether that was the factor that motivated the Liberal Party to pick up the cudgels to change the system. I suspect there was an element of trying to compare interstate systems with the South Australian system in an attempt to sell an inferior product back to its membership by saying that South Australia could no longer afford an occupational health and safety workers' compensation system that was the leader in the land. I am sure there would have been a philosophical expression of that in the Party room: that South Australia could not be used as a model for the rest of Australia, because it was too far ahead.

I do not think that is an adequate argument for changing the system and bringing it back to the lowest common denominator. The other State systems could have been brought into line with South Australia's system. The major difference with our system was that we did not throw injured workers back onto the social service scrap heap and thereby save interstate corporations large volumes of money by making them the responsibility of Commonwealth taxpayers—South Australia picked up the costs through its workers' compensation scheme. If all the States had determined that in order to have a 'One Australia' and a unified marketing mechanism for being a smart country and develop our industrial base as a springboard into Asia and the rest of the world, it may have been reasonable for people to adopt the view that, if there were to be a uniform nationwide scheme, South Australia's scheme could have been used as the model with Commonwealth support. That does not appear to be the case: it appears that now the Government will try to drive the levies down to interstate comparisons when, indeed, you cannot compare any of the State systems because you can never get the balancing figures right as the systems all have different aspects to them.

The honourable member said that South Australia does not have a unique system, but in fact it does. South Australia's scheme has a high number of exempt employers, a level of benefits that is adequate and a high proportion of small employers. Over the nine years that it has been in place, WorkCover has had to balance the interests of large employers against those of small employers and exempt employers. As I said, I do not think the evolutionary process was ever allowed to get those balancing mechanisms or administrative programs right to achieve cost savings through better administration and the integration of programs: it was far easier to attack benefits as a mechanism for lowering levies than to look at any of the far harder mechanisms such as administrative programming or administrative change.

So, what did we get? The first attack was on journey accidents, which were easy to identify, and on stress. Stress was a feature under the South Australian Act, which was a leader in its field in relation to how, in this modern day, we are able to recognise an illness brought about by the changing nature of work. This Bill is based on a definition and recognition of 'work' that is probably no better than that which perhaps Marx and Engels might have put together in the 1860s or 1870s for the 1890s Bill. The changing nature of work has brought about a situation where professional people are clearly able to recognise and treat stress as an

illness that is brought about by modern day work and work practices.

Having been a member of the committee, I must admit that it was hard to differentiate between the stress factors that were brought about by modern living and by modern work but, in a lot of cases, because of the nature of work, it was hard to separate, and it will become harder. Most people will not be able to differentiate between their workplace and the home environment if work continues to change as it is. I notice that most members are wearing beepers on their belts and are carrying portable telephones in their pockets (although not being able to use them in the Chamber), and they have computers and telephones at home. The changing nature of the profession will mean that they will be on call 24 hours a day, seven days a week for as long as their health can maintain the programs they are running.

The Hon. K.T. Griffin: Ministers are now.

The Hon. T.G. ROBERTS: That is correct, given the changing nature of a Minister's role and responsibility over the past 10 or 15 years. If members on the Government side analyse their role in relation to the new structure of work and apply it to the work force, they will find that the responsibilities of modern day work and practices are not left at the gate any more: people carry them home in modules within their minds and it takes much longer for people to relax.

The reskilling and retraining of the work force over the past 10 to 15 years has been immense. The pressures on people to maintain their skills base and their ability to be valuable employees in today's modern work force mean that continually they not only have to take on board the day-to-day duties of their current job but also predict where their current job will be in 12 or 18 months or two years. In most cases that requires not only knowing the functions and values of the job that they are doing but anticipating the training that will be required to maintain their security of employment.

Employers know that and they have set up employer organisations which are working to the responses of the market and which have those mechanisms in place. The modern day executive, like the modern day Minister, is under as much pressure at work and at home as many employees. The information that I am getting is that the restructuring in the work force has been so severe that the workloads on front-line supervisors and managerial staff in both the public and private sectors is so competitive and the pressures are so high to maintain their security of employment that the benefits of the technology which was supposed to apply and mean that people would work fewer hours unfortunately means that they are working more hours and are under more pressure, and out of pressure comes stress. We have had a decreasing recognition of that aspect in the changes to the Act, and we have stress being downgraded. Most people who make the point that stress has been removed, altered or changed tend to laud the fact that there is a potential rorting process within the system because people in the workplace drop out and use stress as an excuse to claim on the WorkCover system.

Work journey accidents were always under pressure because some employers did not accept that they were responsible for their employees from the time they left home to the time that they got to work and returned home. They took the view that their responsibility for their employees rested with them only when they arrived at work. As I have said, unfortunately, the changing nature of work does not allow people to turn on and off as they walk through the gate: they take their work with them. Many people, however they may journey to work, are thinking about the nature of work by the time they finish chewing their Weeties.

The 1900 Act underwent many amendments until its consolidation in 1932, and the consolidated Act remained in force for almost 40 years. That is an example of the fact that the nature of work in those 40 years did not change to any great degree. From 1900 to 1940, with the exception of the two wars accelerating the rate of change and the introduction of technology, the impact of technology did not have much effect in those 40 years.

In 1971 a new and significantly restructured Act was introduced under Jack Wright and, although many more women were entering the work force, the 'workmen's compensation' title remained. So, one can see how far we have come in that short time. Substantial amendments were made to the Compensation Act in 1971 and 1979. Further amendments followed in 1982, introducing rehabilitation into the statute and enabling the establishment of the tripartite Workers' Rehabilitation Advisory Board and the Workers' Rehabilitation Advisory Unit. This was in recognition of the fact that work, in itself, could be used as a rehabilitation key and that there had to be a link between the medical profession and the individual employee and the employer.

Many employers took their obligations seriously, and whenever a workplace injury occurred there was follow-up by personnel managers and others who took on the responsibility of not just examining the nature of the accident on the site but also ensuring that the injured worker in that premise was adequately treated by the medical profession. They took on the responsibilities of joint rehabilitation between the medical profession and whatever work they could provide to ensure that that employee was rehabilitated back onto the job with the least amount of trauma possible. That was the good case.

On the other hand, not only were some employers cold-hearted when employees were injured at work, issuing dismissal notices before the ambulance arrived at the hospital, but also they took no responsibility at all for the employees. They washed their hands of their employees as soon as an accident occurred; they would not investigate the circumstances of the accident; they allowed other workers to work in dangerous circumstances; and they did not pay any heed at all to what was regarded as risk management of workplace injuries but kept paying the insurance premiums that were applicable for the day and saw that as the end of their responsibility.

There was a third tier of small employers who did not have the time or the resources for workplace prevention programs, training programs or education programs and who basically kept their fingers crossed that there would not be any difficulties in their work sites because, if there were, their premiums under the private insurance scheme would go sky-high.

We have already heard from the Hon. Mr Elliott that the premiums for workers' compensation under the old Act were cross-subsidised by other types of insurance premiums and, in some cases, although the real cost of insuring for workers' compensation was able to be scrutinised, it was not accurate because of the cross-subsidy program that existed. The general view of most insurance companies at that time was that they were running their business on risk management and, if they had a hot potato, that is, a large corporation or company that had a bad industrial record or a history of unsafe work practices, they handballed it as soon as they could. They would take on the responsibility for 12 months

and then hope with their fingers crossed that there were no serious accidents in the places that they were insuring.

They would not hold it for any longer than perhaps 12 months or two years, and then they would get out and another company would come in with its fingers crossed. When the Workers Compensation Act came in, there was a more responsible approach to eliminating dangerous work practices and trying to come to terms with the reduction in the number of accidents for the sake of employees and not just for that of lowering premiums.

Discontent with the 1971 Act grew continually during the 1970s, and in June 1978 the Labor Government approved the establishment of a tripartite committee to 'examine and report on the most effective means of rehabilitation and compensating any person injured at work'. As part of its report, presented to the Minister for Industrial Affairs in September 1980, the committee—commonly known as the Byrne committee—devoted a chapter to the perceived major problem areas in the operation of the 1971 Act.

In summary, the committee found eight problem areas. As to prevention of industrial injury, the Act failed to address the increasingly recognised notion that prevention of injury and disease in the workplace had a direct and beneficial effect on the level and cost of compensation for employers. The traditional legislative separation of the functions of prevention and compensation, and the resultant operational and procedural separation, was seen as counterproductive to employers' needs to use management practice increasingly focused on an integrated view of the causes and effects of injury and disease. That basically summarises my previous assessment. It was considered that the legislative framework determining the compensation system should more actively recognise and facilitate the contribution preventative measures can make in reducing the numbers and costs of compensation claims.

As to rehabilitation, the Act failed to emphasise the obligation and need to rehabilitate the injured worker. As to delays, they were found to be both integral and accepted components of the compensation system adding to the economic costs of both employers and injured workers as well as to the emotional cost to workers. It was an adversarial system and was the root cause of delays through the system's having to apportion blame.

As to the scope of coverage, the problems of coverage, who should be covered and the definition of what should be covered were identified by the committee. As to compensation benefits and costs, the committee found that although there had been a decline in the number of claims over a five year period to 1979 the total amount paid out in compensation continued to rise due to a steadily increasing average cost per claim. A factor in the increase was a significant increase in the average time lost from work. So, the changing nature of work was altering: there were new industrial diseases from chemical use and from exposure to other untried and untested workplace contaminants, and more modern diseases were starting to enter the work force from these contaminants, and the nature of the length of time taken up by injuries was starting to alter.

Funding was the other issue that the committee looked at. In 1980 there were 55 insurance companies operating in the workers' compensation field. There were no requirements for registration, no controls over premium levels, no provisions applying if an insurer went out of business and there was no uninsured liability scheme covering workers where employers had failed to insure. WorkCover was able to prevent all that with the introduction of the new scheme.

I have come across injured workers who were subjected to pressures from WorkCover assessments when employers had not been paying their WorkCover premiums and had made sure that injured workers were given the impression that their premiums were being covered, and WorkCover did take the responsibility for those injured workers. However, there were still companies going bust and leaving their workers vulnerable to not being able to make claims—not that the Act did not cover them but out of ignorance, particularly workers who spoke English as a second language, in many cases they were not aware of their rights.

I have assisted, in my capacity as a member of Parliament, a number of migrant workers injured in this way who were left with residual injuries and did not think they were able to claim because their employer had gone bust. Fortunately the system picked up a lot of those workers. In many cases it was much harder for them to establish their claims because their employers could not be contacted and could not substantiate the claims. Many of those migrant workers worked in dangerous, generally dirty, heavy work and were the victims. Under previous Acts they would never have been picked up, but under the WorkCover legislation they were able to find some justice.

The committee also found an overall lack of coordination and control. It was hoping to make recommendations that would overcome that with the identification of programs that needed to be put in place under the new WorkCover Act. By the mid 1980s the problems identified by the tripartite committee had worsened and further anomalies and causes for concern came to light. There was almost universal agreement on the need for change and reform.

In relation to the final problems associated with the previous Act, many of the insurance companies withdrew out of workers' compensation and reported financial losses, with many remaining insurers, but they further destabilised the system and increased anxiety amongst employers about the unaffordable nature of WorkCover premiums. That was nothing new. The major complaint, for all the grandstanding and toing and froing between those advocates of maintaining WorkCover benefits and WorkCover levies as they are, gets down to levies or premiums versus benefits. Unfortunately, that is the lowest common denominator. The Government's position is that, if the levies can be brought down to below interstate rates, South Australia would become more attractive to investment programs for other national or interstate companies.

If we look at all other legislation that has been directed into this place over the past 12 months and perhaps will be introduced over the next 12 months, we see that concessions are to be given to industry through water pricing, electricity, WorkCover premiums and other benefits that may apply so that South Australia can position itself to attract industry from other States. Unfortunately, there is no indication that those industry sections operating happily on the eastern seaboard are eyeing off South Australia as a major place to invest because many other factors come into play when international and national companies look at big ticket investment items or the placement of their big ticket investment programs in this nation.

The tripartite committee was established in 1978 and was to submit to the Government for consideration a proposed scheme with the following objectives: rapid rehabilitation program for the injured; compensation that was fair to both

employers and employees; and to ensure that persons who suffer injuries in the course of their employment are rehabilitated and adequately compensated. The committee was also to report on what it considered to be appropriate methods of administration of such a scheme; whether the legal adversary method of determining disputes regarding the liabilities was appropriate and the way in which the scheme should be funded; and what relationships, if any, should exist between the scheme and compulsory third party insurance arrangements in respect of injuries sustained in motor vehicle accidents.

Following the election in 1979, the committee sought clarification of its role from the new Liberal Government and was instructed to proceed without any changes to its planned activities, and I would hope that members on the other side would take heed of that statement. The committee's first report, released in September 1980, made a total of 16 recommendations, covering:

1. Setting up a new Act;
2. The establishment of a board;
3. Rehabilitation;
4. Administration;
5. The scope of coverage;
6. Medical assessment;
7. Compensation benefits;
8. Appeals;
9. Financing;
10. Premiums;
11. Staffing;
12. Common law rights;
13. Occupational safety;
14. Statistics;
15. Education;
16. An advisory unit.

There was a bit of a lull between 1979 and 1982 but, with the return of the Labor Party in 1983, the Minister of Labour called for fresh submissions, and that intensified with the holding of the New Directions conference in 1984. Papers were presented and a conference was held, and representatives of the UTLC met with representatives of the Chamber of Commerce Metal Industries Association. Discussions continued for several months, beginning with reaching an agreement on broad parameters for a new scheme. Issues were identified where the two groups could easily agree, while the most difficult issues were negotiated one by one.

A white paper was pulled together and the objectives of the scheme were as follows: the early and effective restoration of disabled workers to the fullest physical and mental social, vocational and economic functioning of which they are capable; the introduction of a cost effective administrative system which aims at minimising the cost of delivering compensation benefits to disabled workers or their dependents and which thereby reduces the level of premiums paid by employers; the adoption of a benefit package which has a certain application, which is protected from the effects of inflation, which is comprehensive and determined according to the needs of the injured workers and not the causes of their disability, which provides a level of compensation which is adequate and fair and which is positive in its rehabilitation aspects; the setting of premium levels; the adoption of other policies to encourage a reduction in the incidence and severity of injuries in the workplace; the speedy settlement of claims; the provision of full rights of independent appeal representation; and the avoidance of legal adversarial procedures with the inherent delays and costs.

The white paper then proceeded into the drafting of a Bill. The Government's Bill did not pass through both Houses of Parliament easily or quickly but, whilst the Bill passed the third reading of the House of Assembly on 19 February 1986, the debate in the Chamber centred on whether the contents of the Bill accurately reflected the agreements reached between the Government, unions and employers in the preceding months and years, and that is where the debate rested. Many of us in this Chamber today took part in those debates.

The Bill came into force, and features of the 1986 Act were the setting up of the corporation, compensation benefits, rehabilitation, levies, claims, dispute resolution and prevention. When the corporation was set up from scratch, many people were able to give it breathing time so that it could evolve into a corporate administrative structure that would allow for the implementation of those policies that came out of the white paper. Others were not so patient and they started to attack WorkCover, starting from 1987, which was not long after WorkCover had been set up. So, after 1989 a select committee was set up and some of the problems that had been enunciated by the very conservative side of politics were looked at in relation to some people's misgivings about the direction of the administrative unit of WorkCover in being able to manage claims.

However, there were also philosophical differences about the level of levy as opposed to the benefits being paid by WorkCover. All the administrative structures that have been carried out by claims managers in WorkCover are now being considered for outsourcing or privatisation. The integration of claims management, rehabilitation and identification of those industries that were able to be given benefits on their levies for conducting themselves in a safe manner will all be dismantled. The statistics being collected within the WorkCover Corporation were going to be valuable for prevention. I know that with those statistics and work prevention programs one could probably still collect information that may or may not be provided by both employers and private insurers. However, it is certainly far more administratively streamlined and accurate to be able to get those details from one body and to analyse those results.

One is able to look at prevention programs and administer carrots and sticks through the direct correlation of a company's industrial record or its occupational health and workers' compensation record rather than relying on different aspects of the private sector being able to supply those figures. I know it can be done but for those of us working in the field administering previous Acts there was always a vested interest in employers' ability to hide from the then Department of Labour their occupational health and safety record involving industrial accidents. Many workplace accidents were not reported; they were not recorded as statistics until there was a lost-time injury. It was very difficult for people working in the prevention field to be able to administer programs that might have assisted some of those employers with a bad record to change their methods of operation.

I would hope that in this day and age employers and insurance companies would cooperate if this Bill were to pass to enable those statistics to be collected so that those employers with bad industrial occupational health and safety and workers' compensation records could be disciplined. If market forces are the only disciplinary process—that is, by levering up premiums—I am afraid that that is not the

operating culture that should be in place for workers' lives and limbs to be protected.

The Opposition's argument will be made clearer as more contributions are made. Amendments are being discussed, and people are currently discussing the Government's tactics in relation to the introduction of the new Bill with the Democrats' amending position. One cannot blame the Opposition for being a little confused in being able to work its way through the changed strategy with the existing time frame. However, I am sure that people on this side will cooperate to the degree possible to enable the second reading to be completed and for the amendments to be worked through so that we can at least look at providing some strengthening argument with a view to achieving the best position possible for injured workers or potential injured workers in this State.

It is unfortunate that we are taking the position of lowest common denominator in relation to a protection scheme for injured workers. I would like to have seen a more advanced position taken by the Government to recognise the changing nature of work in relation to many of the aspects of the application of the Act and to recognise that it is not just a matter of balancing the levies against the benefits but that many more considered positions need to be recognised in relation to the administration of WorkCover.

A suggestion was made by the Hon. Angus Redford that we ought to look at the programs being developed in relation to involving legal firms more in assessments and claims. I suspect that consideration will be given to how people are represented in reviews. That process has involved a vexed question, as far as the unions are concerned, about getting fair and equal representation in the forums where injured workers have to be represented. The other vexed question not covered by the Act, involving commutation, was that it was being used more and more informally, rather than formally, to allow injured workers to go off the system so that they could look at alternatives other than the work out of which in most cases they had been restructured.

I do take the point that the scheme probably was set up to work more efficiently in times of full employment, where injured workers were able to be rehabilitated back onto the job, but unfortunately, as I have indicated, with the changing nature of work, employees only have to be off work now for as little as three months and the nature of the work and the workplace may have changed considerably to the point where in most cases the job has been changed into a multi-skilled position, with no ability for the employee to return to it, or it has been picked up by a robot and there is no job remaining in that classification, or the employee is unable to take part in the training programs provided and is left behind because of the injuries suffered. Unfortunately, the Act does not take any of that into account, and nor do any of the contributions from members opposite.

We have a Bill that is reducing not only the benefits but the application of the benefits and how a workers' compensation and occupational health scheme should operate. We are taking it closer to the Marx/Engels time frame than we are perhaps to the year 2 000.

The Hon. R.D. LAWSON: I do not know whether the Hon. Terry Roberts is speaking of Karl Marx or the Marx brothers when he seeks to invoke them in this context. I support the second reading of this Bill. I do support a universal system of compensation for persons who suffer injury arising out of or in the course of their employment, and so does the Government. The current Act has many infirmities, and extensive amendment is required.

I do not propose to go through all the proposed amendments but only to speak generally in relation to a number of the provisions which it seems to me are important. One of the underlying difficulties of the current legislation is that a pillar of the 1986 Act was the view that injured workers will recover if they receive so-called income maintenance. The corollary was that income maintenance is preferable to lump sum compensation. This opposition to lump sum compensation was, it seems to me, based on an ideological or philosophical position. Regrettably, this ideological stance flies in the face of human experience. Generally speaking, people in receipt of weekly payments not markedly less than their ordinary wage do not have any incentive for prompt recovery, especially when the economic climate means that there is no certainty that their former employment will continue.

The experience of those working in this field is that payment of an appropriate—and I emphasise the word 'appropriate'—lump sum for disability does assist people in getting on with their lives. I am not suggesting by any means (nor does the Government suggest) that some provisions related to income maintenance not remain; they should. The open-ended nature of the current scheme is one of its difficulties. The need for a review of the South Australian legislation is made manifest when one examines the figures that are published for comparable systems elsewhere in this country. The Hon. Angus Redford referred to some of them in his contribution: I will refer to some of them in mine.

It is clear that the South Australian scheme has certain features that take it outside the norm. There was published earlier this year by the secretariat of the heads of workers' compensation authorities in Australia a comparison of compensation arrangements in the various Australian jurisdictions. It is a most helpful review and I commend it to anyone with an interest in this subject. There are only a few points from it to which I would refer. On the subject of weekly benefit rates one finds that in Victoria for the first 26 weeks certain payments are paid and for the next 26 payments basically, which are 90 per cent of pre-injury average weekly earnings, up to a maximum of $621 is provided. So, there is in Victoria a system of payments for 52 weeks in all.

Likewise in New South Wales there is a system for payment of weekly benefits for the first 26 weeks, initially at the current weekly wage and, for the second 26 weeks, at 90 per cent of the worker's average weekly earnings. South Australia, for some reason, allows payments for 52 weeks at the worker's average weekly earnings and for the next 52 weeks at 80 per cent of the worker's average weekly earnings, subject to certain maxima.

The system in Queensland allows for 39 weeks on a higher rate and thereafter for the next 39 weeks at a prescribed base rate of $276, plus an additional allowance for dependants. The total amount for weekly benefits payable on that scheme is $72 680. Tasmania has provision for payment of a worker's average weekly earnings to be calculated for a period of 12 months, with a base rate and a maximum specified. It is extraordinary that in South Australia alone of the States of Australia we have this provision for, in all, two years' weekly benefits. Even in the Commonwealth, a system which is said to provide something of a benchmark, there is provision for 45 weeks weekly benefits at normal weekly earnings and for the ensuing 45 weeks at 75 per cent of normal weekly earnings.

So in this regard South Australia has benefits which are the most generous in the country. If it were the case that all other States in the Commonwealth had a 52 week scheme there could be some justification for saying that workers in this State should be entitled to the same as their brethren elsewhere, but that is not the case, and this State will not compete whilst employers and the community generally must suffer this particular imposition.

The next figure to which I would draw attention is the number of reported claims in the various schemes. If one compares South Australia with comparable States one finds a very high incidence of reported claims in this State. If one looks at the year 1993-94, which is the last year in respect of which these figures were taken out in this particular compilation, Victoria had 39 000 claims; South Australia, with a population less than one quarter of that of Victoria, had claims totalling 40 500. In other words, there were marginally more claims in this State than there were in Victoria. In 1993, the preceding year, 39 100 claims were made in South Australia, that is, almost 40 000 claims. One would expect in Victoria there to be a vast number of claims more than the 39 000; there were in fact 55 000, not markedly more; and in New South Wales, a State far larger than this State, 50 850 claims were made, compared with 39 100 in South Australia.

The Hon. T.G. Roberts: In those States the first week's payment is picked up by the employer.

The Hon. R.D. LAWSON: Indeed. The Hon. Terry Roberts draws attention to the fact that there are different features in some of the schemes. I acknowledge the point he made in his second reading speech that it is difficult to make direct comparisons because of differences between the two schemes, but it is an extraordinary fact that South Australia has a very large number of claims and that, no doubt, might account for some of the inefficiencies which we say exist within the WorkCover Corporation. Perhaps its workload is greater than other comparable institutions, notwithstanding the fact that we have in this State substantially more self-insured companies and entities than is the case elsewhere. In 1991 there were in South Australia 49 800 claims, almost 50 000.

In Victoria, there were only 53 400, and in New South Wales there were 75 000. It is clear that we have an apparent imbalance of reported claims. If we turn to levies, we see that South Australia is out of kilter in that area. As at 1 January 1995, the average levy premium rate in Victoria was 2.25 per cent; in New South Wales it was 1.8 per cent; in South Australia, which is the highest in the land, it was 2.86 per cent; the next highest is Western Australia with 2.71 per cent; and in Queensland, which is substantially lower than South Australia, it was 1.7 per cent.

If one looks into particular industries, one finds that South Australia has some of the highest rates. In many sectors of manufacturing we have substantially higher rates than the States with which we compete. For example, in rubber products manufacturing our rate is 7.5 per cent. The highest of any of the other manufacturing States is New South Wales with 4.6 per cent. In plastic products, our rate is 5.5 per cent, once again the highest in the country, higher than Western Australia with 4.6 per cent, New South Wales with only 2.6 per cent, and Victoria with between 2.7 per cent and 3.2 per cent. In steel casting, for example, our rate is the maximum allowed under our Act (7.5 per cent), but in New South Wales it is 5.6 per cent, and in Victoria it is 5.78 per cent. In glass and glass products, South Australia's rate is 5.6 per cent, while in Victoria and New South Wales it is 2.6 per cent and 2.7 per cent respectively. So the list goes on. Clothing manufacturing, which I admit is not a substantial industry in this State, has a rate of 3.9 per cent, which is lower than that of Victoria at 5.78 per cent but substantially higher than New South Wales at 2.1 per cent.

Businesses such as nursing homes and department stores are not truly competitive businesses, and I suppose one could not say that in this area the South Australian economy is competing with other States. However, again we find that the South Australian levy rate at 5.4 per cent in respect of nursing homes is substantially above all the other States: 3.2 per cent in Victoria; 3.1 per cent in New South Wales; 2.95 per cent in Western Australia; and 3.3 per cent in Queensland.

The Hon. T.G. Roberts: That is still less than they were paying under the old system.

The Hon. R.D. LAWSON: That is contested by industry. But what is the point of the interjection? We are not working under the old system; we are presently competing with States in 1995. There is no point in harking back—

The Hon. T.G. Cameron interjecting:

The Hon. R.D. LAWSON: The Hon. Terry Cameron suggests that these rates are the product of Liberal Governments. The points I have been making in relation to Victoria and New South Wales by and large apply equally to Queensland.

The Hon. T.G. Roberts interjecting:

The Hon. R.D. LAWSON: There's always an excuse for not making any change. It is manifestly clear. We have not noticed that the benefits obtained under the Commonwealth scheme are as generous as those under the scheme in South Australia where a Labor Government has been in power for the past 14 years.

It is clear that something needs to be done. National standards do provide some benchmark against which we can draw some comparison to see whether we are providing fair compensation or whether our compensation as provided by employers—and ultimately funded by the community—is at a level that is greater than that allowed elsewhere. The Government wishes to reduce the levies to appropriate national averages. We do not want to be the lowest in the country, but we do want to provide South Australian workers with benefits comparable to those received elsewhere. I mention common law rights because South Australia, alone of all the States—as a result of a political deal done in 1992 between the then Labor Government and the trade unions—has abolished common law rights against employers in respect of injuries which occurred on or after 3 December 1992.

The Hon. T.G. Roberts: Are you going to bring common law back?

The Hon. R.D. LAWSON: It is not proposed in the present Bill to bring common law back. Most common law rights were abolished from December 1988 under the Commonwealth scheme. But, as the Hon. Terry Cameron says, every scheme must be looked at in the light of the total package. It is not proposed to bring it back, notwithstanding the fact that the Law Society and a number of legal practitioners have advocated strongly the reintroduction of common law, and notwithstanding the fact that, as a matter of logic and, it would seem to me, as a matter of fairness, workers ought not be deprived of their right to sue negligent employers. However, in 1992 they were deprived of that right, and the scheme which is proposed under the legislation will allow adequate compensation notwithstanding the removal of that right.

The Hon. T.G. Roberts: What figures do you base that statement on?

The Hon. R.D. LAWSON: All will be provided in Committee. In relation to levies, section 66 of the Act, which is not amended by the current Bill, provides, as I have already mentioned, that the levy must not exceed 7.5 per cent in any class of industry, but the corporation must fix its percentages by notice published in the *Gazette*. Subsection (8) provides that in fixing that percentage the corporation must have regard to, first, the extent to which work carried on in that class of industry is likely to contribute to the cost of compensable disabilities and, importantly, the need for the corporation to establish and maintain sufficient funds to satisfy the corporation's current and future liabilities in respect of compensable disabilities attributable to traumas occurring in a particular period from levies raised from remuneration paid in that period.

Secondly, the corporation must make proper provision for its administrative costs and other expenditure. Thirdly, the corporation must make up any insufficiency in the compensation fund resulting from previous liabilities or expenditures or from a reassessment of future liabilities. Therefore, it is a legislative requirement that in fixing levies the corporation must, as it were, try to balance the books. If the books are to be balanced in accordance with the sensible scheme maintained in section 66, it will be necessary either for levies to increase or for some appropriate adjustment to be made to the level of benefits.

A great deal has been said in the debate and in the wider community about the need for more effective claims management under this system. The Law Society of South Australia, in its submission on this Bill dated 3 February 1995, regarding its first high priority matter under the heading 'Achievement of effective claims management', stated:

> The scheme is marked by great inefficiency in claims management with excessive reliance on bureaucratic methods often applied in an arbitrary way. This approach has led to considerable additional expense due to the unnecessary prolongation of disputes.

The Law Society goes on to say that this matter had been previously identified in an earlier submission of the society. Not surprisingly, WorkCover disputes this claim. In a letter to the Editor, published in this month's edition of the *Adelaide Review*, which came out today, Mr Lew Owens, the Chief Executive Officer, points to the fact—which is worthy of note here—that the WorkCover Corporation is extremely busy and says:

> . . . my staff handle about 5 000 telephone calls per day and 6 000 items of mail. We have managed over 400 000 claims in the last seven years, with an average 98 per cent back safely at work within two years of being injured.

Two years is a fairly generous time frame.

The Hon. T.G. Cameron: It depends on the industry.

The Hon. R.D. LAWSON: Of course it depends on the nature of the industry. When one looks at the other schemes—

The Hon. T.G. Cameron interjecting:

The Hon. R.D. LAWSON: It is a record of which he can be proud, given the legislation with which he has to work. Our basic complaint in this context is the legislation. Let us tidy up the legislation because, as Mr Owens, whom those opposite are keen to champion, points out:

> We administer the Act—difficult though that may be. We don't create or change the Act. If Parliament changes it, we will administer the new changes just like we have the 200 odd other changes from the past seven years.

Mr Owens is making the point that this Act is difficult to administer. He claims—and he is entitled to his opinion, though not all agree with it—that the WorkCover management is imaginative, effective and efficient, and he challenges anyone to prove otherwise. I seem to remember that Mr Marcus Clark said much the same about another South Australian institution which ultimately was proved otherwise.

The Hon. Diana Laidlaw: Very creative.

The Hon. R.D. LAWSON: And imaginative and efficient: in fact, one of the most efficient banking organisations in the history of mankind at losing money.

Members interjecting:

The Hon. R.D. LAWSON: Mr Owens also says in his letter published in the *Adelaide Review* that it is not in his view mismanagement which is the cause of the problem: it is the legislation. And he points to the fact that the problems being encountered by WorkCover are encountered by all the exempt self-insured employers who operate independently of WorkCover. So it is clear that Mr Owens—

An honourable member interjecting:

The Hon. R.D. LAWSON: We see here that matters relating to administration are none of our concern. However, I commend to members Mr Owens' very interesting contribution to the debate.

The review and appeal system presently under part 6 of the Act is extensively reviewed, amended and refined in the amendments now proposed in the Bill. I do not propose to deal with those new mechanisms in any detail; they are in the Bill and have been referred to by the Attorney in his second reading explanation. However, it is clear from the submissions of the Law Society and from almost all other sectors from whom the Government has received sensible contributions that refinement is needed in these procedures.

It is commendable to note that there is an emphasis in the legislation on conciliation and the resolution of dispute by agreement and without the necessity for formal appeals and reviews. There is a provision for the payment of legal costs (new section 98). It provides that the costs awarded in the tribunal shall not exceed 85 per cent of the corresponding rate for representation in proceedings before the Supreme Court. It is commendable that there is a provision for workers—and it is usually the workers who are the beneficiaries of these provisions—to obtain an award for costs.

Personally, I would like to have seen the scale of costs for this type of work set at exactly the same as for other types of work in the appropriate jurisdiction because, if a worker wants to get good representation, to which he is entitled, his legal practitioner ought not be penalised in having to take a 15 per cent discount on the fees and the worker ought not be penalised if it be the case, as it might well be, that his legal practitioner says, 'I have plenty of work for which I am remunerated 100 per cent of the scale and I will give appropriate attention to that for which I am remunerated at a higher rate, and I will put the matters for which I am remunerated at a lower rate at the bottom of the pile.' The only person who suffers in that exercise is the client, and clients in this jurisdiction ought not be put on a lower standing.

I commend the Government for the new provisions dealing with commutation. In clause 16 of the Bill, the existing commutation provisions have been excluded and there is a new division relating to redemption. Redemptions will relate to liabilities to make weekly payments or to pay medical expenses. This provision for payment of a capital nature paid under the specified conditions in the clause is

entirely appropriate. The amount of the payment can be determined by agreement and, if that agreement between the employer or WorkCover is not reached, the amount can be referred to a conciliator.

Also, I commend the Government for the substitution of new section 43 in clause 17. It sets out a new scheme for the calculation of lump sum compensation for non-economic loss. The extent of the permanent impairment of a worker will be calculated according to approved principles. An assessment of impairment and non-economic loss will be undertaken by two medical experts, and any disagreement can be referred to the tribunal.

I have dealt but shortly with some of the major provisions of the Bill which it seemed to me were worthy of note. During the Committee stages I hope to make other comments about the specific provisions. I commend the second reading of the Bill.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

PLUMBERS, GAS FITTERS AND ELECTRICIANS BILL

Adjourned debate on second reading.

(Continued from 9 March. Page 1451.)

The Hon. ANNE LEVY: The Opposition supports the second reading of the Bill, and I am sure the Council will be pleased that my support will not involve lengthy discussion. The Bill has had a lengthy gestation, as discussions about how best to regulate the people involved in the plumbing and electrical industries has been a matter of consideration for a number of years. Currently, the Electricity Trust and EWS play significant roles in the regulation and control of these occupations, and the decision was made to move the regulatory functions to Consumer Affairs when I was Minister of Consumer Affairs. That decision was made about two years ago, so it has take a considerable time to reach the stage of having the Bill before us.

I understand that the Attorney's review team first thought of putting the regulation of plumbers, gasfitters and electricians into the Builders' Licensing Act, but I am pleased that that did not occur and that they will continue to have their own Act.

Indeed, the discussion paper on the Builders Licensing Act which was released last week is obviously based very much on the Bill before us, and one might say that the regulation of plumbers, gasfitters and electricians is serving as a model for the regulation of builders in the Builders Licensing Act if the proposals in that discussion paper reach the Parliament in the basic form proposed in that discussion paper.

I am not complaining about the time that it has taken for this Bill to reach the Parliament and wish to commend all who have been involved in producing the Bill. It does arise from extensive consultation with all sectors of the industry, that is, the unions, the Master Plumbers Association and the Electrical Contractors Association. All facets of the industry have been involved in the consultation.

To a large extent the Bill before us represents the view of the entire industry. It is highly commendable that all sections of the industry have been able to get together and work together in consultation with the Government to produce the legislation before us. It certainly shows how responsible are all sections of this industry when it comes to matters that involve public safety and public health, which should be (and obviously are) high on the agenda when considering these occupations.

My complimentary comments are not for the Bill as originally presented to the Parliament but for the Bill and the amendments which the Attorney has put on file: they need to be considered together. The amendments arise from further consultation that has occurred with all sections of the industry and very much improve the Bill from the form in which it was originally presented to this Parliament. One matter that has not been covered by the amendments on file I will say more about later.

The industry as a whole has agreed that the licensing requirements should move to Consumer Affairs as it is no longer appropriate that ETSA and EWS should be involved. The changed corporatisation of ETSA makes it inappropriate for ETSA any more to have a regulatory function as regards the industry as a whole, and the suggested moves by the Government for EWS—although the actual form they will take is as yet unknown—certainly indicate that it would no longer be appropriate for EWS to continue the role that it has played in regulating those occupations.

The system before us in the Bill is one of licensing for the contractors and registration for the workers in the two industries. This is in line with other State occupational systems which this Parliament has considered in recent months such as for the land agents, valuers, conveyancers, and so on.

Everyone should be aware of the fact that the electrical unions are concerned about this proposed system. Everywhere else in Australia electrical workers are not registered but licensed, and 'a licensed electrical worker' is the phrase that is used in all the awards which relate to that industry. I appreciate that it makes it neat and tidy for the Attorney if we have contractors licensed and workers registered by analogy with other occupations for which there is a regulatory function for the Minister for Consumer Affairs, but this will cause problems for the electrical trade unions, which everywhere else in Australia have licensed, not registered workers. The problems will arise in awards which talk about licensed electrical workers. Awards do tend to operate very largely on a national level, and any changes to them will cause problems for the unions here, which will have to make special application to the Industrial Court every time so that the court will agree that, for 'licensed workers', in South Australia read 'registered workers'.

The Hon. K.T. Griffin interjecting:

The Hon. ANNE LEVY: I appreciate that licensing can have different connotations within South Australia and that what the Attorney is proposing is consistent with other South Australian occupational systems, but it is inconsistent for electrical workers nationally, because in every other State electrical workers are licensed. I did think that one of the aims of mutual recognition was to have common systems right across the country, yet this is one area where South Australia is deliberately being different from every other State. As I understand it, while the union is not happy about this—far from it—it is prepared to go along with it in the interests of achieving a sensible solution, but we should recognise the difficulties it will cause for this union, for instance, every time there are award changes.

I would very much hope that the Government will recognise the problems which its form of legislation will cause for the Electrical Trades Union and that in fact Government assistance will be given to it every time it needs

to go to the Industrial Court because of this peculiar South Australian difference from the rest of the country. I would hope that, through the Attorney, the Government will recognise the problems that will be caused to this national union and that he will be able to promise that the Government will do whatever it can to assist whenever such problems arise because of South Australia's desire to be different from everyone else.

That said, I understand too that in the development of this legislation there have been problems relating to the definitions of the different types of workers, but that is being addressed in the Attorney's amendments. The industry is unanimous in its view that the workers, that is, electrical workers, plumbing workers or gas fitting workers—whichever occupation one is considering—will be those who carry out a particular type of work.

While it is quite obvious that exemptions are necessary, they will be dealt with in the regulations. Of course, the regulations will make perfectly clear that individuals can change their own tap washers, that a plumber is not required for a simple job like that. Likewise, it will be perfectly legitimate for any individual to change the plug on the end of the ironing cord when that is necessary, as indeed is done in thousands of homes across the State every day. No-one would suggest that a plumber or an electrician would be required for these jobs.

However, the definition of 'workers' in the amendments to be moved by the Attorney will make it clear that an electrical worker is someone who carries out electrical work and that an electrical worker has to be registered. However, the regulations will set out the types of work for which a registered electrician is not required. It will be done on the basis not of who is doing the work but what type of work it is and that some types of work, as a matter of public safety, must be done by registered workers but other jobs are too trivial and do not need to have a registered worker undertake them.

The original definition in the Bill prior to the amendments being put on file would have allowed home owners to do virtually any electrical or plumbing work for themselves. There are obvious dangers in this. Home owners can undertake certain electrical or plumbing work but there is other such work that it would be extremely dangerous for them to undertake. It is far better to have a system whereby the exemption will say what work can be done by other than a registered worker and this will be put in the regulations and decided basically on the grounds of safety. I realise, of course, that the regulations have not yet been drawn up. However, the job of drawing up the regulations has started and, again, is being done in consultation with all sectors of the industry, both the employers and the unions. I am sure that as a result sensible exemptions will be made in the regulations with which everyone can agree.

Another matter of concern requiring a great deal of consultation is the role of the advisory panels. The amendments that the Attorney has on file will strengthen their powers and role. I agree with the industry that it is most important that these advisory panels have experts who can give advice on both standards and competency. These are the people who know and appreciate the dangers of having incompetent people attempting electrical or plumbing work; they are the people who know about required standards—they have to work with them every day. To have these experts on the panels able to give advice in these matters will be greatly to the benefit not only of the members of the industry but also of public safety and health.

I am interested to see in the Bill before us that the disciplinary matters—such as the powers of delegation, the question of agreements between the Minister and associations of people in the industry, the method by which these agreements will be tabled in Parliament, and other matters—are exactly the same as was agreed finally in other Bills which we have considered in this session. To that extent, the considerable time spent in negotiation over the Land Agents Bill has certainly shortened the time required for consideration of this legislation. The provisions of disciplinary matters being dealt with by the Administrative and Disciplinary Division of the District Court were thrashed out earlier and are now flowing readily into other consumer type legislation, obviously in a form with which this Parliament agrees, as it has agreed to the same basic provisions in other legislation. I am glad that we can now regard the principles of these matters as settled and the precedents previously established will be followed in this and other legislation.

One point of interest which does occur to me is that the Bill enables the Minister to make agreements with associations representing people in the industry. I will certainly be interested to see what agreements are made. Under the Bill, agreements will be able to be made not only with the Electrical Contractors Association and the Master Plumbers Association, but equally possible will be agreements with the unions concerned in these occupational fields. I will certainly be interested to see if agreements are made not only with the employers but also with the unions, as both will be equally available under the Act.

One matter to which I referred earlier is a question of an amendment to the definition of 'water plumbing' which occurs in clause 3. I understand there was an earlier version of this definition, but it was changed before the Bill appeared before us. I understand also that the industry would certainly prefer the definition of 'water plumbing' to revert to the definition which was in an earlier draft of the Bill and which would be consistent with the definitions of 'stormwater drains' and 'sanitary drains' which occur in the Bill before us. It is not just a question of consistency. We do need to consider the definition of the work in terms of later descriptions of where the work is to occur.

I do not know in which clause it appears, but there is reference to work being done downstream of a meter. In a private residence which has a water meter, it is very clear that past the water meter is downstream of the meter, and a registered plumber should be the one to undertake the work. But we all know there are some properties without meters or properties that share meters—

The Hon. K.T. Griffin: It's still downstream from the meter, though.

The Hon. ANNE LEVY: I understand that there are places which have no meters at all. There are certain factories and commercial properties which do not have meters and which, by agreement, pay a particular water rate, but the consumption is not measured.

Places such as public toilets have no water meters established so, there being no water meter, downstream of a water meter has no application. We need to make very clear that certain work can be undertaken only by registered workers even when there is no meter to be downstream of—again in the interests of public safety and public health. In consequence, I have put on file an amendment which will return consistency to the definitions and which I hope will be

favourably considered by the Government. It is certainly one that all sections of the industry, both employers and unions, agree is desirable.

Overall, apart from this short amendment, the Bill before us with the amendments on file from the Attorney can be regarded as a credit to all members of the industry, both the employers and the unions. It shows how all sections of the industry can work together most responsibly in the public interest, particularly where public safety and public health are involved, as they are in the important occupations relating to the electrical, plumbing and gasfitting industries. I am sure that the Bill with the amendments foreshadowed will prove workable. They may not be to everyone's complete satisfaction but they have the support of all sections of the industry and will result in a more rational and coherent regulation of these industries than we have had before, given the changed circumstances in which we find ourselves in the 1990s. I support the second reading.

The Hon. J.F. STEFANI: I will be very brief in supporting the second reading of this Bill. I am fortunate to have been involved in some of the discussions with the interested parties who were negotiating the relative position of each of the parties, including the unions and the employers association. I have had a significant interest in this matter and can say that, when the Labor Administration introduced the measure, the unions and the employers association met with me with some horror. It was with the help of the Democrats that the then Liberal Opposition stopped the proposed legislation to which those parties were strongly opposed. So, it is refreshing that, with some cooperation from all parties, we have now achieved a position where the interests of the union, the employees and the employers have been addressed and reflected in some of the suggestions that were made to me and, in turn, to the Attorney and the staff of his office, who have picked up some of the concerns and issues which were put to us and which have now been addressed by the amendments on file.

The Bill touches on the issues of registration. It is reasonable to say that one cannot be licensed unless one is registered. I have carefully noted the comments made by the Hon. Anne Levy but, at the end of the day, the practicalities are that to be registered one needs to be licensed or vice versa, therefore it is really a wording problem more so than a practical problem. I know that the Government is conscious of this issue in terms of the awards and definitions enshrined in the awards, particularly those in the electrical trades. I feel confident that there will be no problems when dealing with industrial issues or award matters.

The Hon. Anne Levy has referred to a number of issues. I tend to support the view that a public water supply point which is not metered can have quite important ramifications if the plumbing work downstream from that point is not carried out in accordance with standards or is carried out by unlicensed or unregistered people. My practical experience tells me that the amendment would serve well in safeguarding that position. I am sure that the Attorney will pick up the point. It is a practical suggestion and amendment and will do much to enhance and safeguard that position. I am pleased to have been involved, in a very constructive way, with the parties who were dealing with this legislation. I am equally pleased that the Liberal Government has been able to put in place an Act which has addressed and combined the efforts of the three parties: it is something that has worked very well. I commend the second reading.

The Hon. SANDRA KANCK: I understand that the need for this Bill is in part because of the impending corporatisation of both ETSA and EWS, although obviously the pressure for it to happen originated long before those corporatisation Bills appeared last year. It really has occurred as a result of Government cost cutting over a number of years and because the financial resources of those two utilities have been stretched to the point where saving money in any way is regarded as a good thing. More than 12 months ago I met with people who were concerned that the responsibility for the licensing of electricians would be transferred to the Builders Licensing Act through Consumer Affairs.

They were concerned then that this was not the appropriate body, and I noted in the Attorney's speech that this option was eventually rejected, although I am not sure how far we have now come. However, the Democrats accept the Attorney's proposition that putting the three trades together under a separate Act and placing the licensing under the control of the Commissioner for Consumer Affairs will reduce administrative costs, but we hope that more is considered in this process than merely the reduction of administrative costs. The Democrats support the concept of streamlining, as given in the Attorney's example of a person requiring both licence and registration being able to do so in a one-stop process.

The Government has said that the new Bill provides for a competency-based approach to occupational and business licensing, but the Democrats have concerns about what the Government has decided is competency, particularly in light of the fact that the direct function of examination, as occurs with the Sanitary Plumbers' Examination Board, the Plumbers' Advisory Board, the Gas Fitters' Examining Board and the Electrical Advisory Committee, will be removed as a result of this Bill.

Over the years, my husband has been in the position of having to select appropriate people to do technical work in his company. Ultimately, he found that the only reliable way in which to choose from those people who were short listed was to give them a practical examination. Recently, when he was looking for an electronics technician he set up three major tests: the first was based on recognition of electronic components with two of the three short listed applicants having some difficulty with this task; the second test was on the reading of drawings, which all applicants survived; and the third test involved basic mathematical calculations around specific electronic circuits. This third test really sorted out the sheep from the goats. My husband said that, if these people had any real understanding of the circuits, the calculations would have involved simple mental arithmetic, but one applicant could not work it out at all and the second required a calculator, while the third, who obviously was the one who got the job, did it in his head and got it right.

What is important to observe in the case of the two unsuccessful applicants is that they had the appropriate paper qualifications: an electronic technician's diploma. Similarly, when my husband was looking for someone with an appropriate mix of electrical and mechanical skills, he found that two of the short listed applicants could not visually recognise the difference between a single phase and a three phase motor, and they even had some difficulty with the colour coding of wires, although both had bits of paper which said they were suitable. They are just a couple of examples from my husband's firm and I am sure there would be a myriad of others throughout business in this State. While those two examples do not deal with plumbers or gas fitters, they do

show that paper qualifications are not necessarily a measure of competency. So, I am very concerned that examinations for these positions are to be removed.

This Bill in its current form will result in the dissolving of the four boards that are currently responsible for examining tradespeople and the setting up of two advisory panels which will have what the Minister describes as an overseeing role in the technical assessment process rather than the direct function of examining applicants. In the two examples I cited, the unsuccessful applicants had TAFE qualifications, but that did not appear to be enough. I suspect that, in time, the shortcoming of having no examinations will show up and that at some time in the future we will see a Bill to amend the Plumbers, Gas Fitters and Electricians Act to restore the examination function.

I raise the matter also of what will happen regarding the reporting of electric shocks. Until now any such incidents have been reported to ETSA. Who will be the recipient of such reports in the future and who will do the associated inspections? I note also the Government amendments which have been put on file. I see a pattern emerging with this Government generally of introducing legislation either before proper consultation has begun or before it has been completed, and I think this Bill reflects that. Hopefully, we have managed to get it right in the end in this case.

I understand that because of the imminent corporatisation of the EWS and ETSA this matter must be dealt with in this session. It is unfortunate, in my opinion, that the Government did not give the Bill more time for consideration. It was introduced here on 9 March. If it had been introduced late last year and made available for public comment, some of the matters of concern, such as examinations and the issue of electric shocks, would have had time to be ironed out. As it stands, I believe that the Bill is not as good as it could be. So, with some reservations, the Democrats support the second reading.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support for the Bill. I will deal with some of the issues that have been raised, and if I miss any or if more information is required, we can pick that up in Committee. Dealing, first, in the reverse order with the comments made by members, I took the Hon. Sandra Kanck to be suggesting that this has arisen out of Government cost cutting exercises over the years. Nothing could be further from the point. The fact of the matter is that under the previous Government it was recognised that there was a need to reform the processes and try to take the responsibility for regulating away from the bodies which were actually providing services and using the same people whom they regulated but also to try to modernise the process.

Right across Australia there is much greater emphasis on competency based qualifications. Those competencies are developed in consultation with industry and also involve on-the-job training and assessment of skill levels as a result of work on the job. What we are doing in the context of this Bill is to recognise that, with plumbers, gas fitters and electricians, it is no different, in many respects, from a number of other occupational, licensing or registration processes recognised within the State. It is happening in the real estate industry, and it is happening in other areas of the building industry. The pure licensing focus without appropriate recognition of competency is inadequate to serve the needs of the community.

We have taken the approach—and it builds on the first attempt by the previous Government to deal with plumbers, gas fitters and electricians—to focus much more on competency. It is not about cutting costs, although by bringing them together and reforming the processes it will save administrative costs—there is no getting away from that—but that is not the focus. The other point which has to be made is, notwithstanding that this Bill arose out of the ETSA and EWS corporatisation process, the fact is that, even before that process was happening as rigorously as it is now, two years ago the previous Government was looking to do much the same thing. At least the majority of the Council are of one mind in relation to where we want to get.

The Hon. Sandra Kanck expressed concerns about the competency and examination functions being removed. I point out that, in all of these areas, the examination function is either subcontracted to TAFE or delegated to TAFE or to other organisations. These boards do not do that work. They supervise, but they do not do the examination work, as I understand it.

The Hon. Anne Levy: They will still be supervising.

The Hon. K.T. GRIFFIN: The panels that we are trying to establish in this Bill, as a result of fairly intense consultation with all sides of industry, are directed towards ensuring that the technicians, the practical people continue to have significant responsibility in respect of competency, which as well as dealing with education also deals with skills. I would hope that the Hon. Sandra Kanck's concerns are misplaced. I would agree that just having a piece of paper is not necessarily an indication of competency. It is one of the reasons why, as I said earlier, across Australia Governments are endeavouring, in conjunction with industries, to move away from just the written examination and the piece of paper which identifies a qualification to more skill based training.

In terms of the shock register, that is something on which I cannot give the honourable member a reply off the cuff but I will endeavour to do that during the course of the Committee consideration. This Bill arises following extensive consultation. The Hon. Sandra Kanck made some reference to legislation coming in before proper consultation has been done or completed.

I suppose it is a criticism that one can always make where new ideas may develop or amendments may be sought. The fact is that, unless one takes a decision and tries to crystallise a proposal into legislation and get it into the Parliament, one can keep consulting for ever. I do not think that is good for the Government, industries, whether contractors, employers or employees, and those associated with them. The fact is that decisions have to be taken. We all know that there are hiccups with particular pieces of legislation, but in relation to this legislation there has been quite extensive consultation with everybody who has a role to play in this industry. I do not think that we could have done much more. We did a lot with retail shop leases but, even there, there were differing points of view.

The Hon. T.G. Roberts interjecting:

The Hon. K.T. GRIFFIN: I will not respond to that. The fact is that there has been extensive consultation. A discussion paper has gone out in the past week or so in relation to builders' licensing. Again, they are issues on which we have had, are having and will continue to have consultation as we look at what changes are to be made to builders' licensing more generally. Again, we have had employers, contractors, industry associations, employees and unions involved in that process. I am interested in getting legislation through the

Parliament where it has a reform objective. There is no point in embarking on confrontation in this area because we will not get this important legislation through. That is the basis for the consultation, and I am pleased to say that it has been a good job in this instance.

The Hon. Julian Stefani picked up the point made by the Hon. Anne Levy in relation to meters. I cannot give a final answer in relation to the suggestion made by the Hon. Julian Stefani about a point of supply for premises which do not have meters perhaps being the solution to the problem. I will have that examined, and I would appreciate it if we could pick it up for consideration in Committee. The Hon. Anne Levy focussed particularly on the distinction between licensing and registration and the difference between South Australian contractors and workers in the electrical industry and those interstate.

The Hon. Anne Levy: Plumbing is a mess everywhere.

The Hon. K.T. GRIFFIN: We are trying to get some consistency into it, at least in this State. It is important to make the point that with electrical workers we recognise that there is the issue of terminology, but in the end the requirements encompassed by the legislation are the same. We are conscious of that, and we have explored it with the electrical industry. We believe that we can deal with it administratively. We are not going to say, 'Lump it or leave it.' We are conscious of the problem and we will do our best from the perspective of Government to address that concern. I should have thought that ultimately it will not be a difficult problem to resolve. I can understand the concern but, on the other hand, from the State's perspective, it is important to have some consistency of approach. When we talk about licensing, what we mean is consistent throughout all legislation. If we talk about registration, we know what registration means. If we have to accommodate some administrative matters to deal with the interstate issue, we will endeavour to do that.

The Hon. Anne Levy made some reference to mutual recognition. With respect, I do not think that this is an issue which really creates a problem under mutual recognition because the requirements are the same ultimately. The substance is the same: it is just the form which is a problem. So, it does not create a problem in relation to mutual recognition in my view. The other point is that in this State plumbers and gas fitting contractors are presently registered and, if we are to bring plumbers, gas fitters and electricians together where there is an overlap of work and skills, again we must have some consistency. So, it was either one or the other, but we think we can accommodate the problems—

The Hon. Anne Levy interjecting:

The Hon. K.T. GRIFFIN: I have indicated that we are sensitive to that issue and we believe that we can do it administratively. The Hon. Anne Levy has made some reference to the roles of the advisory panels and I have expressed the view that the panels are now in a form which both those in industry and the Government believe will work effectively. There had to be some give and take on both sides in relation to that. There is the definition in relation to water plumbing generally, and the Hon. Anne Levy has an amendment to deal with some issues in that regard. I am not yet in a position to respond to that because there is one issue about that which I need to take up further, but we will deal with that in Committee. I think that addresses all the issues raised and, if it does not, we can pick them up tomorrow. I thank members again for their contributions.

Bill read a second time.

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 March. Page 1630.)

The Hon. T. CROTHERS: I indicate that, subject to our Caucus meeting tomorrow, the Opposition members in the Legislative Council tentatively support the main thrust of this Bill. The reason at this stage for tentative rather than full-blown support lies in the fact that the other House is not sitting today, which is a departure from the norm. Consequently, the Labor Party Caucus did not meet at its regular time this morning and instead will meet tomorrow. Subject to that meeting, I offer this second reading contribution in an endeavour to facilitate the Government's legislative program; we have only five sitting days left to progress the Government's business.

The Bill seeks to amend the existing Act in a number of different ways: it seeks to give the clear authority to licensees to bar patrons from their licensed premises on reasonable grounds for a period of up to three months with the caveat that, if a patron is barred for more than one month, the Liquor Licensing Commissioner can review such an order and may either confirm, vary or revoke such order. If this course is pursued, the Commissioner's decision with respect to that matter will be final and absolute. In addition, if passed, this legislation will make it an offence for certain persons to sell or supply liquor to an intoxicated person and, as such, this will correct a shortfall in the Act.

Also, I refer briefly to other amendments. For instance, there is a provision to prevent minors from entering certain licensed premises after midnight. Further, the Bill makes provision for the licensing authority to make the grant of a licence conditional on the person under consideration for such licence undergoing approved training within a period specified by the authority and that authority will be required to consider an applicant's knowledge, experience and skill before determining whether a person is fit and proper to hold a licence issued under the Act.

As I see it, these are the matters that will have the main impact on the legislation. Further, I understand that the employer groups and unions involved have been consulted widely by the Minister and that in the main they support the matters now before the Council. However, there is one additional matter of concern to me about which I have had some discussion with the Attorney, and whether this is the appropriate time to deal with it depends on further discussions between the Attorney and me prior to the Committee stage of the Bill.

I refer to a position which arose when I was a paid official with the union mainly responsible for the people employed in the industries where liquor licences are issued. I refer to a bar attendant whom I will not name but who is an old and experienced bar tender, having worked in the industry all his life. He worked in the old Richmond Hotel in Rundle Street. I will supply this person's name to the Attorney if he needs to trace the information that I am now putting on record. Prior to the opening of the Refectory Bar, Adelaide University students from lunchtime onwards on Fridays would frequent the first floor corner bar of the old Richmond Hotel. The dining room on the first floor of the hotel was enormous, much larger than or as large as anything that exists in today's accommodation hotels. One could endeavour to crack the

four minute mile without reaching the other end of the dining room.

The bar was so small that it did not permit more than one person to work in the bar and, because of the numbers of students on the day in question, the pressure was great and it was about 100°; members can imagine the old barman working flat out behind the bar, which obscured his view of the patrons in the dining room. A customer aged 21 years asked for a jug of beer and two schooner glasses; but he took the drink to his mate around the corner and out of the physical sight of the barman, and the barman was penalised for serving a minor because the recipient of the second glass was 17 years old.

The barman was summonsed to appear before the appropriate court. The union defended his position but was informed that there was no defence. The bar attendant was subsequently fined $200. I thought that that was not only iniquitous but bad law. The Attorney asked me to place this matter on record. I have raised the matter with him and, in his fair-minded way, he conceded that that position ought to be looked at by him and relevant officers.

I certainly have no hesitation in putting it on the record. I have no problems with bar attendants serving minors—none at all. They ought not to do that and there ought to be a penalty if they do so. That is subject to the site unseen reference I have just made.

In conclusion, I place on record that, subject to consideration of the matter by our Caucus meeting tomorrow, at this stage the Opposition supports the second reading of this Bill.

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

MFP DEVELOPMENT (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 March. Page 1661.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the Bill. The MFP, which came into being because of the hard work, dedication and vision of the previous Labor Government, is a significant project for South Australia's future. This Bill contains sensible amendments to the Act. One such amendment is the expansion of the membership of the MFP Development Corporation, with the inclusion of a representative of the Commonwealth Government. The Leader of the Labor Party (Hon. Mike Rann) has offered to assist in the selection of that person, and I trust that the Government will take him up on this offer because the Opposition has much to give the MFP in terms of contacts with the Commonwealth Government.

Another amendment is the streamlining of reporting procedures in Parliament. This is a logical amendment which will allow the MFP Development Corporation to get on with the job. Certainly the Opposition will not in any way hold it up.

The final amendment I mention is the focus on the environmental aims of the MFP. The existing Act indicates the importance of the environment to the MFP project, but I am more than happy to support an amendment that reiterates and strengthens this commitment. The Opposition views the MFP as a bipartisan South Australian project which requires the support of all to succeed. If the Liberal Government did not always act in this spirit when it was in Opposition, I trust that it will now join us in giving unremitting support to this most important development. I support the second reading.

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

CONSTRUCTION INDUSTRY LONG SERVICE LEAVE (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 March. Page 1662.)

The Hon. J.F. STEFANI: I support the second reading of the Bill. I take members back to the time when this Bill was introduced in this place and, with the support of the Democrats and then Attorney-General (Hon. Chris Sumner), I was able to move certain amendments which, unfortunately, were not accepted by the then Minister in the Lower House (Hon. Bob Gregory). The consequence of that was that we went to a conference and it was the rather balanced view of the Council at the time that, rather than stifle the legislation, we would concede to the request of the then Minister, with his commitment, given to Parliament in *Hansard*, that he would refer the issues we raised and the amendments that were passed by his colleagues here in this place and proposed by me on behalf of the Opposition, and subsequently have a task force.

The task force did deal with the issue. It was established by the Hon. Bob Gregory and it is a tripartite task force representing the unions, the employers, the employees and, of course, the Long Service Leave Board itself. The task force found that in the issues that are now before us it was unreasonable to include in the definition of 'construction work' the service work which was being carried out by electricians on an electrical pump in a chook house in Murray Bridge, where the electrician involved dismantled the pump, rewired it and reassembled it. The definition provided that this was construction work. I rightly maintained that this was not construction work but repair work. This was one of the very important issues which we addressed in debate in the Council and which the Hons Ian Gilfillan and Chris Sumner believed to be correct, because they supported my amendments.

So, the task force has recommended certain amendments, addressed these issues and certainly agreed with our approach. This is now enshrined in legislation. The Act does not disadvantage those workers who are already under an award. By definition, the award provides that the employer has to pay long service leave after the prescribed years of service, and that obligation is maintained very clearly under the award provision.

It is now with a great deal of interest that I see that we have introduced this legislation. It incorporates the appropriate amendments dealing with that issue. After discussions with the Manager of the Long Service Leave Board and the people interested—the tripartite representatives on the working party, the unions—we now have before us their recommendations and their positions, at which they have arrived after careful consideration. I suggest to all members that this is really the effect of following through the previous Minister's commitment to the Council. I am pleased that that commitment has finally come to fruition, and I urge all members to support the Bill.

The Hon. R.R. ROBERTS: The Opposition supports this Bill. There has been a great deal of discussion, and indeed agreement, about this matter. I note that the Government has an amendment on file. We have had some consultation in the past couple of days with respect to another minor matter in this area. It is not my intention and it is not the intention of the Parliament to go into Committee tonight, but I give notice that we will move another amendment, which I intend to put on file tomorrow, subject to some consultation. But, by and large, the Opposition is in agreement, as it was in the Lower House. There has been a great deal consultation between all the parties—the employers and employees.

I noted in my perusal of the second reading speech an alteration which suggests that contributions will no longer be paid to apprentices. I must confess that that concerned me at the time, but obviously there has been a great deal of discussion with respect to this matter and agreement has been reached by the employees and the employers. I am reasonably confident that that has been done for some good reason. However, my contribution needs to be brief and I indicate that the Opposition supports the Bill subject to the introduction of a minor amendment that I will introduce tomorrow.

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

ADJOURNMENT

At 10.41 p.m. the Council adjourned until Wednesday 5 April at 2.15 p.m.