LEGISLATIVE COUNCIL

Wednesday 18 October 1978

The PRESIDENT (Hon. A. M. Whyte) took the Chair at 2.15 p.m. and read prayers.

PUBLIC WORKS COMMITTEE REPORTS

The PRESIDENT laid on the table the following reports by the Parliamentary Standing Committee on Public Works, together with minutes of evidence:

Elizabeth Community College, Stage III,

Port Lincoln Shipping Berths 2 and 7—Reconstruction.

QUESTIONS

SITTINGS AND BUSINESS

The Hon. M. B. DAWKINS: I seek leave to make a brief statement before asking the Minister of Health a question about sittings of the Council.

Leave granted.

The Hon. M. B. DAWKINS: Some time ago the Minister supplied me with a list of Council sitting dates for this year, which list I circulated to honourable members on this side. This action was appreciated as it enabled honourable members to arrange programmes of their public duties accordingly. Has the Minister anything further to add regarding the remainder of the sittings for this calendar year, and can he say whether there is to be a short session in the early part of 1979?

The Hon. D. H. L. BANFIELD: I have nothing to add to the notice I gave the honourable member some time ago in relation to the sittings for this year. The Government has not yet decided whether or not it will be necessary to sit early in the new year but, if it is, the honourable member can rest assured that it will be towards the end of February and will not extend beyond March. That is not definite, but I will inquire and let the honourable member know as soon as possible.

CLASSIFICATION OF PUBLICATIONS BOARD

The Hon. R. C. DeGARIS: Has the Minister of Health a reply to my recent question about the Classification of Publications Board?

The Hon. D. H. L. BANFIELD: Since the inception of the Classification of Publications Board, the following persons have been appointed:

Name	Appointed
Judge R. Layton	26.4.74 (current member)
Ms. W. Worrall	26.4.74 (current member)
Dr. K. LePage	26.4.74 to 26.4.77
Ms. R. Wighton	26.4.74 to 22.5.75
Mr. J. Warburton	26.4.74 to 31.7.75
Ms. M. Ward	26.4.74 to 26.4.77
Mr. J. Holland	31.7.75 (current member)
Ms. D. Bradley	22.5.75 (current member)
Ms. D. Horsell	Deputy member 1.7.76 to February 1977 vice Ms. Worrall overseas (current member) from 26.4.77
Dr. P. Eisen	26.4.77 (current member)

Ms. R. Wighton and Mr. J. Warburton resigned for personal reasons. Ms. M. Ward and Dr. K. LePage did not wish to be considered for reappointment when their terms expired.

POLICE PARKING

The Hon. C. M. HILL: I seek leave to make a brief statement before asking the Minister representing the Chief Secretary a question about parking space for police officers' vehicles.

Leave granted.

The Hon. C. M. HILL: For some years members of the Police Force have been making representations to me (and I know they have made unsuccessful representations to the Government) regarding the need for more parking space for motor cars and cycles. This applies particularly to shift workers, and the officers concerned believe that there is an urgent need for more space to be made available because of the great inconvenience caused by the lack of parking accommodation for their cars and cycles. Will the Minister of Health ask the Chief Secretary whether the Government can see its way clear to help in this area in any way?

The Hon. D. H. L. BANFIELD: The Government has been concerned about this matter for some time. True, as yet we have not come up with a solution, but I will refer the honourable member's question to my colleague and bring back a report.

STRESS EVALUATORS

The Hon. C. W. CREEDON: On behalf of the Hon. Anne Levy, I ask the Minister of Health whether he has a reply to the honourable member's question about stress evaluators.

The Hon. D. H. L. BANFIELD: The Government shares the honourable member's concern that the use of such machines could lead to gross invasions of privacy. To the Government's knowledge, no such machines are being used by any departments or semi-government bodies in South Australia. On present information, the Government regards the use of both psychological stress evaluators and polygraphs within South Australia as most undesirable. The Working Group on Privacy established by the Government has been asked to report on the extent, if any, to which such machines are used in South Australia and to examine their impact on individual privacy. For further information about these machines the honourable member is referred to *Lie Detectors: The Privacy Implications of the Use of Polygraphs and Psychological Stress Evaluators,* a background paper prepared by the New South Wales Privacy Committee.

ROXBY DOWNS

The Hon. D. H. LAIDLAW: I seek leave to make a brief explanation prior to addressing a question to the Minister of Lands, representing the Minister of Mines and Energy, regarding the development of Roxby Downs.

Leave granted.

The Hon. D. H. LAIDLAW: Sir Arvi Parbo, the Chairman of Western Mining Corporation, said in his recent annual report that drilling at the Olympic Dam site on Roxby Downs Station continued to confirm that the company has discovered a major deposit of copper and uranium containing some gold. Although its dimensions are still unknown, mineralisation has been intersected in widths in excess of 100 metres over several kilometres.

Mr. Hugh Morgan, the Executive Director of Western Mining Corporation, in an address in Melbourne on 11

October, was more explicit than his Chairman, stating:

> The Roxby Downs copper, uranium and gold deposit is one of the most dramatic things to have happened to the company since its discovery of nickel. It is likely to be a major world mine eventually.

Mr. Morgan added that in no way would copper and gold be mined at Roxby Downs and the uranium stockpiled. The uranium by-product would make Australia one of the main producers.

The financial correspondent, Chanticleer, when commenting on Mr. Morgan's remarks, said that, if Western Mining had discovered Roxby Downs 10 years ago, it probably would have developed the mine on its own. However, low profitability due to depressed nickel prices and interest charges on large borrowings has taken its toll. Western Mining now feels obliged to find partners to help defray the cost of developing its discoveries of uranium at Yeelirrie in Western Australia, of copper at Benambra in Victoria, of copper and uranium at Roxby Downs, and to carry out drilling of its oil leases in the Pedirka Basin and elsewhere in South Australia.

First, since 7·8 per cent of South Australians are now unemployed compared with a national average of 6·1 per cent, does the Minister agree that it is desperately urgent for some new mining or industrial projects to be commenced in this State?

Secondly, since the discovery of copper, uranium and gold at Roxby Downs is large by world standards and since development of the mine and its associated infrastructure would provide jobs for hundreds of workers, will the Labor Government, as a matter of urgency, review its policy on uranium mining so that Western Mining Corporation can find a partner or partners with the finance available to enable development to proceed?

The Hon. T. M. CASEY: I will refer the honourable member's question to the Minister of Mines and Energy and bring down a reply.

COCA-COLA

The Hon. F. T. BLEVINS: Has the Minister of Health a reply to the question I asked some time ago regarding Coca-Cola?

The Hon. D. H. L. BANFIELD: Part of a shipment of canned soft drink delivered to Coober Pedy in March was unsatisfactory because of the failure of the pop-top type of can used. The failure was considered to be attributed to rough handling during transport and increased pressure within the cans because of the high local temperatures. The manufacturer has now replaced the pop-top type of can with an "enviro non-detachable pull-up" style, and to date no problems have been reported with this form of container. Mould that forms readily on flat soft drink could have been present in the beverage and, although repulsive to the consumer, it is unlikely to have caused any ill effects.

MARIJUANA

The Hon. N. K. FOSTER: I seek leave to make a statement before asking the Minister of Health, representing the Attorney-General, a question regarding marijuana and its possible effect on drivers.

Leave granted.

The Hon. N. K. FOSTER: Yesterday, I received a reply to a question that I directed to the Attorney-General some weeks ago regarding computer bandits, and part of that reply states:

> The Attorney-General has advised that a report referred to by the honourable member is a report submitted to the New South Wales Government, and that the honourable member should direct his inquiry to that Government.

I was surprised by that reply, as I did not think that the Attorney-General would regard the State of New South Wales as a foreign country. Regarding the question I now ask, I hope that he does not regard Western Australia as being a State outside the Commonwealth. It was reported on the radio this morning that Western Australia was about to take action in relation to apprehending drivers to ascertain whether they had been smoking marijuana and, if so, to what extent this had affected their driving. Has a similar measure been considered in South Australia, and would it be legal, under this State's present laws, to take such action?

The Hon. D. H. L. BANFIELD: I will refer the honourable member's question to my colleague and bring down a reply.

PRAWNS

The Hon. J. A. CARNIE: Has the Minister of Lands a reply to the question that the Hon. Mr. Cameron asked the Minister of Fisheries on 15 August concerning prawn-fishing research?

The Hon. T. M. CASEY: Following questions asked by the honourable member concerning Government expenses associated with prawn-fishing research, I am pleased to provide the following information. However, I point out that these figures are estimates for the current year and do not include any administration, licensing, enforcement or other overhead costs.

	$
Salaries (research staff)—	
Prawns	36 000
By-catch and crabs	11 000
	47 000
F.R.V. *Joseph Verco*—	
Prawns—	
18 days at $1 200 a day	21 600
By-catch and crabs—	
12 days at $1 200 a day	14 400
	36 000
Operating (other than for *Joseph Verco)*—	
Prawns	6 000
By-catch and crabs	1 750
	7 750
Travel and fares—	
Prawns	6 000
By-catch and crabs	2 700
	8 700
Major equipment—	
Prawns	450
By-catch and crabs	550
	1 000
Total	$100 450

HOSPITAL CORPORATION OF AMERICA

The Hon. N. K. FOSTER: I seek leave to make a statement before asking the Minister of Health a question regarding the Hospital Corporation of America.

Leave granted.

The Hon. N. K. FOSTER: Some weeks ago I raised the matter of the Hospital Corporation of America, and yesterday a report in one of the editions of the *News* related to this multi-million dollar organisation, the activities of which are widespread in America and which is now seeking to plant its roots in Australia. Yesterday's report indicated that this overseas corporation was considering seeking the co-operation of the New South Wales Government in relation to the take-over of private hospitals in New South Wales. Has the South Australian Government or the Minister's department received any requests from the Hospital Corporation of America in relation to the possible take-over of any part of the hospital sector in South Australia?

The Hon. D. H. L. BANFIELD: We have had no direct contact with this firm.

WEST LAKES DEVELOPMENT

The Hon. M. B. DAWKINS: I seek leave to make a short statement prior to asking a question of the Leader of the Government in this Council in regard to the West Lakes development.

Leave granted.

The Hon. M. B. DAWKINS: Recently, the Hon. Mr. Cornwall referred in this Council in what I thought were very derogatory terms to companies involved in the West Lakes development complex as having seduced successive State Governments and as having proceeded to rape the residents. I understand that the present Government has been quite heavily involved in the West Lakes development in the provision of bridges, roads, site works, and other facilities. I also understand that the Government is proud of this development. Further, I understand, by way of the media, that the Minister of Works publicly denied that the Government had been seduced; he said the Government was proud of this project and its success. Is the Minister satisfied that the Hon. Mr. Cornwall was very unwise and mistaken in making such an incorrect statement? Does the Minister of Health agree with the statement of his colleague the Minister of Works that the Government is proud of its part in the West Lakes project?

The Hon. D. H. L. BANFIELD: I believe that the question should have been directed to my colleague, and I will so direct it.

URANIUM

The Hon. D. H. LAIDLAW: Has the Minister of Lands a reply to my question of 27 September about the interest of Mount Isa Mines Limited in mining in South Australia?

The Hon. T. M. CASEY: The Minister of Mines and Energy has furnished me with replies to the four-part question raised by the honourable member; in matching sequence the replies are:

1. Mount Isa Mines Limited, in association with joint venture partners, has located two small but potentially economic deposits of uranium in the area east of "Kalabity" and south of "Yarramba".
2. Preliminary tests have indicated that the deposits are amenable to *in situ* leaching, and further testing is proposed.
3. Potential hazards related to radioactive waste products which might arise from conventional open pit or underground mining operations would be eliminated by this form of mining. The *in situ* method of closed circuit leaching of the uranium from its host rock allows the radioactive by-products to remain in the ground; thus, the process is practically free of any environmental hazards.
4. No. The Government's position in opposition to uranium mining is governed by the problems (among others) of disposal of radioactive wastes from a nuclear power plant. These problems are of a different order of magnitude entirely from those associated with mining uranium. It should be noted that *in situ* leaching of uranium is not a labour-intensive development.

FREEHOLD LAND

The Hon. C. M. HILL: Can the Minister of Lands say whether there has been any change in the Government's policy towards freeholding of land since I last asked him that question? If so, what are the changes; if not, will the Minister repeat the Government's policy for the benefit of constituents who have raised this matter with me?

The Hon. T. M. CASEY: I can assure the honourable member that there have been no changes in the Government's policy as regards freeholding of land. As I have said previously on several occasions in this Chamber, the policy is that freeholding will be allowed for residential sites and also for industrial sites, but there will be no freeholding of broad acres. There have been occasions where broad acres have been considered, but that is at the discretion of the Minister. It is most unlikely that there will be general freeholding of broad acres.

AGED PEOPLE'S HOMES

The Hon. N. K. FOSTER: I seek leave to make a short statement before asking the Minister of Health a question in relation to aged people's homes.

Leave granted.

The Hon. N. K. FOSTER: Only last week in this Council there was some cross-talk and chatter about what was being done for the aged. Some questions were directed from both sides of the Council in regard to this matter. I was called to order in regard to my assertion that the responsibility lay mainly with the Fraser Government.

Objection was taken to that. I draw the attention of members to this afternoon's edition of that wonderful rag, the *News,* which contains the following report of a statement by the Governor:

> Mr. Seaman, opening the Senior Citizens' Festival at the Festival Theatre, said money available through Canberra to meet the needs of subsidised housing was far less than required.
>
> "Until early 1975 the demand for assistance from the Commonwealth Government had been reasonably consistent with available funds," he said.

He goes on to point out the dire position that not only the States but also the Commonwealth may be in regarding this matter in a few years time. The latter part of the report is as follows:

The number of aged people in Australia in 1976 was 1 500 000. In the year 2000, it would be about 2 100 000. Will the Minister continue to take up with the Federal Government the matter of the housing needs of the aged, with a view to assisting not only through existing legislation but also, with the accelerated need for this type of accommodation, by a new and more vigorous programme, as an absolute necessity?

The Hon. D. H. L. BANFIELD: We will continue to be on the doorstep of the Federal Government, which has the responsibility to finance homes for the aged. We have been approaching that Government on the matter for some time and we will continue our efforts to get more accommodation for these people.

CAN DEPOSITS

The Hon. R. C. DeGARIS: I seek leave to make a brief statement before asking the Minister representing the Minister for the Environment a question regarding deposits on cans.

Leave granted.

The Hon. R. C. DeGARIS: When the can deposit legislation had been passed and the regulations were tabled, much discussion took place on several aspects. Finally, although the regulations were not disallowed, there was discussion about the Minister's examining some of the problems that members of this Council had raised. Two particular problems were mentioned, the first involving a deposit on cans sold in a closed environment, such as at General Motors-Holden's and other large plants, and the second involving the impossibility of returning cans in the Far Northern areas. In relation to the Far North, it is clear that the can trade has disappeared, and there has been a move back to bottles, and the bottles are being discarded in that part of the State. Will the Minister of Health take up with his colleague the question of can deposits and find out whether he intends to correct some of the anomalies that exist?

The Hon. D. H. L. BANFIELD: I will refer the question to my colleague.

PAYNEHAM ROAD

The Hon. C. M. HILL: On behalf of the Hon. Mr. Burdett, who is absent from the Chamber at present on Parliamentary business, I ask the Minister of Health whether he has a reply to my colleague's question about Payneham Road.

The Hon. D. H. L. BANFIELD: From time to time members are absent from the Chamber on Parliamentary business, and there is no skin off my nose in giving the reply to the honourable member. Work involving the further closure of Payneham Road will be carried out. It is expected to take about two weeks and, subject to unexpected variations in the present programme, it is anticipated that it will be completed early in the new year.

The Hon. J. A. CARNIE: Has the Minister also a reply to the question about Payneham Road that I asked?

The Hon. D. H. L. BANFIELD: The replies to the three-part question are as follows:

1. As the initial road reinstatement work complied with the appropriate section of the Engineering and Water Supply Department standard construction manual, there is no justification for any person to be censured. The subsidence was not the result of poor workmanship.
2. Approximately $9 000.
3. The subsidence and road surface failures were the direct result of the unusually heavy rainfall. Direct surface run-off and subsurface infiltration resulted in an unfavourable environment for compaction, despite every care and effort being taken within the bounds of standard practice. As there is no evidence of departmental negligence, compensation cannot be justified.

STUART HIGHWAY

The Hon. N. K. FOSTER: I seek leave to make a brief statement before asking a question about the Stuart Highway.

Leave granted.

The Hon. N. K. FOSTER: A great deal has been said over the last couple of years about the sealing of the Stuart Highway. There have been some announcements made by that atrocious politician by the name of Nixon.

The Hon. R. C. DeGARIS: I rise on a point of order. In my opinion that is an injurious reflection on the Federal Minister, Mr. Nixon, and I ask for a withdrawal.

The Hon. N. K. Foster: What is he objecting to?

The PRESIDENT: The Hon. Mr. DeGaris has made quite clear that he objects to the honourable member's reference to the Federal Minister, and asks for a withdrawal.

The Hon. N. K. FOSTER: I said an "atrocious politician", who is on record as saying, "When I see a head I will kick it."

The PRESIDENT: The honourable member has been asked to withdraw the statement. Does he intend to do so?

The Hon. N. K. FOSTER: I will withdraw the statement, and I refer to the remarks made by that politician, who regards himself as being a senior member of the Country Party. He is on record as saying, "The trade unions ought to be shot. When I see a head I will kick it."

The Hon. C. M. Hill: When did he say it?

The Hon. N. K. FOSTER: I don't know, but—

The PRESIDENT: Order! The honourable member is not stating anything regarding the Stuart Highway, and I suggest that, if he wants to ask a question, he should relate his remarks to the subject that he has been given leave to explain.

The Hon. N. K. FOSTER: Statements have now been made by that other erstwhile politician, that friend of the Opposition, Mr. Joh Bjelke-Petersen, about the present state of the Stuart Highway. He said the Northern Territory should ignore South Australia and come into the arms of Queensland (that backward, wayward State to the north-east of South Australia). Bjelke-Petersen is on record—

The PRESIDENT: Order! If the honourable member wants to ask a question, he must keep his remarks relevant to the subject, or I will ask him to ask his question without any further explanation.

The Hon. N. K. FOSTER: Bjelke-Petersen is reported in today's *News* as saying that South Australia has done nothing with the highway and that all the Northern Territory's trade with South Australia should go to Queensland. Will the Minister of Health draw this matter to the Premier's attention and ascertain whether or not South Australia has any redress under the Interstate Commission and the constitutional set-up protecting one State against the unscrupulous inroads of another?

The Hon. C. M. Hill: What have you done about—

The Hon. D. H. L. BANFIELD: The honourable member can speak very well about highway funds. When

he was in office, what did he do about the Stuart Highway?

The Hon. C. M. Hill: We started it, as a matter of fact.

The PRESIDENT: Order! If the Hon. Mr. Hill and the honourable Minister wish to discuss the merits of previous Governments that is a different situation altogether. I ask that the Minister relate his remarks to the subject under discussion.

The Hon. D. H. L. BANFIELD: I will draw this matter to the Premier's attention.

INDIVIDUAL AXLES

The Hon. M. B. DAWKINS: I move:

That the regulations made on 29 June 1978 under the Road Traffic Act, 1961-1976, in relation to the aggregation of the mass on individual axles, and laid on the table of this Council on 13 July 1978, be disallowed.

I have no wish to see incorporated in our system of weighing trucks a method that can be very unfair to transport operators. Such a method cannot be forced on to the transport industry whilst it can cause prosecutions and fines and also constitute, because of this inaccuracy, a serious miscarriage of justice. Prosecution should not proceed against transport owners until a more efficient, accurate and satisfactory system of weighing articulated vehicles is put into effect. A portion of the new subregulation states:

(a) A weighbridge shall:

(ii) be so situated as to have sufficient space for vehicles usually weighed on that weighbridge to be driven or drawn on and off without turning on the platform;

There have been queries as to whether that refers to vehicles actually on the platform or on the approaches. However, the matter that concerns me more is the second portion of the regulation, as follows:

In order to determine the mass of a vehicle with or without its load and the mass carried on any two or more axles of a vehicle it shall not be necessary to measure the mass carried on all the relevant axles simultaneously but the mass may be determined by aggregating the measurements of mass taken separately in relation to the axles in question.

Discrepancies can occur if that procedure is followed. With an articulated vehicle, there is a gang of axles; there is more than one way of weighing these axles, which can be in a series of one, two and three from the front to the back of the vehicle. No. 1 axle can be weighed first, the vehicle then being moved on and Nos. 2 and 3 axles weighed. Conversely, the first two axles can be weighed together, the vehicle then being moved on and the third axle weighed. These two types of weighing show serious discrepancies, one instance of which was brought to my notice recently and for which I and another member of this Council can vouch.

When the No. 1 axle was weighed, it weighed 4·2 tonnes. The vehicle was moved on, and axles 2 and 3 were then weighed together, amounting to 9·4 tonnes. The aggregate mass was 13·6 tonnes. The vehicle was then weighed the second way; Nos. 1 and 2 axles were weighed together and weighed 12·1 tonnes. The vehicle was then moved on and No. 3 axle was weighed at 6 tonnes, giving an aggregate of 18·1 tonnes.

Honourable members will realise that the first weighing was 13·6 tonnes and the second weighing was 18·1 tonnes for the same load on the same vehicle—a discrepancy of 4·5 tonnes between the different types of weighing, both of which would be legal under the regulation if it were allowed to stand. Such a discrepancy should cause this whole matter to be recast, including the high penalties, to which I will refer later.

I now recapitulate on some of the history of this matter. Until 1 March 1977 the Road Traffic Act in South Australia permitted the weights of vehicles to be ascertained by aggregated measurements of weight to be taken separately in relation to the prospective weights of multi-axle vehicles. That situation was unsatisfactory: that it existed previously does not mean that it was right. Section 155 (2) provided in part:

It shall . . . be unnecessary to measure the weight carried on all of the relevant axles simultaneously, but the aggregate weight may be determined by aggregating measurements of weight taken separately in relation to the axles in question.

On 1 March 1977, Act No. 103 of 1976 came into force. That Act attempted to delete all references to "weighing" vehicles and provided for the "determination of the mass" of vehicles or axles, etc. One of the most important changes made by that Act was the complete repeal of section 155 of the previous Act, so that there was no longer any power to aggregate axle weights in order to measure the total weight carried on all of the axles of a vehicle or even all of the axles in a group of axles on a vehicle.

A further change was effected by the same amending Act. Previously, section 34 of the Road Traffic Act enabled councils within their area and the Minister in any part of the State to erect, provide or maintain weighbridges or other weighing instruments for the purpose of weighing vehicles, and for the purpose of ascertaining the weight carried on any axle or two or more axles of the vehicle.

The amendments to section 34 were threefold. The first amendment required the local council and the Minister to provide or maintain weighbridges or other instruments in order to determine the mass of a vehicle or the mass carried on any axle of a vehicle in accordance with the regulations. The second amendment is contained in completely new provisions, namely, section 34 (2) *(a)*. This provides that the mass of a vehicle and the mass carried on an axle or axles of a vehicle must be determined in accordance with the regulations. It is this part of the amendment to which I will refer later.

The third amendment provided an aid to proof in prosecuting persons whose vehicles weighed more than the permitted maxima, and section 34 (2) *(b)* provides that the mass when determined in accordance with the regulations shall be deemed to be correct for the purpose of any proceedings for an offence against the Road Traffic Act, unless the contrary is proved.

We have already seen by the example I have given how incorrect is the phrase "deemed to be correct". As a result of these amendments there is nothing in the Road Traffic Act itself stating that the total mass of a vehicle can be calculated, determined or measured by adding up the weights or mass carried on each of its axles. Was this deletion of the power to aggregate the weights on each axle deliberate? Was it because of information reaching the framers of the amendments that aggregating weights—otherwise known as "end-and-end" weighing—is likely to lead to an unjust and inaccurate weight? Is that the reason why there is nothing in the Road Traffic Act as a result of the amendments referred to? I believe that it is.

Section 34 clearly intended that regulations would be made not only in relation to the provision and maintenance of weighbridges or other weighing devices but also regulating the manner in which the mass of the vehicle and/or the mass of any axle or axles of the vehicle

were to be determined. It should also be noted that a similar power to make regulations had already been provided in the Act in section 176 (1) *(h)*. This provision of this section was amended at the same time but principally to delete the reference to ascertaining "weight" and substitute the ascertaining of "mass". It is, however, interesting to read the whole of that provision. It provides that the Governor may make regulations for, or with respect to, all or any of the following matters:

> Prescribing methods of ascertaining the (weight) mass of a vehicle with or without its load; or of anything carried on a vehicle; or the (weight) mass carried on any axle or axles of a vehicle (by weighing, measurement, calculation or otherwise).

These are the words that have been deleted as a result of the amendment. In the case of "weight", the word "mass" has been inserted. At the time of these amendments there were regulations made under the Road Traffic Act relating to the weighing of vehicles. These were to be found in regulation 10.05 which is now being altered. These regulations were amended on 24 February 1977, about one week before the amendments to the Act came into force.

It may be possible that the amendments to the regulations made on 24 February 1977, a week earlier than the proclamation of the Act, were made without statutory backing, and in that case all of the regulations made on that day could be invalid. The relevant amendments are set out in regulation 16 of the regulations made on 24 February 1977. Regulation 16 (2) provided that the old regulation 10.05 (2) be struck out and that a new subregulation be inserted, as follows:

> For the purposes of section 34 of the Act, weighbridges and other instruments for the purpose of determining the mass of a vehicle with or without its load with a mass carried on any axle or axles of a vehicle, shall be erected provided or maintained, and the said masses shall be determined, in accordance with the provisions of the Trade Measurements Act, 1971-1975, and the regulations thereunder.

That regulation remained in force until 29 June 1978, when it was deleted and a new subregulation was inserted, with which we are now dealing. The Trade Measurements Act and regulations make no provisions for the method to be adopted for the purpose of determining the mass of a vehicle or the mass carried on any axle or axles of the vehicle. No doubt that is the reason for this new subregulation to which I have just referred that was inserted on 29 June.

It should be noted that regulation 10.05 (4) requires any person in charge of a vehicle to permit the mass of a vehicle and the mass carried on any axle or axles to be determined by means of a highway loadometer or other prescribed instrument and generally to co-operate in facilitating the determination of the mass of the vehicle and/or its load and/or the mass carried on any axle or axles of the vehicle when so required by a police officer or Highways Department inspector. However, the regulations do not proceed to set out the manner in which the determination of the mass is to be made.

Many road transport operators have challenged the accuracy of weighbridges, highway loadometers, or other portable weighing devices and weighing procedures generally. In particular, it is contended that commonly used procedures work to the substantial disadvantage of road transport operators using modern, sophisticated vehicles and especially those using triaxle trailers.

It is generally contended that "end-and-end" weighing results in an inaccurate measurement and that "end-and-end" weighing, especially when accompanied by the procedure known as "splitting the tri"—a procedure used in relation to triaxle trailers whereby two axles are weighed together and the result so obtained is then added to the weight of the third axle which is weighed separately—is so inaccurate as to be completely unjust especially when penalties for breach of overweight sections of the Road Traffic Act are fixed on a sliding scale. I have already given an example of serious inaccuracy, and others can be given. I will refer later to what can be regarded as excessive penalties.

These contentions by road transport operators have been substantiated by evidence given in the case *Boys v. Brack*, which was heard in the Para District Court of Summary Jurisdiction and bore action No. 6 245 of 1977. Mr. B. D. Amey delivered his judgment on 2 June 1978. In that case, the defendant called a Mr. John Gilbert MacKay, a consulting engineer, who specialises in these problems. Mr. MacKay has a Diploma of Mechanical Engineering from London and is an Associate of the Australian Design Industry as well as of the Motor Industry Institute.

Mr. MacKay defined "end-and-end" weighing as weighing the axles or the axle groups at each end of a vehicle individually, summing the two or more results, and assuming that this represents the gross weight of the complete vehicle. He says that this practice is not reliable (we have already heard evidence this afternoon to that effect) because the weight of each individual axle or axle group can be influenced by a large number of factors, including the attitude of the vehicle on the weighbridge, and whether the weighbridge is completely level.

The condition of the weighbridge approach can be significant, especially if it is on a slope. Mr. MacKay says further that, if a triaxle semi-trailer is weighed by weighing two of the axles of the trailer, then weighing the third axle, and summing the two results obtained, the summation would not be accepted by him as an accurate weighing. He says that an error of 20 per cent plus or minus could easily be involved in weighing by the "end-and-end" weighing procedure.

The Hon. M. B. Cameron: And that could be a large amount.

The Hon. M. B. DAWKINS: That is so. I refer honourable members to the example which I gave earlier. It seems that, largely as a result of the decision in Brack's case and Mr. MacKay's evidence, the Road Traffic Board has decided to amend further regulation 10.05 by deleting subregulation 10.05 (2) and inserting a new subregulation specifically providing for the determination of the mass of a vehicle with or without its load pursuant to the provisions of section 34 of the Road Traffic Act, by aggregating the measurements of mass taken separately in relation to the axles in question.

In other words, the amendment to regulation 10.05 (2) made on 29 June 1978 purports to put the position back to what it was before the March 1977 amendments, which, all honourable members would freely admit, was not satisfactory. The aggregation of axle masses is permitted whether the weighing device is a weighbridge or a portable scale such as a highway loadometer.

This amendment, if it is permitted to remain in force, will effectively legalise a system of weighing which is generally recognised as being too inaccurate to enable reliance for the purposes of trade but which is obviously considered sufficiently reliable for the purposes of revenue raising by prosecuting road transport operators, where the penalty imposed bears a direct relationship with the amount by which the vehicle in question allegedly exceeds the statutory maximum.

It should be noted that not only does the State of New South Wales require a notation that "end-and-end" weighing is not guaranteed but also regulation 169(g) of

the South Australian Trade Measurements Act regulations requires a similar notation on any weighbridge docket where "end-and-end" weighing has been used. New regulation 10.05 (2) made on 29 June 1978 seems to be in conflict with the policy of the Road Traffic Act.

The repeal of section 155 and other associated amendments to the Act indicate that "end-and-end" weighing and the aggregation of axle weights is no longer part of the policy of the Act. New regulation 10.05 (2) seems to be an under-handed way of reverting to the old policy, which has been proved unsatisfactory and which should be dispensed with.

In the circumstances, on behalf of the road transport industry, I have moved for the disallowance of new regulation 10.05 (2). It is difficult to suggest any alternative procedures that could be proposed by the industry. Although the possibility of the industry's suggesting a mathematical formula to take account of the problems discussed in Mr. MacKay's evidence was briefly considered as a possibility, on reflection this does not seem to be practical at present.

It must be borne in mind that, if a trailer is overloaded by, say, 3·2 tonnes, giving a gross combination mass (excluding the mass on the front axle) of 36 t, and this is then aggravated by a 20 per cent plus inaccuracy resulting from "end-and-end" weighing, the alleged gross combination mass would be 43·2 t, an excess of 10·4 t.

When one looks at the penalties that can now be imposed for overloading, one sees that the penalty range for 3·2 tonnes is from $475 to $1 080. On the other hand, the penalty range for 10·4 tonnes ranges from $1 915 to $3 960. In my view, these figures speak for themselves, and no Parliament should consider a regulation that could impose this sort of injustice on members of a road transport organisation. I have therefore moved the motion.

The Hon. M. B. CAMERON secured the adjournment of the debate.

HEALTH ACT AMENDMENT BILL

The Hon. D. H. L. BANFIELD (Minister of Health) obtained leave and introduced a Bill for an Act to amend the Health Act, 1935-1977. Read a first time.

ADJOURNMENT

At 3.11 p.m. the Council adjourned until Tuesday 24 October at 2.15 p.m.