LEGISLATIVE COUNCIL

Wednesday 5 March 1986

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

QUESTIONS

AIDS

The Hon. M.B. CAMERON: I seek leave to make a statement on the subject of prostitutes with AIDS prior to directing a question to the Minister of Health.

Leave granted.

The Hon. M.B. CAMERON: I am informed that in Adelaide there is a heroin addict who is also a prostitute and who has been found to be AIDS positive. My understanding is that any person who has sexual intercourse with this person faces a more than even chance of contracting AIDS. In fact, it would not be overstating the case to say that any client of this particular prostitute could well be passing a death sentence on themselves, albeit unknowingly, because they are unaware or have no way of learning that the prostitute is AIDS positive.

There will be those who say that people should not involve themselves in prostitution or with prostitutes because it is illegal. That, however, is no answer to this problem. I believe that to date the AIDS issue has been well handled in this State. I understand that the education program undertaken by the authorities to alert and inform high risk groups has been very successful. Now, however, we face a very special instance where we have a known positive case, if what I am told is correct, and a known potential for severe consequences and it is important that information should be made far more widely available on this subject. My questions are:

1. Are the Health Commission and the Minister aware of the presence of an AIDS positive prostitute who continues to work, I understand, in the community?

2. Given that overseas and interstate experience has highlighted the difficulty in attempting to keep a register of AIDS positive people, because such people are pressured to go underground in an attempt to protect their identities, what action will be taken by the Health Commission to warn the public of the dangers of participating in sexual activity with prostitutes posed by the presence of AIDS in our community?

The Hon. J.R. CORNWALL: Anybody who is involved in acts of intercourse with prostitutes runs the risk of contracting a number of very serious sexually transmitted diseases. They include, of course, syphilis and gonorrhoea which have been well known for centuries. They also include campylobacter infection, which, of course, if it is transferred or transmitted by a male (who has been involved in sexual acts with prostitutes) to his spouse or regular female partner, can be a very serious disease in females. So, they are just three. Of course, AIDS is a sexually transmitted disease.

AIDS is overwhelmingly transmitted by two means: one is by sexual intercourse between males (in other words, homosexual rectal intercourse) and the other is by narcotic addicts using contaminated needles and syringes. The question of what action, if any, ought to be taken with regard to prostitutes was debated, and debated rather vigorously, in New South Wales some months ago. I am sure that honourable members would be aware that the Premier of New South Wales, Mr Wran, very vigorously canvassed the idea of bringing the full rigour and vigour of the law to bear on the prostitutes themselves. In the event, I do not recall that a lot was said about bringing any of the rigour or vigour of the law on their clients.

However, all the advice that I have had (and I take my advice from our public health authorities, who are among the best in the country) is that we should not do anything which would tend to drive the victims underground. One of the reasons that we have had such a very good success rate in controlling AIDS in South Australia is that right from the outset, from the first moment that we started to develop knowledge about AIDS and how it was transmitted, we have had full cooperation from the 'at risk' groups. Particularly we have had the cooperation of the male homosexual community. I do not intend to go against the advice that I receive from people like Dr Scott Cameron and others, and Dr Michael Ross also, who brings the psychiatrist's perspective to the fight against AIDS. I do not intend to recommend to Cabinet that we should move against prostitutes, because it would only tend to make disease control very significantly more difficult. On all the advice that I have been given, it would be quite counterproductive.

As to the information that the Hon. Mr Cameron says that he has received about an AIDS positive prostitute, I seem to recall that some months ago the very well-known proprietor of one of Adelaide's massage parlours flew to Sydney to appear on one of the morning television programs with some story about a working prostitute who was AIDS positive. In the event, when we traced that story further, the situation did not by any means line up with the story that had been told; in fact, it was quite different. The person involved, although she had worked as a prostitute at various stages, was not working at that time. If the Hon. Mr Cameron has information that there is a woman who is AIDS positive working as a prostitute at this moment, I would be very pleased if he would provide me with further details, and I will certainly have our public health authorities look at the matter.

However, I repeat what I said at the outset: there are many sexually transmitted diseases that are very serious. It is entirely possible that anyone using the services of a prostitute may pick up one or several of those diseases. My advice, of course, would be that people should not get involved in those sorts of activities. However, I cannot control such matters; personally I am not responsible for them. If people do want to get involved in sex with multiple partners, whether they be prostitutes or whether they be heterosexual or homosexual acts, I would strongly advise them to use condoms.

HUMAN RIGHTS LEGISLATION

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question about human rights legislation.

Leave granted.

The Hon. K.T. GRIFFIN: The Attorney-General would be well aware of the continuing debate about the Commonwealth Government's proposed human rights legislation and the question whether or not it ought to be amended to involve the States as well as the Commonwealth. So far, the Commonwealth Government has resisted calls for the States to be bound.

Recently, the Victorian Attorney-General referred to the Victorian Parliament's All Party Constitutional and Legal Affairs Committee a reference which has all the hallmarks of being a forerunner of complementary human rights legislation in Victoria. That reference included, among other things, a question as to the desirability of legislation being enacted in Victoria which defines and protects human rights in that State. The reference was not considered by the

Victorian Parliament but, under the provisions establishing the Victorian parliamentary committee, a reference can be made direct by the Attorney-General.

The Victorian committee has also been asked to look at the contents of any possible Victorian human rights legislation and the relationship of Victorian laws to federal laws in this area. The reference by the Victorian Attorney-General, if it is a preliminary to the enactment of complementary human rights legislation in Victoria, will thus achieve an objective which was previously the objective of the Federal Labor Government, namely, to have human rights legislation binding both the Commonwealth and the States.

I have publicly spoken out against the Federal Government's Bill of Rights and any attempt to impose that vague legislation upon the States. I would be concerned if back-door methods were adopted to achieve the ultimate objective. My questions are as follows:

1. Has the Attorney-General had any discussions with his counterpart in Victoria about State complementary legislation on human rights issues?

2. Has the Attorney-General's office been considering complementary State human rights legislation?

3. Has the State Government or the Attorney-General any proposals for that complementary human rights legislation in South Australia?

The Hon. C.J. SUMNER: The simple answer to the three questions is 'No'. There have been discussions with the Human Rights Commission federally to try to achieve consistency and complementarity with the federal human rights legislation as far as the racial discrimination legislation and the sex discrimination legislation are concerned with the State equal opportunities legislation. The State Equal Opportunities Commissioner now acts as a one-stop shop for complaints against either the federal legislation or the State legislation. As the honourable member will know, that legislation was passed by this Parliament 15 months ago and was proclaimed to operate from 1 March this year. I certainly have not had any discussion with the Victorian Attorney-General about a broader human rights Bill in South Australia, and I have had no discussion with the Federal Government about complementary human rights legislation except in the terms I have already outlined. Proposals for the future will depend to some extent on the human rights legislation that is currently before the Federal Parliament, and I do not know what the outcome of that legislation will be.

There may be proposals for the South Australian Commissioner for Equal Opportunity to cooperate in the administration of that legislation, and obviously that is something to be considered. South Australia already has significant human rights legislation in the form of its Equal Opportunities Act, which was endorsed by this Parliament, covering discrimination on the grounds of sex, race and physical handicap. Whether it should go any further than that is not something I have considered at this stage.

REPLIES TO QUESTIONS

The Hon. J.C. BURDETT: I seek leave to make a brief explanation prior to directing a question to the Attorney-General, as Leader of the Government in the Council, on the subject of replies to questions.

Leave granted.

The Hon. J.C. BURDETT: I have a question on notice about the arrangements between the South Australian Health Commission and the SGIC relating to workers compensation cover in respect of non-teaching recognised hospitals. These are 'burning cost' arrangements whereby the hospitals pay the actual cost of the compensation. My questions included whether the costs taken into account included those of claims handling and administration because, if that were the case, there would be no incentive on the part of the SGIC to operate efficiently, and the SGIC would be in a no-lose situation in regard to the hospitals.

This and the other matters in the question were first raised in the Budget Estimates Committee last year, and I asked the question on 22 October 1985 for the first time, and several times thereafter during the last session of Parliament. In this session I have now asked the question three times, including the first day of sitting in this session.

It is now near the end of the session and I have not received an answer. What can one do? A number of other aspects to the question are also important. If questions are not answered for two sessions it makes it impossible to take up the replies in the parliamentary forum. I have noted that other members have asked questions several times without getting answers, and I ask the Attorney-General: is it the policy of the Government to give answers to questions on notice and, if so, is it the policy to give answers reasonably promptly so that the answers can, if necessary, be taken up in the same session of Parliament as that in which they were asked? What is the policy of the Government on open government?

The Hon. C.J. SUMNER: The answers to the first two questions are 'Yes,' and to the third question, we support the principles of open government.

VIETNAMESE REFUGEES

The Hon. C.M. HILL: I ask leave to make a short statement prior to directing a question to the Minister of Ethnic Affairs on the subject of the stopping of the program relating to refugees from Saigon.

Leave granted.

The Hon. C.M. HILL: Members would have noticed in the press both yesterday and today that the Vietnamese Government has stopped the refugee program for migration to Australia and has given as its reason some question of criticism by Vietnamese already in Australia of Vietnamese policies generally. Many of the Vietnamese in South Australia—the Vietnamese Australians (most of whom are now Australian citizens, and, I might add, splendid citizens of this country)—have been trying for years to seek passage from Vietnam to Australia for their relatives.

In many cases these people are elderly parents and relatives. From the point of view of these new Australian citizens, it is very important that these aged persons can come to Australia and enjoy their remaining years in the environment which Australia offers them. They have been extremely upset and shocked by this recent publicity in the press, which rather indicates that at this stage such people have had their plans stopped and that these elderly people will not be able to come to Australia within the refugee program.

Of course, this is a federal matter, as we all know. Many of these people have been in touch with me today and have asked me to do whatever I can to assist them with this very serious problem. I therefore ask the Minister whether he would make immediate representations to the Federal Minister for Immigration and Ethnic Affairs expressing South Australia's view that immediate contact and negotiation should be entered into between the Government in Canberra and the Government in Saigon in a most serious endeavour to overcome this problem and allow this refugee program to proceed.

The Hon. C.J. SUMNER: I am happy to have the matters raised by the honourable member examined and to take

them up with the Federal Minister for Immigration and Ethnic Affairs (Mr Hurford) and bring back a reply.

CONDOM ADVERTISING

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Health a question about condom advertising.

Leave granted.

The Hon. DIANA LAIDLAW: The Minister will be aware that in the past fortnight three radio stations have refused to accept advertisements for condoms, either because the word was considered to be offensive, or the advertisements have been deemed by management to be unacceptable to female listeners or older audiences. By contrast, health professionals would appear to take the condom far more seriously. They recognise its importance not only in terms of limiting unplanned and unwanted pregnancies but also as a means of providing some protection against sexually transmitted diseases, including AIDS, and the spread of the *papilloma* virus, which is considered to have an important role in cervical cancer in women. Does the Minister agree that the action taken by the radio stations will not only serve to reinforce community prejudices against the use of condoms, but will also help to ensure that the onus for contraception continues to be placed on women? Also, does he agree with the conclusion stated yesterday in a letter from Dr Simon Chapman to the *Advertiser*, where he said:

> If the stations are so individually worried about an airways boycott by Adelaide's Mrs Grundy community, a solution might be for them to get together and all decide to run the advertisement.

If the Minister agrees with that conclusion, would he be prepared to speak to the radio stations concerned and outline the importance of the condom as well as the value of advertising in order to ensure the wider use of condoms in the future?

The Hon. J.R. CORNWALL: I read the letter from Dr Simon Chapman which appeared in yesterday's *Advertiser*. I must say that I thought it was a splendid letter: it said everything that I would have liked to say and I believe that it possibly said it even better. One of the points that Dr Chapman made very well was that the use of condoms should be considered very much as a feminist issue. It is an issue in which the women's movement should be taking an active interest and indeed letting their views be known. It seemed extraordinary that one of the reasons given for a self-imposed restriction on condom advertising was the fact that it might offend female listeners.

That really does reinforce all of the old male prejudices that the onus for contraception is essentially on the female. It is also, of course, a women's issue because, as the Hon. Miss Laidlaw says, the condom is the most effective and efficient method known to control sexually transmitted diseases including the *papilloma* virus. That virus in turn has been associated with cervical cancers, so it is indeed a very good issue.

I am pleased that the honourable member has raised the matter and will do everything I can to demystify or remove the prejudices which have existed for a very long time in this area. I suppose that one of the very real problems is the titillation in males rather than in females. Condoms are still very much associated with illicit sex, it seems to me, and that is a very great pity. There is still some embarrassment for a lot of people in walking into a pharmacy and buying condoms. Again, that seems to me to be a very great pity.

It is important that we do something about more enlightened attitudes as a practical disease control measure and, indeed, as a practical way of reducing unwanted pregnancies, particularly unwanted teenage pregnancies. Let me make clear that there is no law which prohibits condom advertising or sale in South Australia, so people may advertise and sell condoms in vending machines, or in any other way that they wish. I am not in control of the Broadcasting and Television Act.

The Hon. Diana Laidlaw: Are you prepared to—

The Hon. J.R. CORNWALL: Wait a moment, I am almost there. That is very much a federal Act, but again there is no impediment, as I understand, to the radio stations and electronic media transmitting condom advertising. As to the suggestion that as Minister of Health I should try to use some influence on the commercial stations—

The Hon. Diana Laidlaw: Your persuasive qualities.

The Hon. J.R. CORNWALL: —my persuasive qualities. I thank the honourable member for her very responsible question and will be pleased to convene a meeting of all the commercial radio stations in Adelaide as she has made this excellent request. I will invite them all on a voluntary basis—

The Hon. Diana Laidlaw: And me.

The Hon. J.R. CORNWALL: —to attend a meeting in my office. I will be very pleased to have the Hon. Miss Laidlaw and other members of this Council attend that meeting, particularly women members, because, as I have said before, I believe that it is very much a women's issue and I shall attempt to convene that meeting as soon as I reasonably can within my busy schedule.

CHILD-CARE FUNDING

The Hon. R.I. LUCAS: I seek leave to make a brief explanation prior to asking the Minister of Health, representing the Minister of Children's Services, a question about child-care funding.

Leave granted.

The Hon. R.I. LUCAS: A weekend press report indicated that staff, mothers and children from South Australia's 90 Government subsidised child-care centres, organised by a group called 'The Children's Services Campaign Committee', which I understand has offshoots in other States, would be taking part in a demonstration today against Federal Government cutbacks in funding in the child-care area. Members are aware that in November last year the Federal Government passed legislation which will result in funding cuts of $10 million after 1 April this year. As a result of that happening there will be increased costs to all users of child-care including the needy who will be paying up to 20 per cent more each week.

Members will also be aware that press reports in the past two days from leaked documents indicate that the Federal Government is looking towards further major cuts in spending of up to $1.8 billion across the board for the coming budget this year. There is much concern which has been relayed to me in the child-care community that there might be further cuts in child-care funding later this year as part of the federal budgetary process. My questions to the Minister are:

1. Does the Minister support the recent changes in funding arrangements by the Federal Government and, in particular, does he believe they will have an effect in lowering the quality of child-care services available in South Australia?

2. Does the Minister believe that child-care services in South Australia could withstand further cuts in funding later this year?

3. Will the Minister make urgent representations to the Commonwealth Minister for Community Services to pre-

vent any further cutbacks in child-care funding in South Australia?

The Hon. J.R. CORNWALL: I hope that the Hon. Mr Lucas cleared that question with Senator Messner before he asked it because they do at this moment seem to be at opposite ends of the pole in these very important questions of funding of human services and related matters. I have a particular interest as Minister of Health in child-care because it is essential that we have hospital-based community child-care in order to recruit and retain nurses in the work force.

I am a very avid supporter of child-care and for that practical reason and apart from the other reasons if we are serious about equality and an equal opportunity program we must—I repeat 'must'—have adequate child-care which is adequately funded and equitably based. Of course, I am in danger of wandering into my colleague's portfolio area, and I will be scrupulously careful not to do that. With regard to the specific questions, I would be pleased to refer them to my colleague and undertake that, although the time is short between now and when Parliament rises, the Hon. Mr Lucas will receive a formal response if the Council is not sitting.

VEHICULAR ACCIDENTS

The Hon. J.C. IRWIN: I seek leave to make a brief explanation prior to asking the Minister representing the Minister of Transport a question about reimbursement of expenses as a result of vehicular accidents on highways.

Leave granted.

The Hon. J.C. IRWIN: I bring to the Minister's attention the following cases:

Case 1—A sideswipe collision resulted in a 35 000 litre fuel tanker being fractured and approximately 7 000 litres being spilt. CFS units spent eight hours at the scene using foam dispersant until the remaining fuel had been salvaged. The cost of foam was $960.

Case 2—A semitrailer load of empty bottles overturned, rendering the entire load useless.

Case 3—A semitrailer load of waste paper overturned. Without loading equipment readily available, the load was left on the roadside.

In all cases, considerable expenses were incurred. And inquiries regarding compensation always resulted in letters from solicitors stating that the collision/accident was the sole responsibility of the other driver.

Actually, expenses incurred are slowly if ever recovered. The alternative is to leave the mess of broken bottles, paper or whatever on the roadside to the detriment of the environment and the reputation of South Australia. As in case 1 there is an immediate danger: someone has to act quickly. Local government, SES and St John are on the spot and can act quickly. They do this in the interests of safety and the environment, but they cop the expense. My questions are:

1. Will the Minister determine whose responsibility it is to clean up the mess?

2. Will the Minister advise this Council and local government how the expense incurred by local government can be speedily recovered?

3. Will the Minister consider the Government's reimbursing local government and it (the Government) recovering the costs?

The Hon. J.R. CORNWALL: I will refer that question to my colleague in another place and bring back a reply as soon as I reasonably can.

BUS STRIKE

The Hon. PETER DUNN: I seek leave to make a brief explanation prior to asking the Attorney-General a question about the TWU strike in this State.

Leave granted.

The Hon. PETER DUNN: Most of us are aware that STA buses are not running particularly reliably at the moment. In fact, this morning when I walked to work one bus for the morning came up the road at 8.30. We all know what a problem this is and how it disrupts the community. One has only to remind the Government of what happened in 1979 when there was a bus strike and how the people reacted to that. I daresay there is no less reaction in the community. The sooner this is corrected, the better.

The fact that the O-Bahn has been opened and there is some disruption to rosters seems very small beer when it comes to the public having access to public transport on which they normally rely to get them to work. It seems rather idiotic for a few people to be upset enough to go on strike. What action is the Government taking to rectify this? Has it tried to get the parties together? When does the Government expect that the problem will be rectified?

The Hon. C.J. SUMNER: It is not a matter involving the Transport Workers Union; it involves the Tramways Union. It is basically a dispute about current and new rosters that have been introduced as a result of employing additional people and a reduction in some overtime worked by those employees who had been used to getting a certain amount of overtime. Obviously, the Government and the Minister, Mr Keneally, are aware of the dispute and are doing what they can to bring it to a conclusion. However, it is a matter between the State Transport Authority and the union concerned. There are discussions going on and obviously the Minister has taken an interest in those. I will attempt to get an up-to-date report for the honourable member and bring back a reply. Obviously, the Government would want the dispute resolved as soon as possible.

The Hon. L.H. DAVIS: I would like to ask a supplementary question.

The PRESIDENT: I thought that a supplementary question could only be asked by the person who had asked the original question.

The Hon. L.H. DAVIS: No, by anybody. Does not the Attorney-General agree that a bus strike in the middle of the jubilee Festival of Arts casts a dampener on this important event and does not impress the many interstate and international visitors to Adelaide?

The Hon. C.J. SUMNER: I have not consulted any interstate or overseas visitors about the strike so I am not aware whether it has impacted on them at all, or what their views are on the matter. I think anyone who has wanted to get to the Festival—

The Hon. C.M. Hill: Walk in from Elizabeth?

The Hon. C.J. SUMNER: —can get to the Festival. I am sure that the Hon. Mr Hill has not had any trouble. No doubt, he has been attending the Festival regularly, and I am sure he has not missed any—

The Hon. C.M. Hill interjecting:

The Hon. C.J. SUMNER: We might be sitting next week, too.

The Hon. C.M. Hill interjecting:

The Hon. C.J. SUMNER: That is right.

The PRESIDENT: Order, Mr Hill!

The Hon. C.J. SUMNER: The Hon. Mr Hill should give attention to his parliamentary duties ahead of enjoying himself at those activities. I would have thought a member of Parliament of his stature and age would accept those responsibilities.

The Government obviously would want the dispute resolved as quickly as possible. I am sure the Minister is doing all he can to bring it to a conclusion.

PARAMEDICAL PROFESSIONALS

The Hon. R.J. RITSON: I seek leave to make a brief explanation prior to asking the Minister of Health a question on the subject of the training of paramedical professionals.

Leave granted.

The Hon. R.J. RITSON: In recent weeks there have been press reports concerning a shortage of specialised teachers of deaf children. Of course, this type of teaching is highly specialised and is integrated with the other aspects of management of these children. There is some hope that a training course will begin at the Sturt Campus of the South Australian College of Advanced Education. I raised in the Council three weeks ago the whole question of supply of paramedical health professionals, because the Federal Government gives global funding to the tertiary institutions and does not consider itself responsible for the fulfilling of society's needs for various professionals.

The institutions themselves have their own internal politics, which determines the division of money and, with some justification, they claim academic autonomy and independence. At the level of State government the power to bring about a pattern of education that fulfils society's needs is limited and is divided amongst various portfolios, to the extent that it is difficult to know to whom to address questions like this.

However, the fact remains that in areas such as this large numbers of students want to do courses; there is a great need in the community, yet somehow the system of government has evolved in such a way that no-one seems responsible for ensuring that the ouput of trained persons from these institutions is matched with the needs of the community. On the last occasion when I raised this principle, I specifically gave as an example the question of the output of speech pathologists. On 11 February, which was some weeks ago, in response to a question that I had asked, the Minister concluded by saying:

> I will make sure that I obtain a specific answer to the question about speech pathologists, and their training in particular, and will bring it back to the Chamber next week.

It is well past 'next week' now. I understand that the Minister has been quite busy and that he still does not have the answer to that specific question. But in any case, I ask the Minister again to address his mind to the general problem of satisfying the needs of the community somehow and getting some control over the output of health professionals from these colleges. My questions are:

1. Is the Minister able to give the answer now that he promised several weeks ago?

2. Is the Minister aware of the problem, which has been publicised, concerning teaching the deaf and the training of the teachers required?

3. Does the Minister agree that the amount of State influence on the fulfilling of the needs of the State needs to be increased?

The Hon. J.R. CORNWALL: In reply I wish to make a number of points. The first is that I wish that the Hon. Dr Ritson would stop talking about paramedical professionals and call them the allied health professions.

The Hon. J.C. Burdett: Is that terribly important?

The Hon. J.R. CORNWALL: It is terribly important as a matter of fact. It is very important to all the allied health professions. In 1986 they do not like being referred to as paramedical professionals. As they see it, at least, that makes them handmaidens, if not footstools, to the medical profession.

The Hon. R.J. Ritson interjecting:

The Hon. J.R. CORNWALL: Dr Ritson, you still refer to housemen in hospitals, yet everyone knows that almost half of those interns, whom you still persist in calling housemen, are females. It may be a small point, but in the view of all those physiotherapists, occupational therapists and podiatrists, and others out there, it is important that they be referred to as the allied health professions.

Secondly, with regard to the specific problem raised by the honourable member concerning the deaf it is an unfortunate fact that services for the deaf, and particularly for the profoundly deaf, have tended to fall between two stools. I do not believe that we do well enough in the health area, and I am quite sure that we do not do well enough in the special education area. I know personally a young woman, in fact a teenager, who is profoundly deaf, and I also know her parents. This girl has done extremely well because she has very enlightened, intelligent parents who have been able to maximise the advantages that are available in the system. However, I would have to say that for average parents with a profoundly deaf child there are very considerable obstacles indeed.

I suppose that one of the reasons for this is a practical one in that the number of profoundly deaf people is relatively very small. For that reason, as a group I suppose that they have not had a lot of political clout over the years; they have not acted as a major pressure group. Of course, that is absolutely no excuse, so I would admit at once that both in the health area and particularly in the education and special education areas I think that this group of people has had a pretty poor deal in the past. I give an undertaking that in my areas of responsibility the matter will be addressed over the next four years and I will certainly make representations to my colleagues the Minister of Education and the Minister of Employment and Further Education.

With regard to projections of the needs within the allied health professions, the results of a survey in this regard conducted by the Federal Department of Employment and Industrial Relations were published quite recently. This has provided a fairly good guide to areas of relative oversupply, areas where things are just about right, and areas where there are shortages. However, it is very much macro information. In South Australia we still do not have adequate information. However, because I have been stimulated by the Hon. Dr Ritson's question of some three week's ago, this morning in discussions with the Chairman of the Health Commission I agreed to his proposal that a senior officer in the executive officer range of the Health Commission should initiate a major study of our requirements—the supply and demand—across the spectrum of the allied health professions as soon as possible.

A specific study in the southern suburbs has been under way for something like eight or nine months, looking at podiatry and physiotherapy in relation to domiciliary care services. So, we are gathering specific information in that area, although we certainly need more information across the spectrum in relation to South Australia as a whole. The reason that I did not bring back an answer within a week, as I undertook to do, is that I simply could not come up with one that would have been anything near satisfactory. However, I am pleased to tell the Hon. Dr Ritson and the Council that very shortly we will designate a senior Health Commission officer who will undertake a major study of requirements, involving supply and demand, of the allied health professions in South Australia.

The Hon. R.J. RITSON: How will the Minister, having further and more accurately delineated the problem, acquire the powers and influence necessary to avoid the falling

between two stools phenomenon that has characterised this whole area of public administration?

The Hon. J.R. CORNWALL: The classical politician's answer to that would be, 'That is a very good question.' In some ways, of course, it highlights the difficulty of working within a federal system. I am not suggesting that we ought to change that. However, difficulties are created by the breakdown in responsibilities between the Federal authorities, the State authorities and indeed local government.

The Hon. R.J. Ritson: And Canberra's autonomy.

The Hon. J.R. CORNWALL: And, of course, the autonomy of our tertiary institutions. Let me say again that while on occasions I have been quite critical of what I think is the ludicrous notion of literal autonomy in our health units, when it comes to tertiary institutions I would defend to the death their right to absolute autonomy. The day anyone tries to interfere in the autonomy of our tertiary institutions would be a sad day indeed, and I do not think that too many people in this Chamber or anywhere else with any commonsense would disagree with me. That creates problems. As I have pointed out in recent weeks, it also enables the university medical schools to initiate programs within the teaching hospitals for which indirectly the Minister of Health and the Government at State level ultimately pick up the tab. So that is the difficulty.

However, I find that one of the ways in which to overcome these problems is by fairly frequent trips to Canberra. In my portfolio areas it is important that I talk frequently with Neal Blewett (which I am able to do in Adelaide as readily as in Canberra) and Senator Don Grimes. Senator Grimes will be attending the Health Ministers conference in April, I am very pleased to say, so that some of these matters at least can be thrashed out there. I also talk to him and visit him fairly regularly during the course of 12 months and, because of the new responsibilities I have undertaken in community welfare, I will be talking regularly to the social security Minister, Brian Howe. So the short answer is, 'With some difficulty' and the longer answer is 'By ongoing and fairly vigorous processes of consultation.' The one thing that we had difficulty with are the regional offices of the Commonwealth departments. They tend to like to think that they run their own empire within the States in a fairly rigid sort of way. Again, that is subject to alteration, depending upon personalities. For example, recently a new Regional Director of Veterans Affairs was appointed in South Australia and we are currently having most constructive discussions with him.

The Hon. R.J. Ritson interjecting:

The Hon. J.R. CORNWALL: No, very constructive. We will continue to talk and try to get people to act rationally. However, the most important thing in the first instance is to have accurate information so that those discussions can be started from an intelligent base.

DRIED FRUIT

The Hon. C.J. SUMNER: I have a reply to a question asked by you, Madam President, on 29 October 1985 about South African dried fruits being sold in Australia marked 'Produce of S.A.' I seek leave to have it inserted in *Hansard* without my reading it.

Leave granted.

My advice from the Department of Public and Consumer Affairs is that the use in South Australia of 'S.A' for South African goods is considered misleading and could well be the subject of proceedings under legislation administered by the Consumer Affairs Division of the department. I understand the Trade Practices Commission takes a similar view.

Departmental records do not show any complaints of this nature and no particular labels of which the department knows have required action. I understand that the Australian Customs Service has advised that it is its normal practice to ensure goods are adequately marked before they are released from future imports and have the power to declare goods prohibited imports and thus liable to seizure.

A survey conducted in the metropolitan area by officers of the department has not found any goods labelled 'Produce of S.A.' that were of South African origin. I understand that the South Australian Health Commission has not found any products from South Africa carrying misleading descriptions as to the country of origin. Department officers advise that Australian Customs Service records indicate no packs of dried fruit have been imported into South Australia from South Africa this year. Twenty-seven fish imports from South Africa were received and one consignment which was checked was found to be marked 'Product of South Africa'.

While it is impossible to say that no problem exists with regard to the marking of South African goods, it appears that the law is not being flouted in this regard. The department will continue to monitor the situation in the course of normal duties. Any misleading statements will be investigated with a view to instituting proceedings.

Should your constituent have any further information with regard to South African produce, I suggest that this information is passed directly to the Director of the Consumer Affairs Division in order that he may act promptly on the matter.

REPLIES TO QUESTIONS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney-General, as Leader of the Government in this Council, a question about replies to questions.

Leave granted.

The Hon. M.J. ELLIOTT: This question may indeed sound like something of an action replay of the Hon. Mr Burdett's complaint, but I think that it is serious enough for me to raise it also. I have asked a number of questions in this Council on a range of matters. Those questions have been referred back to various departments for replies. None of the matters was of such a complex nature that the question could not have been answered quickly, at least within one or two days. I have been disappointed by the Government's attitude.

The Government should consider that questions are of importance to the elected members and should be treated as such. I have been informed that in at least one instance the reply had been substantially prepared for quite some time and was simply being withheld. As the Hon. Mr Burdett suggested, a number of members are suffering from the Government's tardy treatment of questions. Will the Government undertake to expedite the replies to questions asked in this Council?

The Hon. C.J. SUMNER: I have already said that we will do that. The Government will expedite the replies to questions—it does do that. Members ask questions and the Government attempts to deal with them as quickly as possible.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The Hon. Mr Burdett's question on notice required some research and investigation before a reply could be produced. On occasion the questions must be referred to the Minister in the other place for departmental response. I can assure the honourable member that the Government attempts to get back the answers as

quickly as possible. It is not always possible to do that as quickly as one would like, as the honourable member would realise. There are priorities in an office and in Government administration, and at times when there is considerable pressure of work certain matters are delayed more than they should be. However, I can assure the honourable member that the best efforts are made to answer questions as quickly as possible: that has always been the situation.

If the questions are not answered by the end of the Parliamentary session, it is common practice for a Minister to answer questions by letter to the honourable member concerned during the recess, and that practice will continue. If members want the replies inserted in *Hansard*, it is normal practice that they request that action when the Council sits again. That practice has operated in the past, and it will operate in the future. I can assure the honourable member that we do our best to get back the replies to members as soon as possible.

FAMILY COURT

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Attorney a question about the Family Court.

Leave granted.

The Hon. DIANA LAIDLAW: Since the establishment of the Family Court some 10 years ago, South Australia has been entitled to five Family Court judges. For the past 18 months, however, the court has been operating with only four judges, because the Federal Government has not yet seen fit to appoint a replacement to fill a vacancy created by the death of Mr Justice Haese. In the meantime, the court's case load has not abated and I understand that the waiting list for settlement of custody and property case hearings has continued to increase, placing additional pressures on many South Australians who are already facing a crisis situation.

Is the Attorney aware of mounting concern within the Family Court system that the court's work load pressures in South Australia will grow even more acute during this year because of the recent appointment of one judge as an appeal judge and the fact that all judges are now eligible to take their long service leave in respect of 10 years service? As a combination of these factors will leave the Family Court of South Australia with the equivalent of, at best, only 3½ judges compared with our need and entitlement of five judges, will the Attorney be prepared to protest to the Federal Government that its inaction in appointing a judge to fill the current vacancy on the bench is frustrating the efficient operation of the court and adding unnecessarily to the pressure on many South Australians who are already in a crisis situation?

The Hon. C.J. SUMNER: I realise that an appointment has not been made to fill the vacancy caused by the death of Mr Justice Haese, but the problems that the honourable member has outlined have not been drawn to my attention: I can only assume that they have been drawn to the honourable member's attention by someone concerned in the Family Court. That is fair enough, I suppose, but one would expect them to tell me and make representations to me on the matter. However, the Hon. Miss Laidlaw having raised the matter, I will take it up with the federal Attorney-General and bring back a reply in due course.

ACTS INTERPRETATION ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Acts Interpretation Act 1915. Read a first time.

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

That this Bill be now read a second time.

It incorporates part of the Bill introduced in the Legislative Council earlier in this session. It includes all of the provisions of that Bill apart from those providing for the use of extrinsic aids in the construction of statutes. That matter will now be dealt with separately. This course of action is being taken principally in order to secure the passage during this session of the proposed amendment to section 16 of the principal Act.

That amendment is designed to ensure that where an office, court, tribunal or body would cease to exist on the repeal, amendment or expiry of a provision, the office, court, tribunal or body nevertheless continues in existence for the purpose of instituting, continuing or enforcing any investigation, legal proceeding or remedy. The passage of this amendment is required as a result of Crown Law advice based on a decision of the Supreme Court in which the view was expressed that section 16 cannot be construed to continue bodies in existence for that purpose. The result of that advice and decision has called into question the transitional provisions contained in several measures which are to be brought into operation prior to the next sittings of Parliament.

Prior to that advice and decision, Bills have been commonly drafted upon the basis that section 16 operates so as to enable matters under a repealed or amended Act or provision to be disposed of by the appropriate body referred to in the Act or provision, whether or not as a result of the repeal or amendment that body is to continue in existence. This is, of course, most obviously necessary where matters have been only partly dealt with at the date of operation of the repealing or amending provision. In such cases there is really no other satisfactory alternative. However, it may also be preferable, depending upon the particular circumstances, to have matters which have not yet commenced, but which arise under the old provisions, commenced and disposed of under the old provisions by the body that was required to deal with the matters under the old provisions even though it is not to continue in existence or is to be replaced by some new body. This of course depends upon how long the old body may have to continue for that purpose, questions of administrative convenience and other factors.

The Bill seeks to overcome a difficulty that can arise when a provision of a statute has received a particular construction in the hands of the courts and is later repealed and picked up again in a new, consolidating statute. Some authorities think the old judicial construction of the provision should continue to apply: other authorities consider that the courts should be at liberty to reinterpret the provision. This Bill puts these doubts at rest.

Furthermore, it is proposed to amend section 26 to insert a complementary provision to that which provides that the masculine gender is to be construed as including the feminine gender by providing that the feminine gender is to be construed as including the masculine gender. Another amendment to section 26 provides that a phrase consisting of both a masculine and a feminine pronoun may be construed as also being applicable to a body corporate in appropriate cases. Finally, various amendments in the nature of a statute law revision exercise (associated with the republication of the Act) are included in the schedule to the Bill.

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

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides for the amendment of section 16 so that an office, court, tribunal or body can continue in existence (and if necessary appointments be made for that purpose) on the repeal, amendment or expiry of a provision in order that investigations, legal proceedings and remedies may be instituted, continued or enforced in relation to matters occurring before the repeal, amendment or expiry.

Clause 3 provides for the insertion of new section 18. Proposed new section 18 relates to the presumption that the re-enactment of a provision constitutes parliamentary approval of a prior interpretation. This presumption, applying as a principle of statutory interpretation, cannot be described as being other than highly artificial. Commentators have explained how it has become hedged about with qualifications and decisions of the High Court have raised doubts as to whether it should ever be followed. It is certainly most tenuous to argue that Parliament re-enacts provisions having considered earlier interpretations by courts. The Law Reform Committee recommended in its Ninth Report that the presumption should not be applicable in this State. Accordingly, by virtue of new section 18 it is proposed that the presumption should no longer apply.

Clause 4 provides for the repeal of section 22 and the insertion of a new section. Proposed new section 22 provides that where a provision is reasonably open to more than one interpretation, a construction that would promote the purpose or object of the Act should be preferred to a construction that does not. This provision is consistent with approaches applying in several States and the Commonwealth.

Clause 5 inserts a new paragraph in section 26 relating to the use of words of the feminine gender and a new paragraph relating to the inclusion of bodies corporate when both a masculine and a feminine pronoun are used.

The schedule includes various amendments that may be classified as 'statute law revision' amendments. Section 2 of the Act may be repealed as it serves no further purpose and section 3 will be replaced by a general index to the Act on its republication. Various amendments are to be made to section 4 of the Act to remove obsolete definitions and references. A reference to an 'Act' is to be redefined to include an Act of the Imperial Parliament that has been received into the law of the State or applies by paramount force. A reference to a 'Judge' is to include a District Court Judge. The definition of 'statutory declaration' is to be revised so that it will mean a declaration made under the Oaths Act 1936, or a declaration made outside the State in pursuance of a law that renders the declarant liable to a criminal penalty for a false declaration when made before a person who has authority under that law to take declarations. A new section 7 is to be enacted as an amalgamation of existing sections 7 and 8.

A new section 15 will operate to save all administrative acts done in pursuance of provisions that are being replaced by others that substantially correspond to those being repealed. Section 30 is to be revised to accord with contemporary styles of drafting. Sections 43 to 47 (inclusive) are to be replaced by two new provisions that will consolidate the useful elements of the existing provisions but not include provisions that also apply by virtue of the Justices Act 1921. Finally, various other amendments are to be effected in order to ensure that the principal Act will, on its republication, be in a form that accords with modern drafting practices.

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

ENERGY RESOURCES

Adjourned debate on motion of Hon. I. Gilfillan:

1. That a select committee be appointed to inquire into and report upon—
   - *(a)* The pricing and supply of natural gas in South Australia including reserves, prospectivity, cost of exploration for and production of gas and the need for any change in current and future contractual arrangements.
   - *(b)* The role of the South Australian Oil and Gas Corporation and the extent to which this organisation should be subject to public scrutiny and control.
   - *(c)* Present energy decisions regarding future power needs in South Australia.
   - *(d)* The most economical means of providing South Australia's future power needs with due consideration of environmental factors and local employment and in particular the relative advantage of—
     - (i) an interstate connection;
     - (ii) importing black coal;
     - (iii) development of local coal fields;
     - (iv) Northern Power Station Unit 3 and further development at Leigh Creek.
   - *(e)* Possible technologies for the development of South Australian coal resources.
   - *(f)* The 'Future Energy Action Committee, Coal-Field Selection Steering Committee, Final Report'.
   - *(g)* Alternative sources of energy.
   - *(h)* Methods of conserving energy.
   - *(i)* The advantages and disadvantages of having the portfolios of both Mines and Energy in one Government department and under the control of one Minister.
   - *(j)* Any other related matters.
2. That in the event of a select committee being appointed, it consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members and that Standing Order No. 389 be so far suspended as to enable the Chairman of the select committee to have a deliberative vote only.
3. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence presented to the committee prior to such evidence being reported to the Council.

(Continued from 26 February. Page 567.)

The Hon. B.A. CHATTERTON: I support the motion, which is identical to one moved by the Hon. Mr Gilfillan in the last session of Parliament. On that occasion it was also supported by members on the Government side of the Council but, of course, the Parliament was dissolved so that there was no opportunity to establish this select committee.

While I support the motion, I do not altogether agree with the remarks that he made in support of it. He suggested that the position was the same as it was last year and that we should therefore have a select committee. In fact, the position has changed quite dramatically with the fall in oil prices and the economics of various forms of fuel having changed correspondingly.

In fact, I read a report the other day which indicated that the concerns of various eastern State Governments in selling coal are so great that they are considering financing coal-fired power stations overseas in an attempt to tie these overseas countries into purchasing the coal from that State. That report stated that the Queensland Government was considering partial funding of power stations in Turkey, provided that those power stations use Queensland coal, and that the New South Wales Government was considering the partial funding of power stations in Egypt, provided that they used New South Wales coal. That is quite a dramatic turnaround from the position only 12 months ago

when, I am sure, people would have been using coal as a primary source of energy without any such inducements.

Having said that the position has changed, I still consider that the points that Mr Gilfillan has raised in this motion for a select committee are important and must be tackled in the longer term as far as South Australia is concerned. While the immediate pressure on fuel prices and energy costs in general has been relieved in the short term, we cannot avoid the issues in the longer term. In fact, there is a considerable amount of evidence that the short term drop in oil prices is a matter of policy of the Saudi Arabian Government. Once it has brought some of the other non-OPEC oil producers to heel, prices will in fact rise again. It is doubtful whether they will rise to the levels they reached perhaps 12 months ago, but there are indications already that a number of uneconomic oil fields are having to close down at current prices, and that is exactly what the OPEC organisation wants to achieve.

At current prices it will also stop a great deal of offshore exploration, because the high cost of offshore oil production means that it is unlikely at present oil prices that many offshore fields would be economic. I am sure that the need for energy conservation and to look for alternative resources is still there in the longer term, even if it is not exactly a pressing issue at this moment. I support the motion.

The Hon. M.B. CAMERON (Leader of the Opposition): The Opposition will support this motion, although I must express some concern about the breadth and width of the terms of reference. I think what the Hon. Mr Chatterton has said is a very clear indication of the problems that you could face with a select committee of a House of Parliament tackling what is a very complex issue. With an issue such as this, it will be a very broad and long running select committee. In the middle of it you can have real alterations to the basic motives behind the select committee. Of course, the Hon. Mr Chatterton referred to the fall in the price of oil, which is continuing at a rapid rate. There are now indications that the price could well be below $10 a barrel in the near future.

As the honourable member said, this upsets the whole balance of alternative energy sources. While oil is $30 a barrel, there are all sorts of energy sources that become potentially economic but, when it goes down to $10, regardless of the wishes of people to depart from the sort of resources that we are now using, the economics of those resources are such that that will not happen. So, you are doing a lot of work on these alternative sources through the select committee, but it may be a long way off. I suppose the argument is that, if you do it now, at least when prices return you are ready for it. That is a matter for the select committee to work out and decide, but as I have said, there can be great changes.

Members of Parliament are not necessarily expert in every field and, when it gets to a very complex field such as this, quite often probably a better source of information are Government departments or special people hired by the Government for the purpose of inquiring into such matters. I know that we all express doubts about some Government inquiries, but underlying all those inquiries, because they are subject to the scrutiny of Parliament, there has to be a desire for the Government to receive properly-based information. However, I reassure the honourable member who moved this motion that that does not mean the Opposition will oppose it: we support it.

I am not sure about the terms of reference. The Attorney-General has spoken to me about certain sections of the terms of reference and I do not know whether there have been any discussions between him and the mover of the motion as to whether those terms of reference are appropriate. I would certainly be willing to discuss any alterations that the Attorney-General might need in the terms of reference to ensure that the select committee concentrates on the real issues for which it has been set up. For instance, I am not sure that it is appropriate for a select committee of the Council to indicate to the Government whether or not it should have certain portfolios under one or two Ministers. I do not think that that is a major point and perhaps it is one that should be left in the hands of executive government, but perhaps that area could be explored and perhaps the Hon. Mr Gilfillan could give some indication of his feelings on that matter.

I do not think that that section is vital to what the Hon. Mr Gilfillan is attempting to do through the setting up of this select committee. We support the motion and I trust that the select committee will not take too long, nor have to travel too far and will come back with some findings that are helpful to the State and to the Council.

The Hon. I. GILFILLAN: I thank honourable members for their support of the motion and also the good wishes from the Leader of the Opposition. The terms of reference are the same as were previously accepted. I have taken note of the comments made by the Attorney-General and I have listened to what the Leader of the Opposition has said. I believe that it would be within the jurisdiction of the select committee to decide whether there was irrelevant and time wasting evidence coming forward, or discussion being demanded on any of the subclauses. I ask the Council to trust the select committee to use its discretion. We are obviously not intending to waste either our own time or that of the people who will work in support of the committee. We would be keen to have helpful material coming back by way of a report from it as soon as possible.

Motion carried.

The Council appointed a select committee consisting of the Hons B.A. Chatterton, Peter Dunn, M.S. Feleppa, I. Gilfillan, Diana Laidlaw, and G. Weatherill; the committee to have power to send for persons, papers and records, and to adjourn from place to place, and to sit during the recess; the committee to report on the first day of next session.

AUSTRALIA CARD

Adjourned debate on motion of the Hon. Diana Laidlaw:

That this Council conveys to the Federal Government its strong opposition to the introduction of a national identification system, incorporating the Australia Card, because the proposal:

1. Is a simplistic response to the need to combat tax avoidance and social security fraud;
2. Represents an unwarranted intrusion into personal liberties and basic rights;
3. Has the potential to legitimise false identities;
4. Ignores overseas experience which confirms it is virtually impossible to confine their use;
5. Cannot guarantee that personal information will be secure;
6. Does not address how the system will be enforced;
7. Is questionable in terms of the cost benefit estimates.

(Continued from 26 February. Page 570.)

The Hon. C.J. SUMNER (Attorney-General): I move to amend the motion as follows:

Delete all words after 'Government' in line 2 and insert in lieu thereof the following:

. . . its opinion that the proposal for a national identification system incorporating the Australia Card should not proceed unless the concerns expressed in the letter from the South Australian Government to the Joint Select Committee on Australia Card dated 10 January 1986 are adequately addressed and that:

(1) a card of high security and integrity is assured;

(2) the cost benefit analysis is satisfactory;

(3) privacy is adequately protected;
(4) the legal uses of the card are effectively controlled and that there are adequate sanctions against misuse and abuse;
(5) the Australia Card is the most cost-effective way of comprehensively tackling fraud and abuse in the tax and welfare systems.

The effect of my amendment will be to convey that view to the Federal Government rather than that requested by the Hon. Miss Laidlaw, namely, strong opposition to the introduction of a national identification system. I will not detain the Council long on this matter. I will indicate the action that the South Australian Government has taken. It considered this issue in January and also considered whether it should make representations to the Joint Select Committee on Australia Card, which is a joint select committee of the Federal Parliament. The Government determined that it would write a letter to the Chairman of the Joint Select Committee on Australia Card and that letter was written by the Attorney-General on 10 January 1986 and is the letter referred to in the amendment to the motion that I have just foreshadowed.

I will read into *Hansard* the relevant parts of that letter so that the Parliament is aware of the attitude taken by the South Australian Government. The letter is addressed to the Chairman, Joint Select Committee on Australia Card, Parliament House, Canberra, as follows:

Dear Sir,

Re: Australia Card

I am writing to your committee on behalf of the Government of South Australia in order to acquaint it with major concerns and issues which this Government wants specifically addressed, both by your committee and any Commonwealth legislation that may emanate in consequence of its final recommendations. I note that your committee has invited submissions and representations. The Government of South Australia has opted, in lieu of a formal submission, to traverse the real concerns it perceives in the proposals.

Before proceeding to do so, I should make quite clear that the Government of South Australia has not yet taken any policy decisions, in respect of the Commonwealth Government's proposals to implement a national identification system. An officer of my department attended the presentation, to States and Territories, of those proposals in Canberra on 19 December 1985. But beyond his acquainting Cabinet with the substance of that presentation, nothing has been done and no decision has been made by Cabinet regarding the final position it will, or is likely to, adopt on the matter. Instead, it reserves its final position and will direct its attention to the contemplated legislation as it is being drafted. The major concerns and issues the Government of South Australia will want specifically addressed, before it makes any final determination, are summarised as follows:

(1) To what extent will Federal Government departments (in which expression is to be included Federal statutory and cognate authorities) be permitted to have access to information originally given to other departments or organisations for specific purposes?
(2) What assurances will there be that, when records are created for different purposes (e.g. banking) and they are matched for another purpose (e.g. to detect fraud) the result will not be a loss of data quality?
(3) What guarantees will exist that an individual will know, or be advised that, information about him is being fed to another department for a purpose different from that for which it was originally collected? This problem is particularly important where obsolete or inaccurate information is being fed.
(4) What guarantees will there be that Australia Cards will not be issued (or re-issued) on the basis of counterfeited, forged or other spurious source identification records (e.g. birth certificates, drivers' licences, etc.)?
(5) What guarantees will exist that data linkage across the private sector will not occur?
(6) Will Government itself, and researchers (whether from the private or public sector) use the identification number to gather information gained from harmless transactions and activities to store and correlate it to obtain detailed 'profiles' of individuals? If not, how is this to be prevented?
(7) What assurances will there be that the operators of the system will need to justify their intrusion into the system before assessing and searching relevant records to establish that a data subject has acted illegally? In the words of one commentator (Shattuck—(1984) 35 Hastings L.J. 991, 1001-1003):

'What makes computer-matching so fundamentally different from a traditional investigation is that its purpose is to generate the evidence of wrongdoing that usually is required before a traditional investigation can be initiated ... Computer-matching can turn the presumption of innocence into a presumption of guilt.'

(8) What guarantee will there be that the Australia Card will not become a *de facto* passport, failure to possess which will disentitle a *bona fide* individual to certain privileges or benefits that would presently obtain?
(9) Assuming the Australia Card system is implemented, will it be competent for the Governments of the States and Territories to require its possession and production for their authorised uses and purposes? If so, will it not be essential to ensure that there is a near-complete uniformity among the laws of the States and Territories so that the Act of crossing a border will not, *ipso facto*, lead to discriminatory or unjustifiably varied requirements which, again, could jeapordise the rights and entitlements of a *bona fide* individual? What mechanism does the Commonwealth Government (or Parliament) propose to enable such uniformity to result?
(10) What criteria will be prescribed and applied to ensure that the mandatory nature of the Australia Card:
  (a) will not place under suspicion a person who does not possess one: or
  (b) will not place above reproach a person who does possess one albeit obtained illegally (e.g. by theft)?
(11) What assurances will any proposed legislation contain that the use of the Australia Card will be confined strictly to tax collection and social security disbursement purposes, given the Canadian experience that its social insurance number was being used extensively in the public and private sectors without legislative warrant?

The Hon. R.J. Ritson: What about the Health Commission wanting to use it?

The Hon. C.J. SUMNER: I will finish the letter, first:

(12) Overseas experience may strongly suggest that the tax collection purpose of identification systems can be vitiated by those who avoid banks and credit cards and others who engage in simple barter for goods and services. Given that a *raison d'etre* for the Australia Card is to combat tax evasion, how is resort to the so-called 'black' economy to be circumvented by the proposed legislation?
(13) What effect will the Australia Card have on the extant common law right of a natural person to assume any name he chooses (provided that such assumption is not for the purposes of perpetrating fraud, etc.)?
(14) Has your committee considered the very strong evidence (e.g. as highlighted by the report of the English (Lindop) Committee on Data Protection Cmnd 7341 at pp. 260-264) that there has been a growing diffidence in a number of jurisdictions (e.g. Sweden, U.S.A.) about the use of universal personal indentifiers (of which the Australia Card would be an example)?

The Government of South Australia would want all these concerns adequately met before it proceeded to determine its ultimate position on the proposals to introduce a national identification system.

In addition, Madam President, the Government took steps to form a delegation of South Australian public servants, which comprised a representative nominated by the Premier, one nominated by the Treasurer, one nominated by the Attorney-General and the Principal Registrar of Births, Deaths and Marriages. That delegation of officials met with the federal delegation which attended in Adelaide to discuss the issues surrounding the Australia Card. In addition, Cabinet instructed me to forward written requests to other Ministers regarding the advisability or applicability of any use of the Australia Card for any purpose and, if so, what purposes of the Government of this State.

The situation is that a delegation was formed and met with Commonwealth officials and a letter dated 10 January 1986 has been sent by me outlining the South Australian Government's concerns about the Australia Card that it would wish dealt with prior to determining its position on the Australia Card. Also, Government departments have

been requested to indicate the advisability or applicability of the Australia Card for purposes within State Government jurisdiction.

However, the major thrust of the motion deals with the principle of the Australia Card. I have outlined the South Australian Government's views on it. The Hon. Dr Ritson interjected, 'What about the Health Commission wanting to use it?' If a State Government did wish to use the Australia Card there would need to be a specific parliamentary warrant for that.

One could envisage, for instance, the use of it to assist with the problem of under-age drinking which has been a matter of some concern and concern expressed in this Parliament. But, if that were to be the case, one would expect that that is not something that would be done by administrative fiat but something that would have to receive the sanction of the South Australian Parliament. However, obviously it is not something to which consideration has been given at this point in time.

The major question at the moment is what will be the joint select committee's conclusions on the Australia Card. It is receiving evidence throughout the country and will, in due course, make a report that will be considered by the Federal Government. At that time the South Australian Government will be in a better position to consider its position, but we have no *prima facie* objection to the use of the Australia Card. However, we certainly believe that the concerns that have been outlined in that letter need to be addressed before the South Australian Government comes to a final conclusion on the Australia Card and the extent of the Government's cooperation with it.

The Hon. Diana Laidlaw: What will you do if the Government insists on going ahead, irrespective of what is in the committee's report?

The Hon. C.J. SUMNER: That is a hypothetical question.

The Hon. Diana Laidlaw: Not necessarily.

The Hon. C.J. SUMNER: I will not respond to that at this stage. If that happens, the matter will be considered but I have outlined as fully as I can the situation of the South Australian Government up to the present time. That brings me to the motion, which I oppose, and I commend the amendment I placed on file: to convey to the Federal Government the view of this Council that the concerns I have outlined should be addressed before proceeding with the introduction of the Australia Card. I formally move that amendment.

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

BEVERAGE CONTAINER ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 March. Page 767.)

The Hon. J.R. CORNWALL (Minister of Health): I thank the Hon. Mr Cameron for his contribution to this debate and I hope that within the next five minutes or thereabouts I can resolve his outstanding problems. He raised five points specifically to which I believe a considered response is required. First, a statement needing clarification was that made by the Leader of the Opposition regarding his understanding that interstate bottles cannot be returned and reused in many cases because if they pass through a caustic wash all sorts of problems arise with the outside of the bottle.

Prior to the introduction of these amendments to the Act which are presently before the Council an inspection was made by officers of the Department of Environment and Planning of Carlton and United Brewery's Melbourne plant, where bottles were observed being washed at the rate of 60 thousand dozen per day for reuse. Further, ACI (the manufacturer) has advised the department that the lightweight Carlton bottle—and remember that ACI is the manufacturer of the lightweight Carlton bottle—under the same conditions is capable of being refilled as many times as its heavier South Australian refillable echo bottle. So, technically I am advised that is not a problem. It can make the same number of trips and the caustic wash does not cause problems.

Secondly, and this is perhaps the biggest problem Mr Cameron has got. As an old South-Easterner he has probably consumed a can or two at the football in his time. It is an occupation and recreation I know reasonably well from my time in the South-East, but I want to assure him—

The Hon. C.M. Hill interjecting:

The Hon. J.R. CORNWALL: That was when I was much younger. I want to assure the Hon. Mr Cameron that the increase in relation to deposits on beer cans is to restore the relativity between refillable containers—both cans and bottles—and non-refillable containers which existed when the legislation was first introduced. So, if one goes back to 1977 there was a differential with both the cans and bottles which, at that stage, was a 5c deposit. Of course, reusable ones were still something like 10c a dozen. All we are doing by this addition is to bring back that relativity.

Thirdly, the commitment of the South Australian Brewing Company and the Government at the time of the introduction of the Act was to a returnable refillable bottle system. The introduction of the echo bottle or the stubbie as it is wrongly known demonstrated the commitment by the South Australian Brewing Company to this system. The echo is different from what is called the stubbie interstate by the very fact that it is returnable. The South Australian Brewing Company, to its great credit, is committed to the refillable bottle system.

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: But they are also very responsible. May I also say that the two giant breweries in this country that have been formed by amalgamation and takeover also deserve a great deal of South Australian support. The South Australian Brewing Company is South Australia's own, and I am very keen, as I know the Hon. Mr Cameron and everyone else is, to see it survive as a South Australian company.

Fourthly, the reason for the increased deposit, referred to by the Hon. Mr Cameron, has already been given. There will be no confusion regarding the deposit amount, as that amount is embossed on the end of the can. If one looks at the end of the can one will be able to see the difference at once. The Minister for Environment and Planning has given instructions, he tells me, that the legislation is to be enforced rigorously in all areas of the State so that no-one will be disadvantaged.

Finally, this legislation of course deals only with wine cooler and beer bottles. Any changes needed in relation to soft drinks will be reviewed separately. All soft drink containers presently carry a deposit and no soft drink can be introduced without a container deposit. I think they are the main points that were raised by the Leader of the Opposition. I indicate that I would like to see this Bill expedited through the Committee stage.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. M.B. CAMERON: I have been told that the interstate brewers, who obviously will be affected by this legislation, have expressed some concern that, if the Bill passes, they will now be placed in a difficult position for a

certain period until they can reorganise their products for sale in South Australia under the new rules. The representative of one brewery who contacted me indicated that perhaps a period of three months might be required for that brewery to change over to the new system involving products being introduced in South Australia in the new form. I realise that it would be difficult for the Minister to name a date now, but is the Minister prepared to discuss this matter with those people concerned to ensure that those who want to participate and conform to the new rules are given a reasonable opportunity to do so?

The Hon. J.R. CORNWALL: I can certainly give an undertaking that there will be consultation with all parties likely to be affected by this legislation before it is proclaimed so that there will be opportunities to arrange their affairs accordingly. As the Hon. Mr Cameron has said, it is not possible for me to give a specific date. However, on behalf of the Minister in the other place and the Government I certainly give an assurance that adequate consultation will take place.

Clause passed.

Clause 3—'Repeal of section 3.'

The Hon. C.M. HILL: Before proceeding, can the Minister tell me which clause deals with the increased deposit that will apply?

The Hon. J.R. CORNWALL: I understand that section 4 of the principal Act, as amended by clause 4, will apply and that the amounts will be set by regulation.

The Hon. M.J. ELLIOTT: Is it correct that under the Act as amended it will be possible for refillable containers, which are currently required to go back to hotels and retail outlets, to be taken to marine dealers. Is that possible under this legislation?

The Hon. J.R. CORNWALL: My advice is that, provided that the containers meet specified criteria and that the Minister of the day is satisfied as to the manner in which they ought to be returned, yes, that is possible.

Clause passed.

Clause 4—'Interpretation.'

The Hon. J.R. CORNWALL: I move:

Page 1, line 33—Leave out '6' and insert '8'.

This covers a matter of concern that was raised during debate in the House of Assembly by the member for Coles and also the matter was raised with me by the Leader of the Opposition in this place. This amendment takes care of those concerns.

Amendment carried.

The Hon. C.M. HILL: I sense a great deal of controversy in the community about the increase in the deposit on beer cans from 5c to 15c. People are very disappointed about the size of the increase, as applied by the Government. I listened to debate on the second reading and I thought that questions on this matter were very strong and severe and that we would obtain a more satisfactory answer from the Minister today than the reply that he gave a few moments ago, namely, that it was just simply a question of getting back to relativities. That kind of answer does not satisfy the public, which see the increase from 5c to 15c as being very severe indeed. This applies particularly to people who find beer cans more convenient and a better article to purchase than bottled beer.

Of course, those purchasers cannot but help compare deposits on beer cans with the deposit applicable to soft drink cans, which remains at 5c. I am not in any way advocating an increase from 5c in the deposit applicable to soft drink cans, but to those in the community who are objecting to this measure there appears to be no logic whatsoever in increasing the deposit on beer cans from 5c to 15c while not touching other cans. All the Minister said in defence of this unusual move was 'Well, we want to return to relativities,' or some gobbledegook like that.

I am strongly opposed to the increase from 5c to 15c, and I also seek a clear undertaking from the Minister that this is not the thin end of the wedge for a move to increase deposits on soft drink cans relatively soon. People outside are saying, 'If the Government increases deposits on beer cans from 5c to 15c on this occasion, surely it will have a strong argument if it wants to increase the deposit on soft drink cans relatively soon from 5c to 15c.' I wonder whether the Minister might further endeavour to defend his Government's action and not tell us so much about the relativities to which he wants to revert but get down to the nitty gritty and give us information that we can relay to the people out there that will make some sense to them.

The Hon. C.J. Sumner: Who's upset with you?

The Hon. C.M. HILL: The public that the Government is not in touch with, the little people who buy beer in cans, the very people that the Government purports to support are upset. But the Government says, 'To hell with them' for some reason or other, and merely says that we have to get back to relativities. Some people do not even understand the meaning of the word—I cannot quite understand it myself. We want logical replies and logical reasons why the deposit on beer cans will be increased from 5c to 15c, whereas the deposit on soft drink cans will remain at 5c.

The Hon. G.L. Bruce: We want a reuseable product.

The Hon. C.M. HILL: We had a reuseable product before.

The Hon. G.L. Bruce: It should be reuseable and refillable, not returnable.

The Hon. C.M. HILL: So the Government is saying to the people who find cans far more convenient, 'Bad luck, Joe. You have to buy bottles.'

The Hon. G.L. Bruce: No, they can buy cans, and pay a deposit on them.

The Hon. C.M. HILL: The honourable member is talking about refillable containers—cans are not refillable.

The Hon. G.L. Bruce: That's what I said. They are not refillable.

The Hon. C.M. HILL: The honourable member's response has injected even more gobbledegook into the argument. I want some logic from the Government.

The Hon. Diana Laidlaw: You're asking too much.

The Hon. C.M. HILL: Yes, I am asking too much. What will the Government tell the little people out there who are up in arms about this? Let me warn the Government that a lot of consumers and people out there are extremely upset about it. They can see no logic in it: I can see no logic in it. We ask the Government for its explanation, and all members opposite can say is, 'We will return to relativities.'

The Hon. J.R. Cornwall interjecting:

The Hon. C.M. HILL: The Minister says that he will tell me a little more. I am only too happy to sit down, and I want to hear a logical answer. I hope that the Minister will relate his remarks to soft drink cans and give the undertaking that the Government has no move up its sleeve, having reached the situation where the deposit on beer cans is 15c, to say, 'It is time we lifted deposits on soft drink cans because that situation applies to beer cans.' I ask the Minister to give a far better explanation than he has already given so that those people who are making submissions to me and to other members on this side can be appeased.

The Hon. J.R. CORNWALL: I must say that I am quite amazed by the Hon. Mr Hill's outburst. He has been a member of this place since 1964, I believe. He has been here through a very exciting period in South Australian politics. Probably more reforming legislation has passed through this Chamber in the period during which Mr Hill has been here than in the 100 years or more prior to that. The beverage container legislation was pioneering legislation

in Australia. It was passed in 1977 and it is now almost nine years old. It has worked extremely well. The only thing for which I must express very sincere regret is the fact that the other States lost their nerve when they were pressured by the packaging industry, and to date none has had the courage to introduce similar legislation.

Let me assure the Hon. Mr Hill at once that there is no intention to increase the deposit on soft drink cans in the foreseeable future. The reason for that is simple: there is no need to increase the deposit on soft drink cans. They account for about 30 per cent of the total soft drink market. Soft drinks are normally consumed by sober people in responsible circumstances, and such cans contribute very little to the litter stream. The very small number of those cans that are found in the litter stream are scavanged quickly. Despite the fact that soft drink cans account for 30 per cent of the drink market, they are very small contributors to the litter stream. We are perfectly happy with the way in which that very enlightened legislation is working with regard to soft drink cans.

Of course, beer cans contain alcohol. That would hardly be a matter of which even the Hon. Mr Hill was unaware. That means, of course, that their contents tends to be consumed in somewhat less responsible circumstances, and people tend to throw them away. I might also point out that they now comprise only 6 per cent of the total packaged beer market in South Australia, so their numbers are very significantly lower. Beer cans are not particularly popular containers for beer. The echo system appears to have worked very well—that is, the so-called stubbie. If we are to retain (and it is essential that we retain) that very efficient system of reuseable beverage containers in South Australia, it is important that we go back to sensible relativities.

There is the further very important consideration that at present the interstate giants are enjoying an unfair advantage. I do not think that we have to apologise for trying to make things a little more equal: we do not have to apologise, with regard to the matter of competition between Carlton and United Breweries and Castlemaine/Tooheys versus our very own South Australian Brewing Company, for taking legislative action that will tend to equal the score. At least we intend that the South Australian Brewing Company should have an even go in the market. I make no excuse at all. In fact, I am very proud to inform the Committee that that is one of the reasons why the Government is introducing this legislation.

The South Australian Brewing Company is a South Australian institution, a very big employer and, as the Hon. Mr Bruce I am sure could tell the Committee far better than I, it is a responsible employer and, dare I say it, even in some respects a reasonably benevolent employer. Therefore, there are many good reasons for introducing this legislation. I have now outlined them in a way that I think ought to be satisfactory from the point of view of the Hon. Mr Hill and that of every other member.

The Hon. PETER DUNN: The Minister has given a long dissertation, but he still has not said why there must be relativity between echos or returnable bottles and cans. Relativity was introduced some years ago and I agree with what the Minister said about the legislation being effective in cleaning up the number of bottles and cans, but this impediment on cans is an imposition on people who are already disadvantaged in this country. After a hard day's work, I enjoy my brown ale as much as anyone else, and cans are much more effective when people are a long way from the city.

I made this point in my second reading speech yesterday. Cans are so much more useful in the outback and in places a long way away from the point of production. It appears to me that there has been quite a heavy lobby by ICI or AGM or whoever make the bottles as against those who make the cans, because I recall that some time ago the brewery installed a very up-to-date canning line.

However, when the impediment was put on cans—the relativity in the system between cans and bottles—sales of cans fell away because people did not want to buy them. Why not make them all the same amount across the board? That has been done with virtually all the bottle containers apart from the very big ones. It is said that people do not pick up cans when they are thrown away, but under this legislation the incentive has been there for kids to pick them up and use the return as pocket money. That is what has cleaned them up, not adults picking them up.

An honourable member interjecting:

The Hon. PETER DUNN: That is right. They get pocket money and use it very well. For the life of me I cannot see why an impediment is to be put on people who live 200 or 300 miles away. Cans are so much lighter than bottles; they are easy to cart, and do not break. They do not produce litter because they are just stamped on, put in a wool bale and sent back again. What advantage does an echo have over the can, when we consider breakage, etc.?

The Hon. G.L. BRUCE: I think the Hon. Mr Dunn and the Hon. Mr Hill have missed the whole thrust of this Bill. The philosophical argument used many years ago was that refillable bottles would be preferred to single-trip containers and the brewery has gone down that path. Now there has been a change in the marketing situation that allows single-trip cans and containers to come in at an advantage.

What is being sought is the relativity to get that same disadvantage back to one-trip containers. To put the matter in its proper perspective, I will read what the brewing company put in the newspaper, as that sets out well the basic thrust of the whole argument. This is a full page advertisement that has been in the *Advertiser* a couple of times, and also I think in the *News*. It reads:

> South Australia has been our cleanest State for many years. Part of the reason for this is the refund we get on returnable bottles to make them worth collecting. Today, with the greater activity of some interstate brewers, we are in danger of a non-returnable one-trip container taking away our tidy reputation.

I do not doubt for a moment that if the one-way trip containers is the path that this Government and this State want to go down, the brewery will be happy to go that way, but it cannot do that overnight because it has become locked into a system into which this State and this Government put it. If we want to change the ground rules, we will have to give the brewery time. It is not prepared at this stage to do that. It thinks the present system is worth retaining because we have had it for 10 years. The advertisement further states:

> Over 10 years ago the South Australian Government decided that legislation was required to control litter in our State and to encourage responsible resource management. It was central to their philosophy that returnable refillable bottles would be preferred to single-trip containers.

A can is a single-trip container. The advertisement continues:

> The beverage container legislation was drafted in the knowledge that the Adelaide Bottle Company, which owns the pickaxe bottles, ran and still runs the most efficient bottle return system in the country.

That is beyond dispute. All the surveys that have been done show that the pickaxe return system that the South Australian Brewing Company runs is the most efficient in the country. The advertisement continues:

> Since that legislation was introduced, South Australia has been a returnable, refillable State and South Australian brewers have, in addition to the refund paid for bottles returned, paid a service fee to the marine store dealers who collect returnable bottles.

It is noteworthy that this system of bottle collection is over 100 years old in South Australia, and was in use long before

the legislation was introduced. No comparable system for the efficient collection of single-trip bottles at the point of sale has ever been established.

Nevertheless, the direction taken 10 years ago by the State Government and maintained by successive governments since then still permitted the use of single-trip containers. It was simply intended that it should be a financial disincentive to their use relative to refillable bottles.

Over the years, the amount of the refund on returnable bottles rose rapidly—five times, twice the inflation rate—while the deposit on one-trip containers remains static at five cents. The point was reached where it was possible for interstate brewers to market their product in South Australia in single-trip containers at a considerable advantage in presentation and cost production over local brewers. That is the whole thrust. The company does not want any advantage over any other company, or any disadvantage. At present, it is suffering a disadvantage and it is obvious why: those 5c non-returnables are coming over with no point of collection.

An item on television last night related to Cooler bottles, but the same principle would apply to the others. Where those bottles are broken the breweries interstate are not worried about getting back the deposit of 5c, and the dealer who sells that bottle which is broken ends up with the 5c in his pocket. There is no incentive for those to be collected, whereas the pickaxe and the small echo are returnable, reusable bottles. We went down that track 10 years ago. We have put the company in the position to stay down that track. If we are going to change the ground rules, I am sure the company would be happy to do it, but it wants a breathing space in which to do it. I do not think that is what we want and I do not think the people of South Australia would like to revert to a situation where everywhere there are cans and bottles. I have been in every State in Australia, and I can say without fear of contradiction that South Australia has the cleanest, litter-free State highways on which I have been. If we want to maintain that, it is preferable to go down the track to put a deposit on these containers that makes a disincentive for their use and keep to the returnable bottle.

The Hon. PETER DUNN: I agree with all that the Hon. Mr Bruce has said except for one fact: that is, that cans have become a returnable container. Show me a road where there are cans, and show me the same road and see how many stubbies or echoes have been left. The ratio is about four to one—and I collect them along my two mile frontage, or whatever I have, about every six months. I very rarely pick up a can, and it is always a soft drink can, but I pick up any amount of echoes. If you say that they are returnable, you are kidding yourself.

Go to the football: who walks around with a bag over their shoulder picking up cans? They never pick up the echoes. Cans are effectively one-way, but they are returnable because they come back, they are light and the kids will pick them up. They are not reusable, but consider north Queensland: how many echoes do you see in north Queensland? They are nearly all cans in the Northern Territory. In those areas close to the border people will cross the border and bring cans back, because they will not want to pay 15c extra. As the Minister pointed out, they generally throw them away, anyway. I would think that the brewing company is putting an impediment on itself and not helping itself. Can the Minister explain that?

The Hon. J.R. CORNWALL: I can explain it simply and in a short space of time. What we are doing is placing a further disincentive on all non-refillable containers. The can is one of those containers; the stubbie is another. Currently we have in this State Castlemaine Tooheys and Swan, both marketing a non-returnable stubby. The deposit is only 5c. It is no disincentive for every mug around the place who gets half boozed to throw them out their car windows or anywhere else. We have to return the relativities in that sense and, in doing so, we are picking up both cans and non-refillable, non-reusable stubbies. That is what it is all about.

We want to stop the flood of non-returnable containers from interstate, which is threatening to break down what has previously been very good and very effective legislation. So, it is not that we want to discriminate in favour of the can as against the bottle; it is that we certainly want to discriminate, and are actively doing so, against the non-refillable, non-reusable containers, whether they be cans or stubbies, as against the recyclable, reusable echoes and beer bottles.

The Hon. Peter Dunn: So they all go to 15c—

The Hon. J.R. CORNWALL: Yes, the non-recyclable stubbie will go to 15c with the can. That is really what it is all about.

The Hon. G.L. BRUCE: Just by way of refutation of what the Hon. Mr Dunn said, last weekend I visited a small country community where last year the progress association made over $2 000 and used that money to help build the local hall. Every year the association makes over $2 000 by collecting empty beer bottles and making sure that they are returned.

The Hon. J.R. CORNWALL: During this period reuseable containers have gone in price from 12c a dozen, or 1c a bottle, to a current price of 48c a dozen, or 4c a bottle. When the returnable echoes are worth 4c each, I do not think it is practicable to suggest that children at the football will not be collecting them along with the cans. I think the smart children will also be collecting the echoes, because every time they collect a dozen of the recyclable returnable echoes, they will have 48c in their bags and the cans will make a fortune.

The Hon. PETER DUNN: Has it been stated in the second reading explanation that those interstate non-returnables will now be 15c, because the information that I received was that they would be 48c?

The Hon. J.R. CORNWALL: That is a very good point. Ever since I have been a member in this place I have complained bitterly about the lack of clarity in second reading explanations.

The Hon. L.H. Davis: You have been in Government for four years and have not done anything about it.

The Hon. J.R. CORNWALL: We have been in Government longer than that during the time I have been in this place, but in Opposition I complained bitterly about this fact. You will notice that my second reading explanations now have great clarity. However, I have to concede that it may not have been spelt out quite as clearly as it might have been in the second reading explanation. Among other things, the second reading explanation by the Attorney-General states:

> The new deposit for one-trip bottles and cans containing beer will therefore be 15c.

The specific problems that were being experienced because of the activities of Castlemaine, Tooheys and Swan were not spelt out during the second reading explanation. As I said, that is one of the reasons for this legislation being introduced. I will repeat what I said earlier (I do not believe that we need to be coy about it): we want to ensure that the South Australian Brewing Company can compete on at least an equal basis with the large interstate companies.

Clause as amended passed.

Remaining clauses (5 to 17) and title passed.

Bill read a third time and passed.

ACTS INTERPRETATION ACT AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).
(Continued from page 864.)

The Hon. K.T. GRIFFIN: The Opposition supports this Bill which does not contain those matters which we found objectionable in the Order of the Day Government Business No. 8, which is another Acts Interpretation Act Amendment Bill. That Bill, in addition to including matters which are in a sense procedural or updating, also dealt with questions of the sorts of material to which courts would have access in interpreting Statutes where the construction was not clear. On the previous occasion before the State election, we were successful in preventing a similar Bill from passing. Again, that Bill contained some of the provisions in the Bill that I am now debating. Having had the offensive provisions of the original Bill removed, we have no difficulty in supporting this present Bill.

Clause 2 is technical in the sense that where an office, court, tribunal or body ceases to exist by reason of the repeal, amendment or expiry of a Statute, then for certain purposes the office, court, tribunal or body continues in existence, but only in so far as it is necessary for actions taken under the repealed, amended or expired legislation to be completed. There is also a definition in this clause of legal proceedings for the purpose of clarification.

A new section 18 is inserted to deal with a highly technical matter relating to the interpretation of Statutes by the courts and subsequent enactment by Parliament of a provision which has overcome the problem which might have been judicially interpreted previously. The Bill inserts a new section 22 and that arises from a report of a Law Reform Committee in the early 1970s. If there is more than one construction which can be placed upon an Act, the construction that would promote the purpose or object is to be preferred in the interpretation of the Statute and the construction which would not promote that purpose or object is to be rejected.

The remaining matter deals with amendments to section 26 of the principal Act, namely, that every word of the feminine gender is to be construed as including the masculine gender. This is a provision in reverse form from one which has been in the Acts Interpretation Act for a long time, which is that words of the masculine gender are construed as including every word of the feminine gender.

In the schedule to the Bill there are a number of amendments in the form of updating and redrafting, but not matters of substance: they are all matters that I understand are necessary to enable the principal Act to be reprinted in consolidated form, a course of action which is long overdue and which will undoubtedly assist not only lawyers but also parliamentarians and many others who have recourse to the Acts Interpretation Act. It is important to consolidate legislation as frequently as possible, particularly those Acts which have been amended on a number of occasions, as has the Acts Interpretation Act. The amendments in the schedule will facilitate that objective. On the basis that there is no matter of substance, but only matters in the nature of statute law revision in the schedule, I have no objection to that. The Opposition supports the second reading.

The Hon. DIANA LAIDLAW: I intend addressing clause 5 of the Bill, which seeks to amend section 26 of the principal Act. This section provides for the use of the masculine gender only in all Acts on the understanding that the masculine gender can be construed as including the feminine gender. I have long found this definition to be most objectionable. Section 26 already provides that singular includes the plural and the plural includes the singular. The amendments in relation to gender aim to make symmetrical the use of gender in Acts of Parliament and I welcome the initiative.

Members would be aware that many of the barriers that women encounter in society are founded on attitudinal prejudices, some subtle and some not so subtle. It is my understanding that all Parties represented in this Chamber share a commitment to equality of opportunity for men and women. In respect to my Party, the Liberal Party, equality of opportunity is a central theme of our philosophy. We are keen to raise awareness within our community to the disadvantages women and girls encounter in daily life and also to redress the barriers that regularly limit women and girls realising their full potential, whether at school, in sport, at home or in the work force.

I doubt whether few honourable members would disagree with me when I say that education and non-punitive legislative measures are the preferred option to breaking down the barriers that currently inhibit the pursuit of equality of opportunity. As part of this process of education and increased community awareness I have consistently sought to encourage people to see the wisdom and benefits of using the terms 'he' and 'she' when referring to matters that affect both men and women, boys and girls. To refer only to 'he' or 'his' consciously or unconsciously denies that women and girls have an interest in the area under discussion.

In recent years much has been written about the power of sexist language and many experiments have been undertaken. One such experiment that I recall the Hon. Ms Levy citing when addressing a similar Bill in 1984 was undertaken in the United States in 1973 among a large sample of male and female university students. Half of the students were asked to find illustrations for three chapters of a book titled 'Social Man, Political Man and Industrial Man'. The other half were asked to find illustrations for the same three chapters, but for the second group the titles were 'Society, Political Behaviour and Industrial Life'. The first group consistently produced pictures of males, confirming that the use of the word 'man' conjured up pictures of only males not humanity, notwithstanding the use of the word. However, the second group (as Ms Levy noted at the time) where the word 'man' was not used in the title, produced pictures of both males and females confirming how the use of non-sexist language encourages a more comprehensive and accurate view of humanity. Language is a powerful weapon in influencing people, and the use of a particular language can affect the attitudes of those who receive messages.

However, it has been my experience when seeking to encourage people to use, for example, 'he' and 'she' and not exclusively 'he' that many people have sought refuge in the Acts Interpretation Act and they remind me that the Act states that 'he' means 'she'. I have found this defence to be most offensive. Of course, it is also inaccurate and, I believe, socially harmful. I therefore welcome this amendment to section 26. Before concluding I note that I am pleased that the Government has not seen fit to proceed with earlier amendments which proposed that the court should be allowed to use extrinsic material in the interpretation of an Act. I opposed a similar amendment when a similar Bill was debated in this Chamber in 1984. I support the second reading.

Bill read a second time and taken through its remaining stages.

AUSTRALIAN FORMULA ONE GRAND PRIX ACT AMENDMENT BILL

In Committee.
(Continued from 4 March. Page 776.)

Clauses 2 to 4 passed.

Clause 5—'Reports.'

The Hon. C.J. SUMNER: This clause deals with the question of the Grand Prix Board report. The Hon. Mr Griffin asked where the report for the last Grand Prix was. I advise the honourable member that the board has prepared its report as required under section 19 of the Act and has sent it to the Auditor-General, who is to certify it. The board is currently awaiting the Auditor-General's certification. A commercially attractive souvenir report has been drafted and is presently in its final stages of development. I am advised that the board sent its report to the Auditor-General two weeks ago and is currently awaiting relevant certification.

The Hon. K.T. GRIFFIN: It might be the appropriate point to raise one other question—whether, in terms of marketing, PBL Marketing Pty Ltd is the body which the board has again engaged to undertake its marketing of, particularly, the use of logos, symbols and names. There was a great deal of difficulty last year about access to those items, much of which was traced back to PBL Marketing. Is that to be the case again this year?

The Hon. C.J. SUMNER: I understand that PBL has been engaged again but that there will be other companies involved as well.

The Hon. K.T. GRIFFIN: Is the report to which the Attorney-General referred in relation to the last Grand Prix likely to contain information about the areas in which PBL was involved? Will it identify particular difficulties which were experienced and steps that will be taken to overcome those difficulties in the lead-up to the next Grand Prix?

The Hon. C.J. SUMNER: I think that the honourable member will have to wait for the report for that question to be answered.

Clause passed.

Clause 6—'Board to have care, control, etc., of declared area for declared period for each year.'

The Hon. K.T. GRIFFIN: During the course of the second reading debate I raised some questions about the scope of this clause. Has the Attorney-General some answers?

The Hon. C.J. SUMNER: The Hon. Mr Griffin expressed concern as to the phrasing of this clause which refers to the board's opening any road to ordinary pedestrian and vehicular traffic. The honourable member asked what is intended by the terms 'ordinary pedestrian traffic' and 'ordinary vehicular traffic'.

The following points can be offered in explanation of the drafting of the clause. The word 'opening' has been adopted as the antonym of the word 'closing'. The concept of opening and closing roads is one that has been accepted in the Roads (Opening and Closing) Act and in provisions of the Road Traffic Act. It is commonly accepted statutory phraseology to have roads open and close.

Secondly, the object sought to be achieved by the proposed section 21 (2a) is that a road opened by the board becomes a public road for the purposes of the Road Traffic Act and the Motor Vehicles Act. The phrase 'open to ordinary pedestrian and vehicular traffic' is simply intended to refer to the situation of permitting access by pedestrian and vehicular traffic to the road in the same way in which the particular road is ordinarily used for public access by vehicles and pedestrians.

The words 'ordinary pedestrian and vehicular traffic' are apt to describe a factual condition consisting of the use of the road by the public either as pedestrians or in vehicles. It would not have been appropriate to use the word 'public' instead of 'ordinary' since that would have risked confusion with the phrase 'public road'. As the Premier explained in the House of Assembly at the Committtee stage of this Bill, the Grand Prix Board will advise the public by public notice when a road is to be opened for the purposes of section 21 (2a) of the Act.

The Hon. K.T. GRIFFIN: I thank the Attorney-General for that explanation. I guess ultimately it may at some time in the future be resolved by some fine technical points being taken about the meaning of 'ordinary pedestrian and vehicular traffic' but I do not propose any amendment. It is open to some different interpretation, but I merely wanted to place on record that we had been alert to raising the question. Obviously, it is hoped that there is no technical difficulty with it, but I suggest that there might be.

Clause passed.

Clause 7 passed.

Clause 8—'Insertion of new Part IIIA.'

The Hon. I. GILFILLAN: We vehemently oppose this clause and its effects on trading hours and the general free-for-all for availability of alcohol. It is an incredibly widespread lifting of restrictions. New section 27b (1) provides:

(a) the days on which and the hours during which liquor may be sold and consumed pursuant to a hotel licence, club licence, retail liquor merchant's licence and general facility licence are unrestricted;

(b) a club licence authorises the sale of liquor to an unlimited number of visitors introduced to the club premises by a member.

It is aimed, as we understand it, at turning South Australia into an open alcohol society pandering to some presumed percentage of the visitors who cannot apparently survive without having access to alcohol at any time of the day or night. Not only do we resent that any community should encourage that, but also we resent the denigrating reflection on South Australia, as it assumes that we need to take these craven steps to induce people to come for the Grand Prix. Above that is the very real risk to life and the cause of injury that flows on from uninhibited consumption of alcohol.

I will not labour the point. However, I trust that honourable members are fully aware of the incredible danger to which the public are exposed by encouraging virtually unlimited consumption of alcohol and then the obvious consequences, particularly late at night, of people driving cars. But, I emphasise the complete inanity of including these provisions as far away as Ceduna or Oodnadatta, where under no conceivable grounds could there be pressure from the Grand Prix weekend for those extraordinary alterations in liquor licences. We intend to oppose this clause and make it quite emphatically clear in the record that we are horrified that the State, the Government and, one assumes, the Opposition can so supinely accept this clause only for the visitors to come to the Grand Prix.

If it is essential for the wellbeing of South Australia, why do we not amend all our liquor licensing laws so that we can all have an open go at alcohol right through? This is obviously a step that has been pitched at providing for what is simply assumed to be a requirement of visitors to the Grand Prix. The Democrats consider that this clause borders very closely on being immoral, and we indicate a serious protest about it and our intention to vote against it.

The Hon. J.C. BURDETT: I do not oppose clause 8. When the Liquor Licensing Act Amendment Bill was before the Council prior to the last Grand Prix I moved a relevant sunset clause, which was accepted by Government and which came into effect. I have not heard that there were any great problems with the Grand Prix and with the provision of 24-hour licensing during the period of it. The matter I want to raise now, Madam Chair, is one of very much less moment. Clause 8 provides that 'a direction may be verbal or in writing'. The traditional distinction has been 'oral or in writing', because of course a direction in writing is still verbal—it does use words. I think it would be better to retain the traditional distinction—that a direction may be

given orally or in writing. As this is a very minor amendment, I have not put it on file: it involves a change to one word only. I move:

Page 4, line 35—Leave out 'verbal' and insert 'oral' in lieu thereof.

The Hon. K.T. GRIFFIN: I have already spoken on this clause during the second reading debate. I expressed concern about the fact that there would no longer be a sunset date on this clause relating to open-ended liquor trading during the declared period. I have some concerns about this matter. While it might be appropriate to have extended trading hours for the sale and supply of liquor in some areas for the purposes of providing a service for visitors in particular, I do not believe that it is necessary for that to apply across the State. I am strongly against an open slather proposition such as this. I had hoped that with the imposition of a sunset clause in the Bill for the last Grand Prix at least there would be a reasonable review of the operation of that provision.

Previously I drew attention particularly to expected difficulties in some of the more populated suburban areas of Adelaide that attract a large number of itinerants and visitors, and I refer to concerns expressed by local residents in respect of the extended trading hours question. So, in the absence of a comprehensive review of the operation of that provision, other than that undertaken by the Grand Prix Board, which might be regarded as having a vested interest in extended trading hours, I am not prepared to support this provision before us in the form in which it appears in the Bill.

The Hon. C.J. SUMNER: First, I will respond to the Hon. Mr Gilfillan's rather extraordinary remarks, echoing the remarks made by his colleague the Hon. Mr Elliott, about the extension of liquor trading hours during the Grand Prix. I am sure that the Hon. Mr Gilfillan's former Leader would not have agreed with his sentiments but, of course, since his retirement from the Parliament the Democrats have taken a different tack on a number of issues, and obviously they do not get the same enjoyment out of life as does the Hon. Lance Milne.

I ask honourable members not to be swayed by the comments of the Democrats on this Bill. I do not see that the extension of liquor trading hours during the period of the Grand Prix can be seen as verging on the immoral. The simple reason for it, as I pointed out to the Hon. Mr Elliott, is that the Grand Prix is a significant tourist event in South Australia. In Adelaide at that time there are more people from interstate and overseas than at any other time on the Adelaide calendar, and from the point of view of tourism such a measure is aimed at making a visit to South Australia as enjoyable as possible. The extension of trading hours is seen as being one element in ensuring that Adelaide offers the best possible hospitality to its guests.

The provision was implemented for last year's Grand Prix and the Government is not aware of any major problems having occurred. I believe that the police had to take some action in Hindley Street on the evening of the main Grand Prix event. However, in the end there were no major problems. I point out that the provision applicable to the Grand Prix gives the police quite wide powers to stop licensed premises from trading, to close down licensed premises, and to deal with any antisocial activity emanating from licensed premises. I think that those reasonably extensive police powers should be adequate to overcome any problems.

Obviously, any problems that arise in future can be addressed by Parliament at that time. Whether or not a sunset clause is provided is not really the point to any great extent, because if a major problem is shown to occur following a Grand Prix, obviously the matter can be reviewed again by Parliament. As to the Hon. Mr Burdett's technical amendment of replacing the word 'verbal' with the word 'oral' in line 35, I indicate that I am prepared to agree to that amendment.

The Hon. R.J. RITSON: As I indicated in my second reading speech, and when this matter was before Parliament a year ago, I had doubts as a matter of principle about the wisdom of totally unfettered around the clock drinking in the cultural milieu of the Grand Prix and the culture of the fast motor car.

The CHAIRPERSON: Excuse me, Dr Ritson, I do not wish to inhibit the discussion, but an amendment is presently before the Committee and unless further speakers want to speak to the amendment I will put the amendment and dispose of that, following which we can return to debate on general points in clause 8.

The Hon. R.J. RITSON: I was simply saying that for reasons that I mentioned I would support the Australian Democrats' amendment.

The CHAIRPERSON: The Australian Democrats have not moved an amendment.

Amendment carried.

The Committee divided on the clause as amended:

Ayes (13)—The Hons G.L. Bruce, J.C. Burdett, B.A. Chatterton, J.R. Cornwall, L.H. Davis, Peter Dunn, M.S. Feleppa, Diana Laidlaw, R.I. Lucas, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller), and Barbara Wiese.

Noes (4)—The Hons M.J. Elliott, I. Gilfillan (teller), C.M. Hill, and J.C. Irwin.

Pair—Aye—The Hon. M.B. Cameron. No—The Hon. R.J. Ritson.

Majority of 9 for the Ayes.

Clause as amended thus passed.

Title passed.

Bill read a third time and passed.

BUSINESS FRANCHISE (TOBACCO) ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 March. Page 794.)

The Hon. L.H. DAVIS: The Opposition supports these amendments to the Act. Currently retail tobacconists in South Australia are required to pay an annual licence fee of $10, payable on 30 September each year. The fee is only $10, but retail tobacconists are required to pay an amount equal to 25 per cent of the value of any tobacco sold that has been purchased during the preceding financial year from other than a licensed wholesaler.

Tobacco products have continued to come into South Australia from Queensland and thus the 25 per cent requirement is avoided. Admittedly, steps have been taken not only in South Australia but also interstate to reduce the incidence of avoidance or evasion. The Bill seeks to make avoidance of the fee less attractive for those very few retail tobacconists or middlemen. The Commissioner will in future be able to replace the annual retail tobacconists licence with a monthly licence.

This, of course, will mean that the retailer will be able to deal only in these illicit tobacco sales for up to a month before facing a penalty of possible revocation of his licence if he has avoided or evaded the licence fee. I am advised that there have been a few instances of tobacconists who have established companies for a 12 month period, brought tobacco products in from Queensland and, at the end of the 12 month period, when the 25 per cent is required to be paid—that is, the 25 per cent of the value of any tobacco

sold—they have wound that company down, thus avoiding the payment of the fee.

That, of course, is something which should not be countenanced. It advantages those retail tobacconists who are dealing in illicit tobacco sales against those retail tobacconists who are complying with the law. I am also advised that there have been moves in other States to clamp down on these illicit tobacco sales. It is something in which South Australia is not acting in isolation. I think that it should be made quite clear that the Bill also is aiming to increase penalties for offences under the Act to be used as a further deterrent for those very few tobacconists who seek to evade the existing provisions of the Business Franchise (Tobacco) Act.

In addition, we are advised in the second reading that there is increased reciprocal exchange of information between taxation authorities of all States, the territories and the Commonwealth which will help overcome tax avoidance and evasion. For these reasons, I would indicate that the Opposition supports the proposed amendments.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—'Warrant to enter and search premises.'

The Hon. R.I. LUCAS: I have only just had some representations put to me from interstate from a representative of the tobacco industry.

The Hon. C.J. Sumner: I wonder who that was.

The Hon. R.I. LUCAS: I am honest enough to tell you where it came from. This representative has just raised some questions about the powers laid down under clause 5, without putting any particularly strong view at this stage. I was asked whether I would seek information from the Attorney-General, and I undertook to do so.

Clause 5 gives the Commissioner and inspectors wide-ranging powers, under the side heading of 'Warrant to enter and search premises'. First, a justice of the peace must be satisfied that reasonable grounds exist for suspecting that there are in certain premises records that are relative to the administration of this Act. The justice may issue a warrant giving authorisation to an inspector, together with any other person named in the warrant. So not only the inspector, but any other person named in the warrant, is authorised to take the following action:

(a) to enter those premises (using such force as is necessary for the purpose);

(b) to search the premises and to break open and search anything in the premises in which records may be stored or concealed;

(c) to take possession of, and secure against interference, any records that appear to be relevant to the administration of this Act;

and

(d) to deliver any records, possession of which is so taken, into the possession of the Commissioner.

I am sure that you would agree, Ms Chairperson, that powers envisaged under this Act for the inspector and any other person named in the warrant are certainly wide ranging. I have only just come out of the telephone box, so I have not had an opportunity to investigate this matter any further, but I wonder whether the Attorney-General can say, first, what is the intention of the provision which says 'together with any other person named in the warrant'. Certainly, I can see some argument for an inspector, but who else is envisaged to be included within the provision 'any other person named in the warrant'?

Secondly, are the sorts of powers being provided to the inspectors and any other persons named in the warrant to enter premises using such force as is necessary, to search, to break open and search, to take possession and secure, the sorts of powers generally provided to inspectors under this sort of taxation legislation?

The Hon. L.H. DAVIS: What is the extent of the avoidance and evasion of the existing provisions of the Business Franchise (Tobacco) Act?

The Hon. C.J. SUMNER: The Hon. Mr Lucas has raised some questions about the warrant provisions. There is in the South Australian Police Offences Act, or Summary Offences Act as it is now called, a provision for a general search warrant which is directed by the Commissioner of Police to certain designated police officers in South Australia, which authorises them at any time of the day or night, with such assistance as they think necessary, to enter into and search any house, building, premises or place where there is reasonable cause to suspect a felony or misdemeanour has recently been committed or is about to be committed: any goods obtained by any felony or misdemeanour; anything which may afford evidence as to the Commission of any felony or misdemeanour to break open a house, building, premises, etc.

So this provision is not really all that different from that, except that it relates to records which are relevant to the administration of the Business Franchise (Tobacco) Act.

The Hon. R.I. Lucas: Not necessarily felony.

The Hon. C.J. SUMNER: No, that is true, and it is not necessarily an offence, but presumably the clause is there to obtain, in effect, evidence of the commission of a tax avoidance offence. It is certainly different from the general search warrant which has to relate to an offence. This provision in clause 5 relates to the obtaining of records, and the difference between the Summary Offences Act and this provision is also that the Summary Offences Act is a general search warrant. In clause 5 the warrant has to be issued by a justice of the peace, so an application for the warrant has to be made. They are the differences. I suppose that, if the honourable member is concerned about it, the matter could be re-examined, but that is the basis of the warrant section.

The Hon. R.I. LUCAS: As only today and tomorrow remain, I do not wish to delay this Bill but, having listened to that explanation, I am somewhat concerned. I accept the powers as outlined by the Attorney-General given to police officers under the Summary Offences Act in relation to crimes that have been committed, but this provision just mentions 'if a Justice of the Peace is satisfied that there are certain records that are relevant to the administration of the Bill', and it does not necessarily have anything to do with offences. The intention may well have been, as we are led to believe, to cover the offence of cigarettes coming in from interstate, etc, and the accompanying evasion of the payment of tax. In that circumstance, I would certainly concede the need for the provision when there was reasonable cause to believe that an offence had been committed, if it was used in relation to searching and using force, etc.

Clause 5 provides that the Justice of the Peace is only to be satisfied that it has any relevance to the administration of the legislation. From recollection, the administration would cover a whole range of other quite lawful purposes such as record keeping and other activities. Unless there is something else of which the Attorney is aware and of which I am not aware, I would have thought it would be in our best interests to be more specific and look particularly at the circumstances of offences.

The Hon. C.J. SUMNER: The clause that we are discussing is similar to section 70 of the Financial Institutions Duty Act which relates to the issue of a warrant for the search of premises where there is reasonable ground for suspecting that there are books relevant to the assessment of duty. That is the phraseology used in that Act and, as far as I can ascertain from a reasonably cursory comparison

of the proposed section 8a and section 70 of the Financial Institutions Duty Act, they are the same. The difference is that the Financial Institutions Duty Act relates to suspicion that there are books relevant to the assessment of duty and this Bill refers to suspicion that there are records relevant to the administration of this legislation. It could be argued that this Bill is cast slightly wider than the Financial Insitutions Duty Act.

The Hon. R.I. LUCAS: I would agree that this provision draws a wider net than the section from the Financial Institutions Duty Act to which the Attorney-General has referred. I would have thought that, if there is no good cause for drawing the wider net, similar provisions to those contained in the FID Act would be satisfactory for the commissioner, that is, there is some suspicion that records are relevant to the assessment of duty or franchise, or whatever the nomenclature is, which needs to be paid. It would cover not necessarily just the broad term of administration, which I would have thought would possibly take in a lot of other administrative records involving the whole range of retail and wholesale outlets.

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: It is not the Hon. Mr Davis's fault that I have raised this matter. As I have said, I received the telephone call about a minute before coming into the Chamber. These things happen. It is not done with an intention to delay the Bill. There are no problems with passing this Bill either today or tomorrow, but is the Attorney prepared to look at the provision to which he referred in the FID Act? If there is some reason for drawing the net wider, then I am happy to listen to that reason but, as yet, I have not heard it.

The Hon. C.J. SUMNER: If the honourable member wishes, I will report progress and see whether I can obtain some indication from the Minister responsible for this Bill in another place as to whether an amendment suggested by the Hon. Mr Lucas would be acceptable without undermining the reason for the legislation, which is to combat avoidance in this area.

Progress reported; Committee to sit again.

STAMP DUTIES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 March. Page 795.)

The Hon. L.H. DAVIS: This Bill contains several amendments to the Stamp Duties Act. They largely reflect the quite rapid changes that have occurred in the capital markets. The first relates to annuities. For many years annuities have been an unfashionable investment offered by insurance companies but, within the last year or two, Commonwealth Government legislation has ensured that annuities again become an attractive investment.

In an attempt to bring some order into the rapidly developing retirement investment market, and in order (in my view quite properly) to restrict double dipping (that is, the ability for people to take a lump sum on retirement, to divest themselves of it and then to apply for an age pension) the Commonwealth Government has sought by legislation to introduce a framework which will encourage retirees to invest their money in a safe fashion. However, at the same time, that legislation minimises their ability to avoid taxation and minimises their ability to take advantage of social security legislation when their retirement provision has really meant that there is no need for them to do so.

Effectively, the annuity is an arrangement whereby the retiree or the investor will receive a monthly income against the advance of a specific lump sum. In other words, a retiree can place $100 000 with an insurance company and the company will undertake to provide a monthly income for a specified period of years, or for an indefinite period of time, for instance, or the life of the retiree.

Provided that the retiree invests in an annuity or an approved deposit fund he or she can obtain certain tax advantages. The tax advantage available to an investor in an annuity is: that a certain portion of the monthly income payable to the investor will be considered to be effectively a return of capital. Only part of the monthly income will be deemed to be income on which tax is paid. Therefore, for many retirees, whether they be 55, 58 or 60 years of age, an annuity will become an attractive investment because it provides certainty of income and security of investment.

However, at the moment stamp duty legislation in this and other States has acted as a discouragement to the annuity. It has been a common practice for insurance companies for the past 20 years to identify on premium notices issued by them an annual licence fee, part of which is deemed to be stamp duty. The amendment before us seeks to exempt the stamp duty from the annual licence calculation on the annuity. I indicate that the Opposition supports the amendment believing that retirees should be encouraged to invest in such securities as annuities. We believe that stamp duty as it now operates is a discouragement to that form of investment. We note that the Commonwealth Government has taken this initiative and that States other than South Australia are making similar moves to remove the stamp duty impost from annuities.

The second measure contained in this Bill deals with mortgages. Lending institutions, principally banks, have been concerned about the administrative delays associated with the stamping of mortgages. These lending institutions bring their mortgage documents to the stamp office and those documents are examined by an assessor and eventually the lending institution will be advised of the assessment payable and a cheque will be paid to the stamp duties office covering the extent of the duty.

Quite often one would imagine that the lending institutions would provide a large number of mortgage documents at the one time. Because of present procedures there may be a delay of up to two days before those documents are assessed, stamped and moneys become payable on them. This legislation, happily, is an example of deregulation, of cutting red tape, in the sense that lending institutions (approved financial institutions, to be more precise) are given the power to make the assessment of stamp duty themselves, provided that they certify the stamp duty has been paid through an authorised officer, and they will be able in future to lodge a weekly return together with a cheque to the stamp duties office.

This will, of course, facilitate procedures and the more rapid processing of mortgage documents. Hopefully, it will reduce pressure in the stamp duties office by cutting red tape. Quite clearly, the approved financial institutions that will have access to this new measure will be limited initially to major financial institutions such as banks, which are apparently keen to have this streamlining procedure introduced for the stamping of mortgage documents. I understand that other States have general return provisions. Western Australia already has such an operation.

I also understand that Victoria is actively examining this procedure. The only area retained under the control of the stamps office, quite properly, is mortgages of a more complex nature—for example those involving collateral security or those where substitution of mortgage is required. In both cases the stamp duties office has to be satisfied that there is proper collateral. These mortgages make up a very small percentage of total mortgages processed at the stamp duties office, perhaps as little as 5 per cent. This type of mortgage

document is being retained and handled manually through the stamp duties office for assessment at present.

The third amendment relates to the request by the United Kingdom Stock Exchange which seeks to extend its Talisman system to all States of Australia. The Talisman system of computer settlement and transfer of Australian marketable securities on the London Stock Exchange has been in operation in Victoria for 18 months. The United Kingdom Stock Exchange now seeks to extend this system to all States. There will be some additional benefits flowing to South Australia in the form of stamp duty revenue applicable to share transfers in companies incorporated or registered in South Australia.

Previously, these transfers have taken place on the United Kingdom Stock Exchange. There seems to be no problem with this amendment in the sense that the Talisman system will require standard provisions operating in each State at the request of the United Kingdom Stock Exchange. It will bring in additional revenue to South Australia and does again reflect the increasing internationalisation of the Australian capital market. There are other amendments dealt with in this package of amendments to the Stamp Duties Act to which I do not wish to speak. The Opposition has no objection to any of the amendments.

Bill read a second time and taken through its remaining stages.

STATE LOTTERIES ACT AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

Its purpose is to amend the State Lotteries Act, 1966, to permit an increase in the number of members of the Lotteries Commission and to make a consequential amendment to the quorum provision.

At present the commission must consist of three members of whom two constitute a quorum.

Since the commission was originally established in 1966 the complexity of its task has significantly increased. Competition for the gambling dollar is now very much more intense and greater pressure is being placed on the commission to be innovative and to exercise sound commercial judgment.

Apart from these commercial pressures, the commission has been given an important responsibility as holder of the licence for the Adelaide Casino. Although not itself required to operate the casino, the commission is responsible for choosing an operator and for ensuring that he observes the directions of the supervisory bodies. At the same time, the commission must endeavour to ensure that everything is done to make the casino a success.

The commission has performed very well, both with respect to its traditional responsibilities and in its new role as holder of the casino licence. However, in recent times a considerable burden has been thrown on Mr Jack Guscott, the Chairman of the Commission, and it is not reasonable that he be expected to carry his present workload.

Therefore, it is proposed that the Act be amended to permit the appointment of up to five members. This would give the commission access to a wider range of expertise and permit a better distribution of the workload. A start was made in this direction recently with the appointment of the Deputy Under Treasurer, Mr P.J. Emery, to the commission.

It would not be appropriate for a larger commission to have a quorum of two. Therefore, it is proposed that a quorum be one less than the number of members appointed, except that if there are five members the quorum be three. I commend the Bill to the Council.

Clause 1 is formal.

Clause 2 provides for the Act to come into operation on a day to be proclaimed.

Clause 3 amends section 4 of the State Lotteries Act 1966, to allow the number of members of the Lotteries Commission to be increased to a maximum of five.

Clause 4 amends section 9 of the Act in relation to quorum and is consequential to clause 3.

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

PUBLIC WORKS STANDING COMMITTEE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 March. Page 797.)

The Hon. C.M. HILL: I support the second reading, although I have one amendment on file with which I will deal in detail at the Committee stage. I have a special interest in this Bill because I am a serving member of the committee.

First, the Bill permits a change in the actual sum which can be appropriated by any Minister to any project without the approval of the Public Works Standing Committee. That threshold, as honourable members would know, is $500 000 and in the measure before us this sum is increased to $2 million. I do not propose to seek support to oppose that approach although I cannot help but make the point that $2 million is a little high.

In other words, if a relatively small public work may cost $1.5 million or $1.8 million, and if the Bill passes that project can go through without any reference to the Public Works Standing Committee. There are a considerable number of public works in that category of that size and a strong argument could be made out that perhaps the figure of $2 million is too high. Possibly $1 million might be a more prudent figure.

However, the Government has decided upon this figure of $2 million. Then the Government proposes that it have the right to adjust this $2 million figure upwards for inflation, which would be based upon a price index relative to building and construction costs. It proposes, too, that that adjustment be made by proclamation. I oppose that very strongly. Whilst we can deal with it in more detail in the Committee stage, I point out at this juncture that Government by proclamation is bad government: it is government by the Executive; it is government without reference to Parliament. It is not similar to regulations, which at least come back to Parliament for the elected representatives of the people to peruse and consider.

It simply means that, whereas a work involving $2 million appropriation at present has to be considered by the committee, in six months time the Government could proclaim $2.2 million and in twelve months time it could proclaim $2.5 million, depending on inflation. I do not really see what inflation has to do with this issue at all. If the Government wants to increase the figure at any time over the proposed $2 million surely it could bring that matter back to Parliament in the form of a Bill and a debate could take place within the Parliament.

Another clause provides that in future fittings, furniture and equipment within or for a building will be investigated by the Public Works Standing Committee as well, of course, as the actual structure itself. This is quite logical and proper. Many examples occur today in which furniture, fittings and equipment are very costly indeed. The committee should have the responsibility of inquiring into those fittings as well as into the actual shell of the building. So, I commend the Government for that proposal.

The Bill does not encompass statutory authorities. This is a point upon which there has been considerable debate over the years. Many people believe that projects of statutory authorities should be within the scope of the legislation. Even the former Public Works Standing Committee itself believes that this should have been the case.

My own view is not as strong as opinions of other people on this subject, because I have a high regard, generally speaking, for statutory authorities and their responsibility, accountability and so forth. The Government has stipulated that any party which obtains funds directly appropriated by Parliament comes within the scope of the Bill: that is, if they obtain funds in regard to a specific project then that project (if the appropriation exceeds $2 million) would have to be investigated in future. The Government also requires that recurrent costs occurring relative to specific projects have to be investigated by the Committee. I support that very strongly indeed.

That is included in clause 4 of the Bill, which indicates that costs associated with the construction of the work, its proposed use and estimated net effect on the Consolidated Account of the State should be matters that the committee ought to address. In other words, if a project carries with it, after construction is completed, a serious recurring financial loss, which would be a drain on consolidated revenue continuing throughout the years following construction, that can be a very serious matter, with the committee being required to look at the issue.

The only other point that I raise in regard to the Bill is that, as a member of the committee, I have observed some practices which I believe are very inefficient. I shall not go into these matters in great detail in this place and at this stage I will give just one example of this. When the Public Works Committee goes into the country and has to stay overnight, members of the committee and the staff who attend the committee hearings must pay individually for their own motel expenses. Those accounts are then handed to Public Works Committee staff, who in turn forward the accounts to the Department of Housing and Construction, which arranges for individual reimbursement of expenses incurred. Seven members of Parliament can be involved with the Public Works Committee and then there might be three or four members of *Hansard* staff, as well as the Secretary of the committee. About 12 people can be involved in this process, and in today's world a system involving individual payments being made later to, say, 12 people, with reimbursements having to be processed by a Government department which makes the necessary calculations for each claim, is simply outdated.

The Hon. J.R. Cornwall: You could be getting 18 or 19 per cent on it, too!

The Hon. C.M. HILL: I am not worried about that aspect of it at all. I am worried about trying to correct inefficiency in the Public Service; I am trying to correct an obvious waste of money, due to the expense involved with this system of reimbursement. That is only one example; I could go on and on. In approaching this problem I could well have prepared amendments to this Bill in order to clear up these inefficiencies, but I believe that it is better to short cut that process by my simply asking the Minister to give me an undertaking that some kind of investigation in the Department of Housing and Construction will be undertaken, at the top level, more particularly at the Director-General level, with a view to bringing all inefficient and outmoded practices up to date. That is not too much to ask.

If the Minister gives me an undertaking that the matter will be investigated forthwith, I can be satisfied that the machinery will be set in motion in the near future to improve the systems operating in the department. So, I support the second reading. My only strong objection concerns the aspect of the Government's wanting the right to vary that $2 million ceiling upwards by proclamation. I have very strong objections to that in principle. For the foreseeable future, despite the question of inflation, I have a strong objection to that ceiling being increased beyond the amount of $2 million.

[*Sitting suspended from 6.1 to 7.45 p.m.*]

The Hon. M.J. ELLIOTT: In supporting the second reading, I foreshadow that I will move two amendments, one of a very minor nature and the second an amendment that was recommended by the 58th general report of the Standing Committee on Public Works. I will refer to those amendments further in Committee. They are being typed, and should be available shortly.

The Hon. J.R. CORNWALL (Minister of Health): There have not been lengthy contributions in this debate, although the Hon. Mr Hill made a reasonably weighty contribution. He raised a number of matters concerning the administration of the expenses of the committee and I believe he made some valid points. It seems an anachronism that each member of the committee, when the committee visits areas such as Mount Gambier or other areas of the State, pays accounts individually, so there would be seven members of the Committee and, of course, their support staff (anything up to a dozen people) booking out of a motel at about the same time in the morning.

It would appear to be far more convenient if the motel was to send the account directly to the Secretary of the committee and the Minister arranged some way of checking the account and then authorising payment. It would certainly make any arrangements concerning the evening meal rather more convenient instead of individual members doing their own thing, as it were. I give the Hon. Mr Hill a personal undertaking that this matter will be drawn to the attenton of the Minister of Public Works. I believe that those matters of administration that would lead to better efficiency and perhaps in the long run economy could be instituted.

I turn now to a matter of perhaps greater moment, and let me say at once that I have a vested interest in ensuring that the committee works as effectively and efficiently as possible. We in the Health Commission and in the Department for Community Welfare are currently involved in the development of a property rationalisation exercise and a five year planning program for major and very necessary capital works. The amount of expenditure involved will be substantial indeed. Thus it is in my interests and I believe in the interests of my colleagues in the Cabinet to see that these matters go before the committee at a somewhat later stage to ensure that the committee has some overview and so that it keeps the various players on their toes. The committee acts not just as a watchdog for the Parliament but also in keeping all the various people and organisations involved in a major capital works program on their toes.

I must say that I am a little surprised that the Hon. Mr Hill has put his amendment on file, because it would limit the capital amount over which works would have to be referred to the Public Works Committee to $2 million. If

at any time we wished to increase that limit, inflation and increases in the CPI notwithstanding, we would have to come back to the Parliament. That is not something that this Governemnt or any Government would intend to adjust on an annual basis. If we are talking about $2 million as the figure agreed by all the parties, through the effluxion of time, at the end of a four or five year period, if the CPI was running at 5 per cent, 6 per cent or even 7 per cent, it may be desirable to increase the limit to $2.5 million or something like that. It is made quite clear that that is the way in which the provision would operate. There certainly would not be six monthly or 12 monthly increases, by proclamation or in any other way.

It is important and certainly significant to point out that as recently as November 1985 Mr Dean Brown, in speaking to a Bill that was almost identical to this Bill, stated that he supported the proposed legislation except in one regard. We must remember that that Bill was almost identical to this legislation and it lapsed only because Parliament was prorogued and we went to an election. On 7 November 1985 (page 1955 of *Hansard*) the Hon. Mr Brown said:

> Although I am happy with the provision in new subsection (16) concerning the proclamation—

and mark you, he said that he was happy about the new subsection concerning proclamation—

> I believe that such proclamation should ensure that any increase in the declared amount is in line with inflation, otherwise a Minister could have the declared amount increased to $50 million without coming to Parliament for approval.

The Hon. C.M. Hill: Who is this you're quoting.

The Hon. J.R. CORNWALL: Dean Brown.

The Hon. C.M. Hill: But that's history. He is not even in Parliament any more.

The Hon. J.R. CORNWALL: We known he is not, but he was a very sad loss to the Liberal Party. He was a person whom the Liberals could ill afford to lose and, indeed, it is entirely likely that in other circumstances he might have been Leader of the Opposition at this time.

The Hon. C.M. Hill: You people put him out with preferences and you know you did. It was all planned down at Trades Hall.

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: I never argue—

The Hon. C.M. Hill interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: I never argue with the voice of the people, Ms President. That is what democracy is all about. I never cavil about results. I know it is far more difficult to be gracious in defeat than magnanimous in victory. Nevertheless, Mr Brown who at that time was a very senior frontbencher and who, as I say, would possibly have been Leader of the Opposition at this time if he had not had the misfortune in the democratic process to lose his seat, said that he was entirely happy provided that there was not a situation where the Minister could declare the amount to be increased to something ridiculous like $50 million. In line with the stated wishes of Mr Brown, which were also clearly the stated wishes of the Liberal Party room at that time, the Government has done just that.

An additional amendment has been included in the Bill, which limits the increase of the threshold level to a figure in line with the nationally recognised index of building material costs. That is what we have done.

The Hon. C.M. Hill: You're living in the past.

The Hon. J.R. CORNWALL: No, I am not like the Opposition, forgetting nothing and learning nothing. I always learn from the lessons of history, whether they be recent or ancient. What we have done is to make it mandatory in the legislation for that figure to be increased only in line with the nationally recognised index of building material costs. It has covered all of the concerns which the Liberal Party had at that time only 3½ to four short months ago.

It is rather ridiculous, given that it would be only altered when that amount became significant—in other words, would only be adjusted, one would imagine, every four or five years—for us to have to run in and out of Parliament. I submit that there is an adequate safeguard in the legislation as it has now been brought back to Parliament. It covers the concerns that were expressed by Mr Brown on behalf of the Liberal Party and representing the collective wisdom of the Liberal Party room at that time. There was a good deal more collective wisdom in the Liberal Party room at that time, because they had not lost some of their brighter talents. I am simply flagging in reply that the Government cannot accept the amendment. We do not believe that it is a sensible amendment.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—'Duty to submit proposals for new public works to committee.'

The Hon. C.M. HILL: I move:

> Page 2, line 24—Leave out 'the declared amount' and insert '$2 000 000'.

I will explain this amendment again and also include some explanation for the next amendment, because it is all part and parcel of the same issue, of the right of the Government by proclamation to declare a higher sum than $2 million. The first amendment goes back to the matter which I raised in the second reading and to which the Minister referred only a few moments ago.

I cannot accept the Government's logic in wanting to take charge of this whole thing and in bringing the question of inflation or price index into the issue. Generally speaking, projects that either should or should not go to the Public Works Committee stand by the amount of money involved, not what the blessed index has been on prices in the past year or two. I have said that I have grave doubts that the $2 million should be in the Bill anyway, because the Government has lifted that threshold from $500 000 to $2 million, and that means, of course, that if this Bill passes today, as soon as it is proclaimed, a project to the value of $1.9 million can go through without the Public Works Committee looking at it at all. That angle needs serious consideration by Parliament. The figure has been at $500 000, for a long time, and we all know that is too low, but it is a mighty big jump to go from $500 000 to $2 million. But the Government is not even satisfied with that. The Government says that if costs of building materials and building labour go up it wants the right to increase the $2 million.

Why? Perhaps the Ministers are finding the Public Works Committee a bit of a nuisance. Perhaps the Ministers are wanting to slip their projects through and keep them down to $2 million or just over, so the more they can edge up that $2 million threshold, as they are proposing to have the right to do in this Bill, the happier they will be. The Minister can wave his head back and forth, but Ministers can be capable of that sort of thing.

That is only one side of the coin. The other side of the coin is this principle of proclamation, of the Government having the right to alter an Act of Parliament without reference back to Parliament. Let us think about the democratic principle involved there. It does not come back to the people—it proclaims it. As soon as it appears in the *Government Gazette*, it is a new law. That is the right it is seeking to have. It is not even willing to do it by regulation, which would mean that the matter would have to lie on the table for 14 days in both Houses, and Parliament would have the right to disallow it. Parliament could have the

right to investigate it through the Hon. Mr Bruce's committee.

The Hon. K.T. Griffin: Even that is limited, though.

The Hon. C.M. HILL: That is limited, but at least the Government comes somewhere near the people's house by that route—but it will not even do that. In the secrecy of its Cabinet room it signs a docket to proclaim it, sends it to the *Government Gazette* and it is printed and that is it, and we, as the elected members of Parliament, have no say in it whatsoever. Is that the kind of Government that this Committee wants to see? I do not think that it is.

Once the Government gets away with it in this Bill, it will want to proclaim something else in other Bills. It has four years ahead: it is a new ball game. It has the power. Parliament should stand as a check, and Parliament should say, 'You can have $2 million, high though it is, but if you want to lift the threshold further than that you have to come back, put in a separate Bill, and let us have a debate,' as we are having tonight.

I see no reason why the Government should not accept that. I am not concerned with what Mr Brown said last year, I am concerned with the position that we are in at this very moment. I am concerned with the position now, and I want to look to the future. That is what the Minister should start building a case on, and he cannot. He has to go back into history and find out what somebody said, throw that up and say, 'This is what somebody said then, so why should we not live in the past'?

The Hon. J.R. Cornwall interjecting:

The Hon. C.M. HILL: It would not do the Minister any harm to read Robert Gordon Menzies occasionally. This ought not to be a big issue: this ought to be an issue in which parliamentarians simply lay down that they have a right to act as watchdog of the Government's policies. Parliament should be supreme, not the Government. By government, of course, I mean the Cabinet. In our system, Cabinet is not supreme, Parliament is.

In Parliament, if a Party obtains a majority in the other House, it is given the right to form executive government, but it does not give it the right to make its own laws without reference to this place. By allowing proclamation, that is exactly what you are doing. I see no reason for the Government to seek it. I would have thought that, on reflection, the Government would be big enough to say, 'We will lift it to $2 million.' That is really bringing it up to date and, in the years to come, if the Public Works Committee suggests that the $2 million is too low, if it is getting too much work, or for some other reason wishes to raise that figure, then the Government of the day should perhaps take heed of the recommendations from the Public Works Committee. The Minister cannot produce any memo from the Public Works Committee recommending this form of machinery and I know that because I am on the Public Works Committee.

The Hon. C.J. Sumner: What is your problem?

The Hon. C.M. HILL: If you want me to go over it all again, I will: you should be listening. The Minister has so much on his mind—he has a Festival of Arts out there and here he is trying to run Parliament. In the last two days of the parliamentary sitting, we have 30 Bills with which to deal, and that coincides with the first week of the Festival. The Government should be ashamed of its lack of organisation.

The Hon. C.J. Sumner: What is your problem?

The Hon. C.M. HILL: I have the same problem as the President: we are supposed to be representing the people at functions of the Festival of Arts. The public want to see members of Parliament there and, what is more, they do not see enough of them.

The Hon. C.J. Sumner: Did you get free tickets?

The CHAIRPERSON: I bought mine.

The Hon. C.M. HILL: I know that you bought yours and I am buying mine. Tonight I have been attending a function with the Premier.

The Hon. C.J. Sumner: Where were you supposed to be?

The Hon. C.M. HILL: I did not plan anything for this hour tonight because, naturally, I knew that we would be sitting.

The Hon. C.J. Sumner: That is very sensible.

The Hon. C.M. HILL: No, it is not very sensible: it is nonsensical for a Government to plan its legislative program in its last week of sitting with 30 Bills coming through like sausages through a machine and the first week of the Festival of Arts all wrapped up together.

Members interjecting:

The Hon. C.M. HILL: You are not capable of managing anything. Now I want to return to the Bill. The Government has taken the wrong turn. It has gone around the corner and it ought to turn back. I see no reason why it should not turn back and I therefore suggest that the Minister has a further think about this matter.

The Hon. M.J. ELLIOTT: At this stage, I am still open-minded but, first, how long has the $500 000 level existed and, secondly, what sort of problems is that figure creating that has caused it to raise the figure fourfold?

The Hon. J.R. CORNWALL: I would defer to my colleague the Hon. Mr Hill in terms of the $500 000 limit but, at a guess (and it is no more than that), it is certainly more than a decade.

The Hon. K.T. Griffin: 1974.

The Hon. J.R. CORNWALL: So, more than a decade is substantially correct.

The Hon. M.J. ELLIOTT: What sort of problems is the Government encountering that it found it necessary to lift the level to $2 million?

The Hon. J.R. CORNWALL: To be fair, I believe that this recommendation would have come about principally as a result of discussions that occurred between the committee and the Government and its officers.

The Hon. C.M. Hill: Not to $2 million. I think that the committee also suggested other things such as bringing in the statutory authorities.

The Hon. J.R. CORNWALL: The question of statutory authorities such as the State Bank, which operates on a commercial basis, and the SGIC, which is one of the great success stories of South Australia and which also operates on a commercial basis, is another matter entirely. To subject them to the rigours of the Public Works Standing Committee is quite inappropriate, but apparently at a later stage we will have to debate that, because young Mr Elliott has an amendment on file.

Returning to the manner in which the Public Works Standing Committee operates, the reason that this Bill is here is that the Cabinet, very responsibly, looked at the operations of the committee and at ways it could improve them. When there is an active capital works program, there is a good deal going on simultaneously. So, if you want the Public Works Standing Committee, in my area alone, to look at the proposition for the stage 4 redevelopment of the Adelaide Children's Hospital at an estimated cost of $27 million, when it finishes that investigation it has to go to Mount Gambier and look at phase 1 of stage 1 of a $3 million program of what will ultimately be a $12 million development. It then has to go to Noarlunga and look at stage 1 of the health village. Also, there is the Lyell McEwin Hospital program which is about $13 million for the first stage and $50 million in four stages. Apart from schools and so forth, that mentions just a few things that are going on, so the committee has a great deal on its plate.

It was becoming increasingly obvious that, with the $500 000 cut-off point in a Government capital works budget, which from memory runs at around $250 million (I would not be held to that, but it is about that order of magnitude), it was not practical to ask the committee to look at these things. Furthermore, because we wanted to tighten the procedures, we asked that it reconsider programs that went over by more than 10 per cent and in many ways to improve the efficiency of the Public Works Standing Committee. I think that the committee had reached a point where it was little more than a rubber stamp. That is not meant to be a reflection on the members of that committee but, rather, a reflection of the fact that, to a large extent, in the past decade it had been overwhelmed and overtaken by events and had literally arrived at a point where it was accepting very early preliminary estimates. It was being given a fairly limited amount of information and was then taking decisions on the expenditure of public funds involving many millions of dollars based on what the Cabinet considered in some cases to be inadequate information.

The upshot of that—and I suppose what really brought it to a head—was the swimming pool at North Adelaide. The Government feels that it is highly desirable that the Public Works Standing Committee be able to perform effectively. That is in the interest of the public, the Parliament and the Ministers. As I said earlier, I have a large capital works program which could approach or even exceed $40 million a year in the combined portfolio areas, and I would like to know that the Public Works Standing Committee is keeping my people, the architects and the builders honest. That is supposed to be its role. It is for that reason that I do not think that it can run down every little warren that it comes across.

Because of the $500 000 ceiling, quite clearly you did not have to be very brilliant to produce a number of projects that ran at about $495 000, nor did you have to be very brilliant to split a $1.5 million project three ways, so that each of them came in just under $500 000. That was not desirable. In the interests of the committee, Parliament, and good government and management, we felt that it was far more important that we set that figure at an agreed and negotiated level which was considered reasonable and to take whatever actions we could to ensure that the Public Works Standing Committee's role was reinforced and that its ability to inform itself adequately and act as a watchdog was also reinforced.

It is for that reason, for example, that the Public Works Standing Committee is now receiving proposals that are substantially further developed than was the case two or three years ago. When we came into Government in late 1982 and early 1983 Cabinet was being asked to approve preliminary estimates which were sometimes not terribly accurate. They were going to the Public Works Committee containing a minimum of information and getting an imprimatur in a way, as I said earlier, that tended to be more and more of a rubber stamp. It is for that reason that this Bill is before the Council as a Government initiative.

To suggest that we in some way want to increase the amount involved to $2 million to avoid scrutiny is quite stupid. It is very much in our interests as a Government to have an effective committee that can act quickly, expeditiously and as a well informed parliamentary committee in order to safeguard not only the public and parliamentary interests but the Government's and individual Minister's interests. I am happy to see that we are strengthening the Public Works Standing Committee and increasing its efficiency substantially through the legislation before us.

The Hon. M.J. ELLIOTT: Madam Chair, I do not support the amendment. I believe that if one finds a particular sum acceptable (and the amendment mentions $2 million) then to index it to follow building costs seems perfectly reasonable because that should be a reasonable sum at a later time.

The Hon. C.M. HILL: The Austalian Democrats have now declared their position. I will not divide on this amendment as that would be wasting time. However, I am disappointed that the Hon. Mr Elliott has not seen fit to support the amendment.

Amendment negatived.

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

Page 2, line 27—After 'into' insert 'and reported upon'.

I am sorry that I have had to introduce these amendments in such a rush. I have not had a chance to discuss them with advisers and other people in this place beforehand. However, the Minister advised me he would not have us blocking his legislative program, so they have been introduced in haste. This amendment is a simple one. I believe that not only should we be expecting the committee to inquire into such matters as those referred to in the clause but also it should be reporting to the Parliament, which is the responsible body.

The Hon. C.M. HILL: I cannot support the Hon. Mr Elliott's amendment. The whole question of statutory authorities coming within the purview of the legislation is a matter about which a lot of discussion has taken place. There is not much in it when it comes down to the question on one side or the other.

The CHAIRPERSON: This is an amendment to line 27 on page 2.

The Hon. C.M. HILL: It is related to the other.

The CHAIRPERSON: No, I think they are independent amendments.

The Hon. C.M. HILL: This amendment deals with the duty to submit proposals for new public works to the committee. The Government's proposal relates to when the amount involved exceeds the declared amount (which initially will be $2 million), and the clause states:

... unless the work has first been inquired into by the committee under this section.

whereas the amendment would word it—

... unless the work has been first inquired into and been reported upon under this section.

Reported upon to whom? There are only two forms of report by the committee to the Parliament: one is an interim report on a project, which machinery is sometimes adopted where it is obvious that full approval will be given but for some reason or other some loose ends have to be tidied up and therefore the initial stages of the construction can get under way, and then a final report. I do not see any need for the committee to have to report to the Parliament for that purpose.

The Hon. J.R. CORNWALL: This amendment does not make clear to whom the Committee should report. In the event that Parliament was not sitting, which inevitably happens as we do not always sit for 12 months of the year (and sometimes early in a Government's term it does not even sit for eight or nine continuous months) there could be periods of three to five months when the Parliament is not sitting. I do not think that the building and construction industry would thank the Hon. Mr Elliott very much at all for this amendment because it would mean it would be held up—

The Hon. M.B. Cameron: From now until August.

The Hon. J.R. CORNWALL: —potentially from now until August. In practice, that would be inordinately difficult. The committee is a bipartisan one and is master of its own destiny.

The Hon. M.B. Cameron: But cannot pay its own bills.

The Hon. J.R. CORNWALL: It cannot pay its own expenses at this stage, it is true, but we will move to remedy that. The way in which the committee operates if its members do not agree is that they return to the proponent and say that they do not agree with this or that and that some more work should be done. In practical terms, that works very well. There would be no additional efficiency in coming back in a rather tedious way to the Parliament every time. The way it works is that the committee goes back to the proponent and says that it does or does not agree with a proposal.

There have been occasions such as the one involving the proposed multi-storey car park at the Flinders Medical Centre before my time which was very sensibly thrown out by the committee because there were other cheaper options that it considered were better. If this bipartisan committee does not consider something to be satisfactory I have never known it to be backward in coming forward and saying so. It would be most uncharacteristic of the Hon. Mr Hill, as one of the distinguished members of that committee, if he did not speak his mind with a loud voice, as it were. I assure the Hon. Mr Elliott, and anybody else who is interested, that the actual *modus operandi* of the PWSC in that sense has been entirely satisfactory.

The Hon. M.J. ELLIOTT: I was not prepared to move these amendments at this time but did so at the Minister's insistence. The amendment may have been better structured had it not been for that insistence.

Amendment negatived.

The CHAIRPERSON: Is the next amendment on file consequential on the Hon. Mr Hill's previous amendment?

The Hon. C.M. HILL: Yes, I will not proceed with this amendment, because it is part of my proposal to remove the aspect of proclamation from the Bill. That was all tied up with the other measure that I lost.

Clause passed.

Clause 6 passed.

New clause 6a—'Power of committee to inquire into other works.'

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

Page 3, after line 26—Insert new clause as follows:

6a. Section 26 of the principal Act is repealed and the following section is substituted:

26. (1) This section applies to any work whether proposed to be constructed or in the course of construction where the whole or any part of the cost of construction is to be met out of moneys provided or to be provided by Parliament or by a public authority.

(2) Any question relating to a work to which this section applies shall—

(a) if the committee on its own initiative so determines; or

(b) if the matter is referred to the committee—

(i) by a resolution of either House; or

(ii) by the Governor or any Minister of the Crown,

be inquired into and reported upon in the same manner as if it were a public work referred to the committee under section 25.

(3) In this section—

(a) 'public authority' means an agency or instrumentality of the Crown and includes any body whether corporate or unincorporate that—

(i) is established by or under an Act; and

(ii) is—

(A) comprised of persons, or has a governing body comprised of persons, a majority of whom are appointed by the Governor, a Minister of the Crown or an agency or instrumentality of the Crown; or

(B) is subject to control or direction by a Minister of the Crown; and

(b) a reference to moneys provided or to be provided by a public authority is a reference to moneys provided or to be provided by the authority out of its own funds or out of a fund managed or invested by the authority.

This amendment arose as a result of recommendations of the fifty-eighth general report of the Parliamentary Standing Committee on Public Works. What it says should be sufficient support for the amendment. I quote from the report under the heading 'Statutory Authorities and Guarantees' as follows:

> Statutory bodies do not come under the ambit of the committee if they do not require additional appropriation from Parliament or if there is a specific exclusion. As at June 1984 (the latest figure available to the committee) the outstanding liability of statutory bodies on which debt charges were payable to the State amounted to $1 218 000 000. This represents an increase of about $150 000 000 during the preceding 12 months. It is a major sum which did not require informed appropriation from Parliament but at the same time, a major contingent liability for the Government is created. When one considers that the total of public works examined by the committee during the present twelve months amounted to about $93 000 000, it gives an indication of the relevant magnitude of government expenditure being channelled through statutory authorities. The same type of development caused concern to the Commonwealth Public Works Standing Committee and the Commonwealth Parliament passed legislation in 1982 which, among other things, was aimed at bringing statutory authorities under the jurisdiction of that committee. It is realised that some statutory authorities do submit projects to the committee as a matter of courtesy.

The major recommendation it made at that point was:

> It is considered that State legislation should be amended to bring the activities of statutory authorities under the surveillance of the Public Works Standing Committee in this State for their expenditure on major public works similar to that which has already occurred with the Commonwealth legislation.

There is a report from a committee representing Parliament made on 6 November last year. It is very representative of the Parties within this Parliament and such recommendation should be considered very seriously.

The Hon. J.R. CORNWALL: The Government rejects the amendment. There are three very good reasons for doing so. First, it is not true that statutory authorities are not by and large subject to scrutiny of the Public Works Standing Committee. I am Minister of Health and as such I have the responsibility and am the notional head at least of a very big statutory authority—the South Australian Health Commission—which has an annual recurrent budget this year approaching I would think $750 million (three quarters of a billion dollars).

Our capital works programs, whether they be on the West Coast, in the western suburbs of Adelaide or anywhere else around the State are always subjected to the scrutiny of the Public Works Standing Committee. That is entirely appropriate for a number of reasons, not the least of which is that we do not have an entrepreneurial role. We are not in a commercial operation. Therefore, as I said, it is entirely appropriate that we be subjected to exactly the same scrutiny as any Government department.

The Hon. C.M. Hill: Your funds are directly appropriated by Parliament.

The Hon. J.R. CORNWALL: That is right.

The Hon. C.M. Hill: That is what brings you into the net.

The Hon. J.R. CORNWALL: And so it should. I do not believe many people would think we should be any further removed from the scrutiny of Parliament or the central agencies such as Treasury and the Public Service Board in particular. But, with regard to organisations like the State Bank, which currently is quite entrepreneurial and very successfully entrepreneurial, and the State Government Insurance Commission, which is a large insurer competing in the market place, I do not believe it is appropriate. The other reason that the Government opposes the amendment

relates to the way it is phrased. It says, among other things, that the committee on its own initiative may determine the matters about which it wishes to inquire, instead of (as currently happens) by reference.

We already have a very active parliamentary Public Accounts Committee, as I am well aware as a Minister with a large area to administer. It can certainly initiate its own inquiries and most certainly does that. It follows up any matter it thinks it should as a watchdog for this Parliament and the people of South Australia quite vigorously and, on many occasions, quite successfully.

The roles of the Public Works Standing Committee and the parliamentary Public Accounts Committee in the Government's view most certainly should not be confused. The Public Works Standing Committee's role is well defined on the one hand and the PAC role is well and adequately defined on the other. For those reasons, the Government opposes the amendment.

The Hon. C.M. HILL: I support the Minister and his view. I acknowledge that the majority opinion on the Public Works Standing Committee was that all statutory bodies should be within the scope of the committee's inquiries. But, I know too that the Government gave this aspect much consideration and it has come down with the principle that with respect to any party, any instrumentality or any department in which the Minister appropriates public money for public works or projects, if those projects pass that threshold amount they must be considered by the Public Works Standing Committee. So, some of the instrumentalities that the honourable member who moved the amendment wants to see in will come in relative to those projects which are being funded by money appropriated by Parliament.

That is the division in this issue. If an instrumentality of the Crown—a statutory body—finds its own funding and raises its own money outside, it escapes the need for inquiry by the Public Works Standing Committee. But if it obtains funds directly appropriated by Parliament—public money—then Parliament has this watchdog acting to provide a double check on the project to see that it is reliable, and so forth. From my point of view, whilst I am not strongly of the view, I think on balance that the best path to take is the one that the Government originally decided upon when it framed this Bill. Then, with the passing of time and further observation by members and the committee itself if there is any need for further adjustment, some further amendment can be made. But, I will not go so far at this point as to support the Hon. Mr Elliott's amendment.

The Hon. M.J. ELLIOTT: We have something of an inconsistency, in that we are ensuring that we must carefully look after funds that have been appropriated by Parliament, yet in relation to other bodies such as the SGIC, the State Bank, and very soon the Workers Rehabilitation and Compensation Corporation, which all involve very large sums of money and which the State guarantees although does not put in money in the first instance, we stand to lose a great deal of money by wrong decisions, and it seems to me, logically, to be inconsistent for the Government to abrogate its responsibility.

The Hon. C.M. HILL: The question of guarantees is looked into by another committee, the IDC, before the Government proceeds with guarantees. So, from the point of view of the security and safety of Government money there is that other independent check in regard to the question of guarantees.

The Hon. J.R. CORNWALL: I might also add that if this were taken to its logical, or illogical, conclusion, presumably one would bring the State Bank and the SGIC under ministerial control. No-one could seriously argue that that ought to happen. There are many very valid reasons why the State Bank and the SGIC should not be under ministerial control, whatever the political persuasion of the Government, because that could lead to far more abuses than those that the Hon. Mr Elliott might seek to protect us from by his amendment.

New clause negatived.

Clause 7—'Matters referred to previous committees may be completed by subsequent committees.'

The Hon. C.M. HILL: I was a few minutes late in entering the Chamber and was not present when this debate resumed earlier, as I had been at a Festival of Arts function—having to rush away—and so I ask the Minister whether he responded to the undertaking that I sought during the second reading debate in relation to certain inefficient practices being investigated. If the Minister has already done so, will he very briefly confirm his view and, if not, would the Minister mind addressing that subject now?

The Hon. J.R. CORNWALL: I am sure that the Committee would recall that I did specifically address the matters raised earlier by the Hon. Mr Hill concerning the current inefficiencies involved in the payment of travelling costs and expenses of members of the Public Works Standing Committee and support staff. I even specifically referred to the fact that it got down to individual costs for individual meals in individual motels and the subsequent drawing of individual cheques. On occasion this has been known to cause a little friction amongst members of the committee. Therefore, the sooner this is put to rights, the better. I have given a personal undertaking that I will discuss the matter with my colleague the Minister of Housing and Construction. In future I believe that, as happens with almost every other committee that I have been associated with, the account should be a central responsibility and that once it has been checked and passed for payment—

The Hon. C.M. Hill: Checked and passed by the Chairman.

The Hon. J.R. CORNWALL: Indeed, yes. After it is checked and passed by the Chairman, it would then be paid as one cheque.

The Hon. C.M. Hill: And other matters were raised, too.

The Hon. J.R. CORNWALL: There are other matters, too, which are on the public record and which I will take up also.

Clause passed.

Title passed.

Bill read a third time and passed.

MOTOR VEHICLES ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 4 March. Page 798.)

The Hon. M.B. CAMERON (Leader of the Opposition): This Bill arises as a result of a decision of the High Court, in that it ruled against a matter that had been considered to have been interpreted properly by the Parliament, in the case of *Lake City Freighters Pty Ltd v Gordon and Gotch Pty Ltd.* It ruled that the provisions of section 133 of the Motor Vehicles Act applied to third party claims for property damage as well as those for death and bodily injury. It was quite clear from *Hansard* reports of the day that that was never the intention of the Bill. There are some severe misgivings about the fact that we are legislating retrospectively. Of course, the case has gone through the courts and will not be specifically affected by the Bill.

Nevertheless, there may be some matters before the courts at the moment where proceedings have been issued but where those will now be null and void because of the action

that we are taking. However, this matter has been brought to the attention of a number of organisations involved in the transport industry: Australian Road Traffic Federation, Transport Workers Union, Southern Road Transport Association and the National Freight Forwarder Association. The problem is that this matter is not a problem in other States. It is a problem only in South Australia and so it affects only the firms that operate wholly within South Australia, which have been financially disadvantaged by the decision of the court in this matter.

So, the Opposition supports this Bill with some reluctance, understanding that the decision of the court has created a problem, a problem that would not have occurred had the original intention of the Act been recognised by the court. However, this has occurred and it has placed South Australian transport companies in a difficult position in comparison with their interstate counterparts. The Opposition supports the Bill and trusts that we will not have too many measures of this kind where matters must be dealt with retrospectively by Parliament.

Bill read a second time and taken through its remaining stages.

MOTOR VEHICLES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 March. Page 798.)

The Hon. K.T. GRIFFIN: The Opposition supports this Bill, which does a number of things. It removes the limitation of 14 days currently placed on permits issued by the police to owners who have paid the required registration fees and compulsory third party premiums for their vehicles but who, because they live in remote areas, cannot immediately be issued with registration labels and plates. Concern has been expressed that the 14 day limit is too brief, and I can understand that, because the reliability of the mail service is not sufficient to engender confidence that, having paid one's fees, one will receive registration papers and number plates within 14 days. Therefore, the limitation of 14 days is to be removed and by administrative action a longer period than 14 days will be fixed for special permits.

The second amendment is to reduce the period for completion of a transfer of the registration of a vehicle from one owner to another from 14 days to seven days. The basis of this amendment is said to be the embarrassment caused to registered owners who have received parking tickets and therefore have attracted fines for parking type offences, even though they are no longer the owner of the vehicle that has been transferred. The problem has been that the transfer papers have not been forwarded to the Motor Registration Division within the appropriate time or, if they have, the 14 day period has been too long.

We support the amendment, but I raise at least a note of caution: it may well be that there are practical reasons why it is not always possible for a purchaser to get the registration papers in within seven days after the sale, particularly if the sale occurs on a Friday or for some reason or another a number of business matters have to be attended to before the papers are completed. However, we are prepared to go along with the proposal for change in the hope that it avoids the other problem of former owners getting parking fines when they have ceased to be the owner.

The registration period for trader's plates has been changed from a March expiry date to a calendar year expiry date to avoid the reissue of plates and to allow a self-destructive label to be used on those plates. That amendment is supported.

The next amendment provides for a five year period of operation for drivers' licences instead of a three year period. Again, we have no great difficulty with that, except that five years is a very long period within which a licensed driver could move from the State, could change address, or could die and the licence not be cancelled without an adequate check being kept on such changes. I know that the onus is on the licensee to notify changes, but I would suggest that the new system is more likely to create anomalies and difficulties in the keeping of the register than the three year period, although I can appreciate that there are financial implications in terms of reducing administrative costs.

The last amendment deals with the driving instructor's licence being issued to cover the same period as the instructor's ordinary driver's licence so that he will no longer have to renew his licences at different times. We support that amendment. Some comment has been made publicly over the past few weeks about the new registration discs, and I suppose that that is indirectly relevant to the third amendment to which I referred. Considerable concern has been expressed about the fact that no details are included on registration stickers, and it is a matter of concern within the industry and police that that will facilitate the theft of motor vehicles. I want to place on record my concern that that has occurred, although I recognise that again there are administrative savings as a result of the vehicle details no longer being endorsed on the registration sticker or disc. Nevertheless, if that creates a problem in terms of facilitating motor vehicle theft, it must be viewed with concern, and I want to put on record that I hope that that system will be reviewed after a few months of operation and a report made available publicly on the greater incidence of motor vehicle theft facilitated by the new registration disc procedures. The Opposition supports the second reading.

The Hon. I. GILFILLAN: We support the second reading. There certainly appear to be advantages in extending the period of the licence from three to five years, but I hope that the system does not become infected with the same drastic cut for the sake of economy so that licences have nothing printed on their face. If that was the case, it would not matter in what year they were issued or for how long, because a licence would be a quite useless document. Although that situation might sound farcical, the same criticism applies to the current registration disc for motor vehicles. It is absolutely intolerable that a department can hold its head up with any sort of dignity having resorted to this ridiculous way of recording the registration of motor vehicles. I urge the Government to halt the practice immediately and listen to the very serious and sincere complaints and concerns particularly from the police.

I have just registered two vehicles simultaneously and, as far as I am concerned, the two discs are exactly the same: I could put either one on either vehicle, because they are not identified in any way with the vehicle for which the registration fee was paid in the first place. I point out to the Government that this could lead to an abuse of revenue, because concessions for certain types of vehicle dramatically reduce the registration and insurance premiums. There is no reason why people who want to take advantage of that illegally would not abuse the system one way or another, because there is no way of checking.

The most important contribution that the Democrats will make to this debate is to move an amendment, and I will refer to that in more detail in Committee. We believe that, as the licence period will be extended from three years to five years, all drivers should be subjected to compulsory retesting. It was very interesting to hear the Hon. Trevor Griffin, in the second reading stage, indicate the concern of those who are responsible for licensing about the gap of five

years. Not only could there be a possible change in one's physical situation but also there are very good reasons for considering that even excellent quality drivers, such as members in this Chamber, over five years might not be fully aware of the minor changes in the road rules or perhaps the bad habits that they might have slipped into. From first hand experience, I acknowledge that my exhalted opinion of myself as a driver was severely dented by my going through the retesting process.

I consider that if I suffered that indignity it is only fair that other people do too. On a more serious note, I believe that what minor improvements—or what I regard as minor improvements—in my driving technique resulted from that retesting make me less of a hazard on the road, and therefore I have possibly contributed significantly to road safety.

All members over the age of about 20 (and most of us appear to be well over that, with some few exceptions) would find—and with some surprise—that several of their standard techniques of driving are, first, illegal but, secondly, expose them and others to danger. I have actually observed others on the road who have slipped into the same bad habits as I had prior to my refresher course. I indicate that we will be moving an amendment which would oblige drivers, before they had their licence renewed, to have a retest, and I look forward to some discussion and debate on that. We will be supporting the second reading of the Bill.

The Hon. J.R. CORNWALL (Minister of Health): The change in registration disc has not previously been brought to my attention. I am sure that there must be a very good and logical explanation for it, although I have to say it eludes me at the moment. I thank the Hon. Mr Griffin for a number of matters which he has pointed out. I do not know how valid they are but there are one or two things that should be monitored; he is quite right in saying that. I am sure that they will be. By and large, it is a pretty sensible Bill and I would urge members to support it.

I could not say the same for the amendment which the Hon. Mr Gilfillan has introduced without any public debate or any prior notification to anybody. It has not been the subject of consideration by the Road Safety Advisory Council, by a select committee or by any other body of expertise of which I am aware. It may be that he wishes to expiate his own feelings of inadequacy which were brought about because he was rash enough to undergo the test some few months ago—a much publicised failure and, may I say, to the Hon. Mr Gilfillan's credit he was the one who was responsible for the publicity. He has certainly shown some political courage in that sense.

If there is anything that we can do to reduce the road toll, the Government would consider it very seriously. However, there would be a very significant cost in retesting every five years from the time the licence was first issued from, say, the age of 16 or 17 until the seventieth birthday. That would have to be offset against the enormous cost of the road toll and if, after suitable public discussion, debate and consideration by appropriate bodies with expertise, and in view of experience elsewhere around the world, the five year test can be demonstrated to have practical application, naturally the Government would consider it.

I do not, however, believe that this is the appropriate vehicle or the appropriate time, simply because the Act happens to be open, and I foreshadow that although we are not dealing with it at this particular moment—and I will not need to speak on it again—that because of the manner in which the amendment has been proposed without notice the Government would be somewhat less than responsible if it were simply to pick it up on the run in Parliament, as it were.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Term of licence.'

The Hon. M.B. CAMERON: I am not sure that this is the appropriate clause during which to ask the question concerning registration discs. I must confess I had not looked at the new disc I had received until the matter was raised here. Although I had read that this had occurred it was somewhat startling to find that one now receives a disc with nothing on it. The registration papers themselves are full of information but the actual vehicle disc which would provide identification has absolutely nothing on it on any of the lines to show the registration number, make or expiry date. It is probably one of those areas to which a little bit of thought needs to be given, because it seems to me to be a fairly drastic change—to take away every means of identification of a vehicle on the disc. Will the Minister take up this matter with his colleague in another place.

It is not the sort of thing on which one would want to move an amendment. However, I think the Minister ought to seriously consider the matter, because surely, in this day and age of computers and all the other aids available, it would not be difficult to provide a system that would bring out discs that contain some information.

The Hon. J.R. CORNWALL: I had not even read about this, unlike the Hon. Mr Cameron, so I am totally uninformed. One can only speculate on the reasons, since I have not had a brief. However, it seems to be an entirely reasonable request that I ask the Minister of Transport why this has been done, and I certainly undertake, in view of the fact that we are moving towards the end of a session and time will probably run out, to have the Minister of Transport write directly to the Hon. Mr Cameron as soon as reasonably possible.

Clause passed.

Clauses 5 to 7 passed.

New clause 7a—'Power to test applicants.'

The Hon. I. GILFILLAN: I move:

Insert new clause as follows:

7a. Section 80 of the principal Act is amended—

(a) by inserting after subsection (1a) the following subsection:

(1b) An applicant for renewal of a driver's licence must undergo a practical driving test conducted by an authorised examiner and appropriate to the class of licence for which the application is made.;

and

(b) by inserting in subsection (2) after the passage 'tests or the evidence' the passage 'under subsection (1), (1a) or (1b)'.

I point out that I have some understanding of the quandary in which the Minister finds himself with suddenly being confronted with an amendment, but I echo the words of my colleague (the Hon. Mike Elliott) who says that he now knows how we feel when page after page of legislation suddenly bounces up in front of us and is expected to be duly dealt with in some depth.

I do not apologise for introducing it in this way, and do not particularly want to use this as a vehicle for criticising the Minister, whom I do not hold personally responsible for it. That is why it has come up somewhat peremptorily and without previous discussion and consultation: there just was not time.

However, it is an important step that I think the Parliament and the Government should begin to think about seriously. The aim is to make it mandatory that every driver, prior to renewing the licence, actually undergoes a test, and in the provision that I am putting forward it would be similar to the practical driving test now required for a licence, although it ought to be extended from 30 to 45

minutes. It may come as a surprise to some of the older members that the actual driving time in the current test is 14 minutes. There is actually 14 minutes of driving time in which a driver is tested as being fully competent to drive a motor vehicle.

Applicants are allowed to make seven driving errors in that 14 minutes and still pass the test. It is obvious that the present test is totally inadequate and is a contributing factor to the high accident rate of our young drivers and that the standard of competence to pass the test is so low that it allows the incompetent and poorly trained driver the opportunity easily to gain a licence.

Our young drivers are learning the arts and skills of driving after they have been granted a licence and the many mistakes that they make in the process lead to the tragic road toll. How can an examiner be expected fully to assess the knowledge, skill and competence of the driver in 14 minutes? I cite an example. Almost one-quarter of all road deaths occur on bends in the road, but the driving test is so structured that the examiner simply does not have the time to test a driver on his or her ability to drive around a bend at speed. There is nothing wrong with the method of testing, but until we extend the time from 30 minutes to 45 minutes, we shall continue to allow our newly licensed drivers to use our roads as training grounds and killing fields. We must ensure that our young drivers have reached a reasonable standard of safety before we issue a licence.

In general terms, the test should be extended from the current 30 minutes to at least 45 minutes and there are other criticisms I could make of the present test relating to new licences, but I will not do so at this stage. The Minister questioned the cost. The number of licence holders is 800 000, with an annual growth rate of 15 000, so there would need to be a retest of 800 000 drivers every five years, which works out at 160 000 a year, or 3 200 each week, or 640 each day. Allowing 45 minutes for each test, an examiner would conduct 10 tests each day. The department would need to employ at least 64 new examiners.

The Hon. J.R. Cornwall: It would reduce unemployment.

The Hon. I. GILFILLAN: If the cost of the test was set at $15, an examiner would generate an income of $750 a week, which would more than cover the cost of his employment and no-one could complain about the cost of $15 over a five year period. That is approximately $3 a year. I consider that that would be no hindrance to this scheme being introduced and it would be self-funding.

As the Minister so rightly pointed out, it would increase job opportunities. I am not recommending that a written test be repeated. I think the test should be a practical driving test using the same method and test sheet that is already used but, in addition, the examiner will test the driver on his or her knowledge of the road rules by asking questions. There may be some practical difficulties that may need to be overcome for people who would find it difficult to attend for retesting in normal business hours. We may have to urge that Saturday be a full working day for licence examiners. However, I consider that, with the introduction of this legislation and provision of facilities, there would be an adequate number of examiners and time allocation to suit the convenience of people applying for retesting. They should be given a notice at least three months before this due period (and it will occur once every five years, so it is not too much of an effort to make).

The Hon. J.R. Cornwall: Where is the documented evidence that it will reduce road accidents?

The Hon. I. GILFILLAN: This is what I would call a rather ridiculous criticism that is coming by way of interjection. How does one compile evidence which shows that drivers will have fewer or more accidents in a given situation in which they find themselves? One could say, 'We will have a reduced number of accidents if we go from a 30 minute to a 45 minute test' but, until we do it, there are no statistics to show it.

The Hon. J.R. Cornwall: Is there any evidence from around the world?

The Hon. I. GILFILLAN: I believe so.

The Hon. J.R. Cornwall: Where?

The Hon. I. GILFILLAN: I do not have it in front of me, but I have taken many reams of written evidence relating to various comments from various places. I do not think it would be very hard to find it. I take the point that, if there is nothing to be gained from a driving test, let us save all our new licensees the problem and cut out the test. Either testing people for driving has an advantage or it does not, but I believe that it does. I believe it is not just a matter of improving the driving performance and brushing up on road rules and technique, but it also includes this psychological feature of which our driving community is so bereft and that is the awareness of a commitment and responsibility on the roads. It is on that basis that I believe that this proposition should be very seriously considered and introduced as soon as the systems and the arrangements can be organised by the department.

The Hon. M.B. CAMERON: Madam Chairperson, I do not support this amendment. I think it is a large dose of overkill. If the Hon. Mr Gilfillan thinks that increasing driving tests from 15 minutes to 45 minutes will be such a dramatic event, then he is rather kidding himself about the cause of the road toll. A member of my family has just obtained his P plates. I must say that from time to time he has worried me, because he has a sneaking regard for the Australian Democrats and Mr Gilfillan, but I think he would be very upset by what the Hon. Mr Gilfillan has said tonight.

The Hon. C.J. Sumner: Have you got a Democrat voter in your family?

The Hon. M.B. CAMERON: It has got close. I hope that the Hon. Mr Gilfillan gets a headline out of this, because that will save me having to take his speech home. I will even write a press release for him on this matter. I do not think that this amendment is practical or necessary. It is a reflection on the system and I do not believe that the system is that bad. The thought of everybody in the State heading off for a driving test every five years does not attract me. The Hon. Mr Gilfillan might try to persuade people to do that on a voluntary basis, but I do not believe it is necessary on a compulsory basis and I do not think that the end result would justify the nuisance value of it.

The Hon. PETER DUNN: I do not support the amendment for several reasons. In the flying industry, testing has to be done every six months, so commercial pilots and senior commercial pilots undergo that testing. I happen to be tested only once every three years and the number of people who fail that testing has dropped dramatically, but the safety record has remained static. That requirement has been in existence for six years, but let me assure honourable members that you need more skill to drive a motor car than you need to fly. The most dangerous part of flying is driving to the airport, but, it you are going to make it work, you will have to do it every six months. I do not think that that is practical.

The Hon. M.J. ELLIOTT: A number of honourable members are being terribly smug about something which they have decided is unimportant, but the road toll and road safety generally are important matters. We have done a large number of things in an attempt to decrease the road toll: we have made the roads better; we have made cars safer; we have introduced random breath testing; we have done many things and not one of those things has succeeded

because they failed to address the one real problem. The major problem is the drivers.

We are looking at the wrong end of the problem. It is the drivers who are killing people, not the roads, although there are dangerous parts, and it is not cars generally. Certainly, alcohol plays a part, but that is a reflection upon drivers, anyway. We should be looking at the drivers. The Minister should be aware of the immense costs placed on the health system and socially on families. I do not hear anybody offering any real answers to this problem. I believe that what the Hon. Mr Gilfillan has offered is the most serious possibility offered so far. We treat licences as a right when we should treat them as a privilege.

The Hon. Mr Dunn pointed out that driving is more dangerous than flying but which licence is the easier to get? The driving licence is far harder to get than the flying licence. That is ludicrous. As a teacher I saw many students I knew did not have the physical ability, who had impaired eyesight or bad reaction times, or who did not have the mental facility to pass a driving test, but they did. I did not know how. I also know from experience that many of them killed themselves on the road in their first couple of years of driving. There is something wrong with the way we in South Australia, and right across the nation, grant licences. I hope that the Minister, who has suggested that this amendment has been thrown in rather rapidly (something I think the Hon. Mr Gilfillan answered adequately) will take this matter on board and pass these comments on to the relevant committee if this amendment fails.

The Hon. J.R. CORNWALL: I had hoped that it would not be necessary for me to speak again, but in view of the Hon. Mr Elliott's gratuitous remarks I—

The Hon. M.J. Elliott interjecting:

The Hon. J.R. CORNWALL: I found out that the Hon. Mr Elliott was once a member of the Liberal Party. I can only say that, based on his performance to date, they were lucky that he left them.

The Hon. M.B. Cameron: It was the Liberal Movement.

The Hon. J.R. CORNWALL: Thank goodness he never tried to pay the $5 to join the ALP.

An honourable member: He's not that silly.

The Hon. J.R. CORNWALL: You could have fooled me. I return to more serious matters. The Hon. Mr Gilfillan referred to what I asked by way of interjection. That was a very serious question indeed and was whether he had documentation from world literature and experience and road trauma committees throughout the world, interstate and overseas, to show that an increased frequency of testing does reduce the incidence of road accidents.

I am acutely aware of this matter because we pick up the pieces in health and it was specifically for that reason that I established a road trauma committee which sat for a period of two and a half years and was only wound up ultimately after it delivered its report to the newly formed Road Safety Advisory Council. I take the matter of road safety very seriously indeed. What I try to impress on people (not always as successfully as I would like to) is that it is primarily a preventive health problem. I know that there is road traffic engineering and all sorts of aspects involved in what should be a multi-disciplinary approach, but at the end of the day there is no doubt that it is a preventative health problem, so the question about documented evidence in literature was a serious one: did the Hon. Mr Gilfillan, who prides himself on taking a great interest in this matter (and I commend him for his effort), have any evidence? His only response was that he had reams of paper in his office and was sure that there must be some evidence somewhere.

Quite frankly, as you would know, Ms Chairperson, that is not the way things work. If the Hon. Mr Gilfillan is serious about this matter then this is not the appropriate forum to decide in 30 minutes whether there should be testing on a three or five year, or whatever, basis. If he would care to document his case and forward it to me as Minister of Health I will most certainly give it serious consideration. However, the way in which the subject has been introduced at five minutes notice tonight I do not think is appropriate and for those reasons the Government does not support the amendment. If there is merit, and that merit is documented, I will be only too pleased as Minister of Health to look at the submissions and raise them as a matter of concern with my colleague the Minister of Transport.

The Hon. I. GILFILLAN: I respect the sincerity of the question and did not intend to ridicule it in any way. It is an embarrassment for anyone interested in road safety to find statistical evidence for virtually anything including penalties, breathaliser figuress or .08 figures. It is unfortunately one of the least accurately researched and tabulated areas of human behaviour that exists.

The Hon. J.R. Cornwall: Tell Jack MacLean that.

The Hon. I. GILFILLAN: Jack MacLean does not think there is any benefit in increasing penalties so if we are to take notice of him we should take an opposite line to his advice. I repeat that it is an embarrassingly vague area to find where one goes with legislation to improve road safety. I accept the question as a sensible one. I make the point that I attempted to make before, that the timing has not allowed the presentation of this case as adequately as I would have liked and it did not allow time for previous discussion.

I am realistic enough to have anticipated that the Government would not be able to pass legislation such as this off the cuff. I am glad that it has at least received the attention that it has had in this Chamber up until now and it was on that basis that I presented it. I hope that there is no misunderstanding between the Minister and myself at that level.

New clause negatived.

Remaining clauses (8 to 10) and title passed.

Bill read a third time and passed.

DOG FENCE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 March. Page 799.)

The Hon. J.C. IRWIN: The Opposition supports this Bill. A number of amendments were accepted in the other place, including Opposition amendments. These amendments are all reflected in the Bill before us. It proposes amending the Dog Fence Act in three ways: first by rationalising the membership of the Dog Fence Board by extending it from four to five members with the Director-General of Lands or his nominee being Chairman; secondly, by placing a member of the Vertebrate Pests Authority on the board, because that authority is responsible for the control of dingoes and is responsible for the care and maintenance of the fence; and, thirdly, it clarifies the fact that the board and Local Dog Fence Board can borrow funds with the approval of the Treasurer.

The board has the responsibility for maintaining 2 230 kilograms—kilometres—of dog fence which runs from west of Fowlers Bay up to the New South Wales border. That reminds me of my mother when decimal currency first came in buying a kilometre of beef!

Previously, the Pastoral Board has been involved with the operation of the Dog Fence Board by having one of its members as Chairman. This is no longer necessary as the

pastoralist members of the board strongly support the Director-General's being included.

I have had some experience of dogs and the dog fence—not in the North of the State but down in the South where, believe it or not, there are dogs, although an argument still rages that they are not dingoes but wild domestic dogs or a cross.

Nevertheless, they do exist and the problem of dogs exists, whatever they are. As an elected local government representative on the Box Flat Vermin Board—a very famous board—I am familiar with the problems in the Ngarkat National Park north of Bordertown, south of Lameroo and Pinnaroo, east to the Victorian border and to Tintinara in the west.

This board is financed by council contributions from Pinnaroo, Lameroo, Tatiara and Coonalpyn Downs councils and supported by the Vertebrate Pest Authority. Losses of livestock, in particular sheep, have been reported around the perimeter in grazing areas for some years and they are still going on.

I raise only one point in relation to this: there is a dog fence so-called remaining along the Victorian borderline east of Ngarkat. Although I have never seen it, in my time on the Box Flat Vermin Board, reports to that board have indicated that it is in very poor condition.

Dogs, like weeds and rabbits, do not recognise State borders. I urge continuing discussions with Victoria about the eradication of dogs on a planned basis on both sides of the border and some serious consideration to upgrading the dog fence that is there. The Opposition supports the Bill with the amendments already inserted.

The Hon. J.R. CORNWALL (Minister of Health): I do not think there is very much I need to add or should add to that. This Bill was amended in the House of Assembly. The amendments were moved by the member for Eyre, who would know more about the dog fence than any other member of this Parliament and then some. It was a reasonable Bill coming into the House of Assembly: I think it was a very good Bill coming out. So, I do not think we need take up much more time of the House. They are significant and practical amendments and I urge the House to support them.

Bill read a second time and taken through its remaining stages.

STATE LOTTERIES ACT AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 876.)

The Hon. M.B. CAMERON (Leader of the Opposition): The Opposition supports this Bill, although I find it surprising, that when one has a small group of people running an organisation well, one would want to expand the numbers. That somewhat puzzles me. Obviously, that is a decision of Government. I guess the reason given by the Government (that it was having trouble getting a quorum together from time to time) could well be said to be a valid reason, but I would have thought it important to have people on the Lotteries Commission who could give sufficient time to the commission so that a quorum could always be present even with three people.

Frankly, in my time in Parliament I notice that the one desire of Government is to reduce the numbers of people on various committees and organisations rather than increasing them. I trust that when people are put onto the commission the opportunity will be used to get people of special expertise to assist in running the Lotteries Commission. I emphasise that very clearly, because there is no point in using it as a means of finding a couple of jobs for somebody to whom the Government feels an obligation.

The Hon. C.M. Hill: Jobs for the boys!

The Hon. M.B. CAMERON: That is really what I was saying. It is clearly put by the honourable member. I take the point of the honourable member. It is better to say it straight out: I hope it is not used for jobs for the boys.

An honourable member: Or girls.

The Hon. M.B. CAMERON: It was Murray who coached me. I hope it is used to gain expertise for the commission, but again I am puzzled. It is a very good and tight organisation. Somebody once said to me that the best committee is a committee of one. Here we have a reasonable committee of three, but now we are expanding it to five. I hope it does not cause difficulties for the commission. I would think that there are better ways of curing the problem of quorums by ensuring that one had people on the commission who could attend rather than by adding another two people. However, that is a decision of the Government. The Opposition will not oppose it but will look with interest to see whom the Government appoints to gain the expertise for the Lotteries Commission that the Government claims it will be able to inject into the commission.

The Hon. C.M. Hill: It might be Geoff Virgo.

The Hon. M.B. CAMERON: He is getting a bit old.

The Hon. C.M. Hill: He has a lot of jobs and he is a friend of Mr Sumner.

The Hon. C.J. Sumner interjecting:

The Hon. M.B. CAMERON: He would have been much older than the Hon. Mr Hill. I do not like this expression 'Grandfather of the House' very much. I will have a bit of a problem with that at the next election if the Hon. Mr Hill does not go on: I will be it. I do not feel like a grandfather of the House. We should rectify that expression. I will not hold the House up any longer, but I indicate that the Opposition supports the Bill reluctantly.

Bill read a second time and taken through its remaining stages.

BUSINESS FRANCHISE (TOBACCO) ACT AMENDMENT BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 875.)

Clause 5—'Warrant to enter and search premises.'

The Hon. R.I. LUCAS: I thank the Attorney for reporting progress, as he did before the dinner adjournment, and also for making the Commissioner available for some discussion on the questions I put to the Attorney prior to the dinner adjournment. I do not intend to pursue the line of questioning that I had started prior to the dinner break. Following discussion with the Commissioner I am satisfied with the intention in relation to these respective provisions. While this might involve a slight widening in terms of using the phrase 'administration of this Act' rather than in the example given by the Attorney with respect to the FID Act which used the phrase 'assessment of the duty', the actual result and the sorts of things that the Commissioner will be able to do are likely to be very similar. The view that I place on record is, if in the circumstances that was not the case, at some future time I would seek to come up with some compromise wording and bring the matter back before the Council. But I am satisfied from discussions with the Commissioner that it is intended to be sensible and reasonable in respect of this provision in the Bill, and I do not intend to pursue my line of questioning in Committee.

Clause passed.

Remaining clauses (6 to 21) and title passed.
Bill read a third time and passed.

CRIMES (CONFISCATION OF PROFITS) BILL

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

No. 1 Clause 3, page 1—After line 31 insert new definition as follows—

'prescribed offence' means—

(a) any indictable offence other than one excluded by regulation;

or

(b) an offence against—

(i) section 34 (1) or (2) or 44 (1) or (2) of the Fisheries Act 1982;

(ii) section 63 (1) *(a)* of the Lottery and Gaming Act 1936;

(iii) section 51 (1) or (1a), 55 (1) or 56 (2) of the National Parks and Wildlife Act 1972;

(iv) section 117 (1) of the Racing Act 1976;

or

(v) section 28 (1) *(a)* , 37 or 38 of the Summary Offences Act 1953:.

No. 2 Clause 4, page 2, lines 26 and 27—Leave out 'an indictable' and insert 'a prescribed'.

No. 3 Clause 4, page 2, line 28—Leave out 'an indictable' and insert 'a prescribed'.

No. 4 Clause 4, page 2, line 29—Leave out 'an indictable' and insert 'a prescribed'.

No. 5 Clause 4, page 2, lines 31 and 32—Leave out 'an indictable' twice occurring and insert 'a prescribed' in each case.

No. 6 Clause 4, page 2, line 36—Leave out 'an indictable' and insert 'a prescribed'.

No. 7 Clause 6, page 3, line 2—Leave out 'an indictable' and insert 'a prescribed'.

No. 8 Clause 6, page 3, page 3, line 34—Leave out 'an indictable' and insert 'a prescribed'.

No. 9 Clause 6, page 4, line 23—Leave out 'an indictable' and insert 'a prescribed'.

No. 10 New Clause—Page 6, after line 40—Insert new clause as follows;

10. Payment into Criminal Injuries Compensation Fund.

(1) Subject to subsection (2), any money that is forfeited to the Crown under this Act or any money that is obtained from the sale of property that is forfeited to the Crown under this Act shall be paid into the Criminal Injuries Compensation Fund.

(2)Money derived from the forfeiture of property under this Act in consequence of the commission of an offence against section 32 of the Controlled Substances Act 1984, shall be applied, as the Attorney-General thinks fit, to assist in the treatment and rehabilitation of persons who are dependent on drugs.

The Hon. C.J. SUMNER: This Bill was debated in the House of Assembly and, following the removal in this Chamber of the capacity for the Government to prescribe offences additional to indictable offences that might be subject to the confiscation procedure, the Assembly inserted in the Bill certain specific offences that are dealt with summarily under a number of Acts.

In other words the Government accepted that this Council had rejected the proposition that by regulation offences other than indictable offences should be added to the list of offences subject to confiscation procedures. The offences which were identified as non-indictable, that is, summary offences, but which should nevertheless be subject to the Act were as follows:

Fisheries Act: section 34 (1), the offence of engaging in the business of fishing without a licence; section 34 (2), the offence of carrying on the business of fishing in an unregistered boat; section 44 (1), the offence of buying or selling fish that were not caught pursuant to a licence; section 44 (2), the offence of buying, selling or possessing fish caught in contravention of the Act.

Lottery and Gaming Act: section 63 (1) *(a)*, the offence of unlawful bookmaking.

National Parks and Wildlife Act: section 51 (1), the offence of taking a protected animal; section 51 (1) *(a)*, the offence of taking a protected animal of a rare or threatened species; section 55 (1), the offence of possessing an animal of a rare species without a permit; section 56 (2), the offence of possessing an animal of a prohibited species without a permit.

Racing Act: section 117 (1), the offence of unlawful bookmaking.

Summary Offences Act: section 28 (1) *(a)*, the offence of keeing or managing a brothel; section 37, the offence of obtaining money by false pretences from a charitable institution; section 38, the offence of obtaining money by fraud other than false pretences.

The Government accepted that we should not reintroduce into the Bill the proposition that other offences could be prescribed by regulation. However, it has come to the Government's attention that there may be some indictable offences in relation to which it would be inappropriate to apply the provision for the confiscation of profits, and the amendment from the House of Assembly therefore provided that, in addition to the summary offences I have just outlined and indictable offences, which are covered by the legislation, it should be possible to exclude by regulation from the scope of the Act any indictable offence, where it is considered appropriate.

One obvious example that arises in this context is the possession and cultivation of marijuana for personal use. Under the Controlled Substances Act, the clauses that deal with the confiscation of profits have excluded the offence of cultivation of marijuana for personal use from the confiscation procedures. If we proceed as was the original intent of the Bill, an offence, namely, the cultivation of marijuana for personal use, will be subject to the confiscation procedures, but it is not currently the subject of confiscation procedures under the Controlled Substances Act. Therefore, the amendment that was inserted in the House of Assembly was designed to add certain summary offences, as I have outlined, and to provide that the Government could exclude some offences that were indictable from the scope of the legislation. That seemed to be a not unreasonable proposition.

I should point out that the New South Wales legislation, which is part of a more or less uniform agreed package of confiscation of profits legislation, provides in the same manner as the measure under the Government's original Bill, namely, that offences could be prescribed by regulation to come under the legislation. As I said, that was not acceptable to this place, so we propose to specify those offences that I mentioned plus excluding from the definition of 'indictable offence' certain offences in relation to which it would not be appropriate for this Bill to apply. That is the effect and the nature of the amendments from the House of Assembly, except for amendment No. 10, which inserts a new clause, that is, a money clause, which was in erased type when the Bill was considered by the Committee previously.

I have circulated two additional amendments. One will add to the list of summary offences that are now to be included under the Bill, the effect being that section 60 of the National Parks and Wildlife Act, the possession of animals, eggs, or carcases illegally taken or acquired, is included. Therefore, in addition to those sections under the National Parks and Wildlife Act 1972 that I have already mentioned, the additional offence under section 60 of that Act will also be included. The second amendment is more of a foreshadowed nature in the sense that, if the Committee does not accept the notion that some indictable offences could be excluded by regulation, we would have to deal

with the offence I have cited, namely, the cultivation of marijuana for personal use.

If we were not to exclude that from the scope of the legislation, that would be an extension of the existing law. It ought to be borne in mind that only some two years ago, after some debate in this Council, the Parliament approved the Controlled Substances Act providing for an exclusion for personal cultivation of marijuana. So I do not believe that we should retreat from that position in this general Crimes (Confiscation of Profits) Bill.

The amendment I have foreshadowed really is based on the Council as a whole not accepting my original proposition, which I think is quite reasonable; namely, that we ought to be able to exclude certain indictable offences from the Act by regulation. Perhaps before I move my foreshadowed amendment to deal with the personal cultivation of cannabis, it might be an idea if members were to indicate their views on the amendments which have been moved by the House of Assembly and which I have explained, because if there is support for the amendments there may not be any need to proceed with the proposition that I have outlined relating to the cultivation of marijuana for personal use.

The Hon. K.T. GRIFFIN: I would certainly like to have a close look at the foreshadowed amendments before taking the matter further in the Committee stage. If it does no more than maintain the *status quo* with respect to the Controlled Substances Act insofar as the forfeiture legislation refers to drug offences, then I doubt if there is any good sense in opposing the amendment.

As members will recall, I very strongly opposed the weakening of the penal provisions of the controlled substances legislation insofar as it related to marijuana offences, but the majority of the Committee did not support my point of view, so if the foreshadowed amendment does maintain the *status quo*, it will probably meet no opposition from me. I think that it is important not to be able to prescribe out indictable offences by regulation, and I would hope that the Committee would insist upon that principle.

If the matter is to be considered again tomorrow I would like to raise a couple of other points in relation to amendment No. 1 made by the House of Assembly. It relates to the specific summary offences to which the confiscation of profits legislation is proposed to apply. Some of the summary offences might be put into a very broad category of being the sort of offences which—at least in other States, and I would suspect in this State—are committed by persons engaged in what we generally describe as organised crime. SP bookmaking has been identified in numerous royal commission reports as being a major area in which organised crime is involved, as it is in prostitution, and even in the export of protected species of animals and birds, so I would have no difficulty in accepting that they specifically should be included within the confiscation of profits legislation.

However, the application of the legislation to section 44 (2) of the Fisheries Act may well create some difficulties, and I would like the Attorney-General to have a look at this matter overnight. It deals with offences of taking fish of a prescribed class and taking fish in contravention of the Act. On my examination of the Fisheries Act, in the limited time we have had available in the midst of all this other legislation we are considering, it seems to me that that could really mean that the confiscation of assets legislation could apply to such offences as taking undersized fish from a jetty. I could imagine the schoolboy or schoolgirl fishing off the jetty, taking some undersized fish, and up rolls the inspector who says, 'You are committing an offence. We will prosecute you for that,' and the full weight of the confiscation of profits legislation could be brought to bear against the piggy bank and the school bank account. Maybe that is a bit extreme, but it could in fact apply to those minor offences, and the full weight of the confiscation legislation will be brought to bear on it with all of its connotations, which have been the subject of some criticism by the Criminal Law Association and, to some extent, by others in the public arena, such as the Council for Civil Liberties.

In relation to the National Parks and Wildlife sections, which are specifically referred to in the House of Assembly's amendment No. 1, section 51 (1) refers to the taking of protected animals. It may be that the full force of the confiscation legislation could be brought to bear on offences such as having a tortoise under your control without having the appropriate licence. That needs to be checked. I brought up in this place my experience with tortoises and the fact that I or my children have to have a licence to keep two tortoises is a ridiculous bureaucratic requirement. But supposing one of those was given to somebody else who did not get a licence; technically, there may be a breach of section 56 (1) of the National Parks and Wildlife Act, as in the case of a licence being required by somebody going up to the Murray River and taking one of the tortoises home as a pet, not knowing the full implications of the National Parks and Wildlife Act. This situation also applies to birds kept in captivity and native birds kept in captivity. Licences are required also for that. Then there is the requirement for quarterly returns, not just annual returns. If there is a breach there, it may well be that for those minor sorts of offences the full force of the confiscation of profits legislation is brought to bear, so I would like the Attorney-General to look at that, too.

I do not have any problems with illegal bookmaking, with keeping a brothel, false pretences, fraud and those sorts of offences, or with fishing, carrying on the business of fishing without a licence or in a fishery for which the licence is not issued, such as the recent case of the apparent illegal fishing in the Australian Bight. Those sorts of offences I can accept should be subject to this legislation, but I do not think it ought to be capable of being applied to those minor offences which would constitute a fairly serious impingement upon individual liberty and freedom. Will the Attorney-General examine that issue during the next few hours until we consider it again tomorrow, if he is kind enough to defer further consideration until the next day of sitting?

The Hon. M.J. ELLIOTT: I find the proposed amendments of the Attorney-General quite satisfactory, although I far prefer the foreshadowed amendment in relation to marijuana.

The Hon. C.J. SUMNER: I am not quite sure whether that means that the honourable member is prepared to accept the first amendment that has come from the House of Assembly, namely, the exclusion by regulation of certain indictable offences from the scope of the legislation.

The Hon. M.J. ELLIOTT: No, I prefer to keep the *status quo* and not to use regulation to do it.

The Hon. C.J. SUMNER: But you are happy with the sections that we have included within the legislation?

The Hon. M.J. ELLIOTT: Otherwise, yes.

The Hon. C.J. SUMNER: In reply to the Hon. Mr Griffin's question about the Fisheries Act and the like, the same argument could be applied to indictable offences, and this is the problem that we have with this legislation—trying to determine to which offences it should apply, given that there can be very minor examples of some offences and very serious examples of others.

For instance, larceny could be a very serious offence, or it could involve shoplifting, but if the honourable member wishes just to use the original definition that was contained in the Bill and which we supported, namely, an indictable offence, then presumably the taking of a packet of Lifesav-

ers from the local delicatessen could bring the individual within the scope of the Confiscation of Profits Bill, except that there would be no profit. I suppose that, if the court wanted to order the restitution of the Lifesavers, it could do so.

The Hon. K.T. Griffin: You already have a provision for restitution and compensation in the Bill.

The Hon. C.J. SUMNER: But I am saying that, just as there are certain summary offences which can be very minor, there are certain indictable offences which are caught up in this legislation. It is really a question of determining where to draw the line. The decision that has been taken is to say that the line is drawn by giving a discretion to the Attorney to decide in which cases there should be a prosecution to seize the assets. The same situation applies with fishing. I am sure that it is possible to make an enormous amount of money out of illegal fishing which can be done without a licence and which can cause great detriment to a very important resource in South Australia and to which the Bill should clearly apply. That is not an indictable offence. You can have an indictable offence which is very minor and to which it would be silly to apply the provisions of the Bill, as in the case of shoplifting. It is really a rather intractable problem.

Similarly, in relation to national parks and wildlife, if you have laws which protect native fauna, surely you ought to have this legislation covering those sorts of offences, because it is quite obvious that enormous amounts of money can be made from taking and selling birds and other forms of Australian wildlife. The trade in illegally caught and smuggled birds from Australia is well known as being very lucrative.

The Hon. K.T. Griffin: I am not arguing with that.

The Hon. C.J. SUMNER: So, the confiscation of assets ought to apply in that case. The honourable member says that he is not arguing about that, but the question is, if you do not argue about that, how do we cover that and not cover the honourable member's tortoises? I think that we have to decide that it be left to the discretion of the Attorney-General. I think, in the case of the honourable member's tortoises, there is probably no profit involved, so it would be difficult to use this legislation. You may be able to say that the legislation could be used to confiscate the car that the honourable member used to take his tortoise from the Murray River to home and put in his garden, but the notion of the Attorney-General doing that is really too absurd to contemplate.

On the other hand, if the honourable member decided that the trade in tortoises was very profitable and, instead of studying the Bills that were being introduced into Parliament, he spent every weekend at the Murray River collecting tortoises, putting them in his Pajero, bringing them to town, and selling them at the Central Market, then it may be that the Confiscation of Profits Bill should apply to him. In that case, I think one would agree with that, just as if he were more ambitious and caught Australian birds and smuggled them out of the country by flying to Indonesia or wherever. I am not suggesting that that is the next trade in which the honourable member intends to engage but, clearly, you would want the confiscation of profits provision to apply in that case.

The question is how to determine that where you have an offence on the one hand that can be very serious, and on the other can be very minor. It seems to me that the only way you can deal with that is by leaving the discretion in the hands of the Attorney-General on the basis that the discretion will be exercised where it is clear that profit has been obtained by, in effect, trade in this sort of activity. I think that applies equally to the fishing laws and to national parks and wildlife, but I do not think there is a problem with the honourable member's boy catching an undersized fish with a line from the Henley or Grange jetties. First, I am not sure that it is an offence to catch undersized fish with a line from a jetty.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: My recollection of the fishing laws is that you can catch anything from a jetty. I do not think that the honourable member's example was a correct statement of the law, but presumably the person would not have made any profit and therefore this Bill would not apply. On the other hand, if the person fished illegally and was doing it on a regular basis, selling the fish and exploiting the resource in a way which was detrimental to the public interest and the fishing resource, then clearly you would want the confiscation provisions to apply.

I do not think that there is any way out of the dilemma, except to say that the Attorney-General has the discretion to institute proceedings in appropriate cases, because you have the same problem with minor indictable offences in any event. It would appear that some members of the Council, through our rulers the Democrats, have indicated that they would not permit the exclusion of certain offences by regulation, despite the fact that I pointed out that New South Wales does not seem to have any trouble with that concept. It seems that some members will not agree with it and, that being the case, I will now turn my attention to the other amendment I have circulated and attempt to explain its purport. In summary, it attempts to retain the existing law relating to the confiscation of assets for the offence of cultivation of marijuana for personal use. In effect, it retains the law in its current state.

My amendment deals with section 32 of the Controlled Substances Act which refers to the manufacture, sale or supply of a drug of dependence, including *cannabis*, and provides that that is an indictable offence. Under section 32 (6), if the court is satisfied that the person produced *cannabis* for his own use, the penalty is $500, but it is still an indictable offence. The amendment to section 43, which is the amendment that I have circulated, repeals that section of the Controlled Substances Act but adds that producing or taking of *cannabis* can be classified as either an indictable or a summary offence.

Therefore, if we are dealing with the production of *cannabis* for personal use that can either be a trial determined in a summary manner or determined on indictment. If tried as an indictable offence but the court is satisfied that it was for personal use then for the confiscation Act the offence is to be deemed a summary offence. If the offence is tried summarily, which cannot be done now, the existing provision provides that all cultivation for personal use matters must be dealt with on indictment, and the court shall presume that the production of *cannabis* was for personal consumption.

That is an improvement on the present situation in that a person in future can plead guilty to a summary offence. A person cannot now plead guilty to an indictable offence if he has produced *cannabis*, etc., for personal use because he has to prove his defence; that is, that he produced the *cannabis* solely for his personal use. The amendment goes further than merely ensuring that production for personal use is not subject to forfeiture, which is the principal aim of the amendment, but it obviates the need for all production, etc., of *cannabis* offences having to be dealt with on indictment.

I think that in attempting to ensure that the law with respect to the confiscation of profits as far as the cultivation of *cannabis* for personal use is concerned is the same when this Bill is passed as it is under the Controlled Substances Act that we passed two years ago, we are also able to effect an amendment to that section of the Controlled Substances

Act which puts more rationality into the method of dealing with that offence by providing that the police can either charge summarily, and if in their view it can be dealt with summarily because it is clear that it is cultivation for personal use then the matter can be dealt with summarily and the person can plead guilty in the summary court. If the police feel that it is a much more serious offence then they can charge on indictment. I commend the amendment to the Controlled Substances Act which has those effects. If honourable members have questions I will attempt to answer them or, alternatively, I am happy to report progress knowing that matters have been fully explained and that honourable members will be in a position to make up their minds tomorrow.

The Hon. K.T. GRIFFIN: My preference is to have an opportunity to consider the matter overnight and deal with it tomorrow. I certainly want to have a look at the detailed amendments as well as the Controlled Substances Act. As I said when I spoke earlier, if this amendment treats the position of marijuana in no different a way from that which is already the law in the Controlled Substances Act, I, having lost my battle when that Act was before us in 1984, will not raise any major points on it during further consideration of this amendment, but I need time to consider it and would appreciate it if that time could be given.

Progress reported; Committee to sit again.

BEVERAGE CONTAINER ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendment.

AUSTRALIAN FORMULA ONE GRAND PRIX ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendment.

STATE GOVERNMENT INSURANCE COMMISSION ACT AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendment No. 1 but had disagreed to amendment No. 2.

BUILDERS LICENSING BILL

Returned from the House of Assembly without amendment.

TRAVEL AGENTS BILL

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

No. 1. Clause 3, page 2, after line 5—Insert new definition as follows:

'office', of a licensed travel agent, means a place from which the licensee carries on business:.

No. 2. Clause 5, page 2, line 33—After 'offence' insert 'or obliges the Crown in right of South Australia to hold a licence'.

No. 3. Clause 8, page 4, lines 28 and 29—Leave out paragraph *(c)* and substitute the following paragraph:

(c) that the trustees under the trust deed have certified—

(i) that the applicant is eligible for membership of the compensation scheme established by the trust deed; and

(ii) that the applicant will be admitted as a member of the compensation scheme on being licensed;.

No. 4. Clause 10, page 5, line 26—Leave out 'vary or'.

No. 5. Clause 10, page 5, line 27—After 'or' insert ', on the application of the Commissioner, vary such a condition or'.

No. 6. Clause 13, page 7 after line 15—Insert new subparagraph as follows:

(iiia) has failed to ensure that the business conducted from each office of the licensee is properly supervised by a person with prescribed qualifications;.

No. 7. Clause 13, page 7, after line 20—Insert new subclause as follows:

(g) For the purposes of this section, in determining whether the business of a licensed travel agent has been properly supervised or whether any person has acted unfairly in the course of carrying on business as a travel agent, regard shall be had to the provisions of any code of practice prescribed by regulation under this Act.

No. 8. Clause 17, page 8, line 3—Leave out 'person' and insert 'licensed travel agent'.

No. 9. Clause 17, page 8, line 6—After 'A' insert 'licensed'.

No. 10. Clause 18, page 8, lines 15 to 19—Leave out the clause.

No. 11. Clause 19, page 8, lines 30 to 32—Leave out subclause (3).

No. 12. Clause 20, page 8, lines 33 to 42—Leave out the clause.

No. 13. Clause 22, page 9, lines 10 and 11—Leave out paragraph *(a)* .

No. 14. Clause 22, page 9, line 12—Leave out 'and'.

No. 15. Page 10, after line 3—Insert new clause as follows:

23. *Compensation Fund*—(1) A compensation fund shall be established and administered by trustees appointed under the trust deed.

(2) There shall be paid into the compensation fund—

(a) the contributions required to be paid in accordance with this Part; and

(b) any amounts required to be paid into the compensation fund in accordance with the trust deed and any corresponding law.

(3) There shall be paid out of the compensation fund—

(a) any amount of compensation to which a person is entitled in accordance with this Part; and

(b) any amounts required to be paid out of the compensation fund in accordance with the trust deed and any corresponding law.

No. 16. Page 10, after line 16—Insert new clause as follows:

24. *Licensees required to pay contributions*—(1) Every licensee shall pay to the Commissioner for payment into the compensation fund such contribution as may be required by the regulations.

(2) If a licensee fails to pay a contribution, within the time allowed for payment by the regulations, the licence shall, by virtue of this subsection, be suspended until the contribution is paid.

(3) For the purposes of subsection (1), the Crown in right of South Australia shall be deemed to be a licensee.

No. 17. Page 11, after line 7—Insert new clause as follows:

26a. *Trustees subrogated to rights of claimant*—(1) On payment to a claimant out of the compensation fund, the trustees are, to the extent of the payment, subrogated to the rights of the claimant arising from the circumstances to which the claim relates.

(2) Where rights to which the trustees are subrogated under subsection (1) lie against a licensee or former licensee that is a body corporate, those rights may be enforced, if the trustees so determine, against the members or any one or more of the members of the governing body of the body corporate.

(3) In any proceedings for the enforcement of a right against a member of the governing body of a body corporate under subsection (2) it is a defence to prove that the member could not, by the exercise of reasonable diligence, have prevented the occurrence of the circumstances out of which the claim arose.

No. 18. Page 11, after line 7—Insert new clause as follows:

26b. *Name in which trustees may sue and be sued*—(1) The trustees may sue and be sued under the name 'The Travel Compensation Fund'.

(2) In proceedings brought by the trustees it shall be presumed, in the absence of proof to the contrary, that any provisions of the trust deed in relation to the bringing of proceedings have been satisfied.

No. 19. Clause 28, page 12, after line 1—Insert new paragraph as follows:

(ba) to the Commissioner of Police;.

No. 20. Clause 36, page 13, line 8—Leave out 'he proves that he' and insert 'it is proved that the member'.

No. 21. Clause 38, page 13, line 26—Leave out 'persons of a particular class' and insert 'specified persons or persons of a specified class'.

No. 22. Clause 38, page 13, line 27—Leave out 'transactions of a particular class' and insert 'specified transactions or transactions of a specified class'.

No. 23. Clause 38, page 13, line 28—After 'Act' insert 'or a specified provision of this Act'.

No. 24. Clause 38, page 13, after line 28—Insert new paragraph as follows:

(ab) prescribe a code of practice to be observed by persons who carry on business as travel agents;.

No. 25. Clause 38, page 14, line 4—Leave out 'this Act' and insert 'subsection (2) *(ab)*'.

The Hon. C.J. SUMNER: A number of amendments were made to this Bill in the House of Assembly. I think that I should explain generally the reasons for them and then I suggest that we take the amendments *seriatim* as they deal with different issues. In order to preserve uniformity with New South Wales and Western Australia thus ensuring that our legislation provides a proper basis for participation in the national compensation scheme, it has been necessary to move some amendments in the House of Assembly to the Bill as it passed the Legislative Council. The reason for that, and the reason that they were not contemplated or available for the Legislative Council, was that the Travel Agents Bill forms part of a cooperative effort by the States to develop a uniform scheme for the regulation of travel agents and for compensation of people who suffer loss when dealing with travel agents.

A vital ingredient of the scheme is a national compensation fund to be administered jointly by Governments and industry. Participation of the industry in this scheme depends entirely on the licensing legislation being substantially uniform and upon the legislation including provisions that will complement and will not derogate from the trust deed that will form the basis of the compensation scheme.

The New South Wales Government has been, on behalf of the States, conducting most of the negotiations with the travel industry to ensure that these objectives are met. The drafting of legislation in New South Wales and South Australia has been proceeding at the same time, which has created some logistical difficulties in ensuring uniformity. In order to ensure the passage of the South Australian Bill during this parliamentary session, it was necessary to introduce the Bill based on the agreement reached at that time and based on what was then the latest draft of the New South Wales Bill.

Since the passage of the Bill in the Legislative Council here the first time, a copy of the final Bill to be introduced in New South Wales has been received. This Bill contains some significant variations on the previous draft and therefore there have been further telephone conferences between officers in New South Wales, Western Australia and South Australia about those provisions that need to be made substantially uniform.

The proposed amendments reflect the result of those discussions and are necessary to ensure uniformity and consistency. The amendments, therefore, with which we will now deal are as a result of those discussions which have been ongoing and which it was not possible to anticipate in the Bill when it was introduced into the Legislative Council. I am sure that all members wanted to get a structure of a Bill in place during this session so that work could be done on it over the recess and the scheme could be introduced as soon as possible.

Secondly, some of the amendments picked up issues that were raised by the Hon. Mr Griffin in debate and, thirdly, some of the amendments returned the Bill in particular with respect to trust accounts to the position in which it was when introduced by me into the Legislative Council. That is by way of general explanation. Now, I respectfully suggest that we deal with each amendment in order.

Amendment No. 1:

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

That the House of Assembly's amendment No. 1 be agreed to.

This is an amendment to clause 3 which is the definition of office and which is consequential on an amendment to clause 13. It relates to amendment No. 6 dealing with clause 13 (3) *(a)*. I will speak to both of those. The amendment to clause 13 by insertion of a new subparagraph (3) *(a)* will require all persons who manage the day-to-day business of a travel agency to hold the prescribed qualifications. That will make the Bill uniform with legislation of other participating States. The licensee will not necessarily have to hold the prescribed qualifications, so the requirement has not been made part of the licensing criteria. The prescribed qualifications have yet to be determined, but it is anticipated that the criteria could be met either by educational qualifications or relevant experience in the industry. The code of practice for travel agents prescribed under the Acts would include some guidelines as to what amounts to proper supervision for the purposes of this clause.

The CHAIRPERSON: Honourable members can discuss the amendments together, but we will put them separately, in order.

The Hon. K.T. GRIFFIN: I have no great difficulty with those two amendments, but in relation to the amendment to clause 13 what does the Attorney-General envisage as being the prescribed qualifications for somebody properly to supervise an office of a licensee?

The Hon. C.J. SUMNER: I outline those in so far as I am able at this stage. It is anticipated that the criteria can be met either by educational qualifications or by relevant experience in the industry. But to date there has not been a determination of what those qualifications will be: that will be determined in consultation with industry while the scheme is being worked up.

The Hon. K.T. GRIFFIN: In relation to those two amendments, but I suppose also on a broader basis, is the Australian Federation of Travel Agents generally in agreement with all these amendments?

The Hon. C.J. SUMNER: That is correct, as far as I understand it. There has been extensive consultation with AFTA principally in Sydney but also in South Australia. I believe that they are happy with all these amendments that have been made.

The Hon. K.T. GRIFFIN: If all these amendments were passed, would the Bill be identical with the New South Wales Bill or are there still differences which take into consideration some of the matters we have raised during the earlier debate on the Bill?

The Hon. C.J. SUMNER: No. It will not be word for word uniform with Bills in New South Wales, Western Australia and Victoria, but it is as near as possible to uniform given the different approaches to drafting taken by respective parliamentary counsel in those States.

Motion carried.

Amendment No. 2:

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

That the House of Assembly's amendment No. 2 be agreed to.

The effect of this amendment is to exclude the Crown from the necessity of being licensed. The Crown is bound by the Act except with respect to the holding of a licence. An amendment moved in the Legislative Council provided that the Crown should be bound. That was agreed to by the Government except that the Crown was not to be liable to be prosecuted for an offence. There does not now seem to be any purpose in providing that the Crown should be licensed although it is clearly desirable that Crown agencies such as the State Travel Centre, State Bank and Commonwealth Bank who operate travel services should contribute to the compensation fund.

This amendment provides that the Crown is not required to be licensed. The Crown should not be required to apply for a licence and satisfy the sufficient financial criteria applied by the Commercial Tribunal; however, it is certainly proposed that the Crown should have to contribute to the compensation fund in the same manner as other licensees.

The Hon. K.T. GRIFFIN: I support the amendment. It is consistent with the principle that I raised during earlier consideration of the Bill, in particular that the legislation should bind the Crown.

Motion carried.

Amendment No. 3:

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

That the House of Assembly's amendment No.3 be agreed to.

This issue I think was raised by the Hon. Mr Griffin in the Council. The amendment solves the problem of the chicken and egg situation with respect to the membership of the compensation fund and application for a licence, that is, which thing should come first. The trustees created under the trust deed may want to know that an applicant is licensed before granting membership to the compensation scheme. This amendment will allow the trustees to indicate to the Commercial Tribunal that if the applicant is a suitable person to be licensed, he or she has sufficient financial resources to be a member of the fund, and will be admitted to membership once the Commercial Tribunal has granted a licence. The trustees will be able to issue a notice or certificate to an applicant, which the applicant can present to the Commercial Tribunal, indicating that on becoming licensed by the Commercial Tribunal he or she will become a member of the compensation scheme.

The Hon. K.T. GRIFFIN: I support the amendment. I am pleased that, notwithstanding the scepticism with which my earlier comments were greeted, we have now resolved the chicken and egg situation.

Motion carried.

Amendments Nos 4 and 5:

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

That the House of Assembly's amendments Nos 4 and 5 be agreed to.

The purpose of these two amendments is to make clear that the Commissioner for Consumer Affairs may apply to the Commercial Tribunal for a variation of the conditions of the licence or for a further condition or conditions to be imposed. The licensee himself or herself could apply at any time for a condition to be revoked or varied, but some statutory provision is necessary to enable the Commissioner to take action of this kind. Where such an application is made by the Commissioner, section 14 of the Commercial Tribinal Act will require the tribunal to give the licensee reasonable notice of the hearing and to give the licensee a reasonable opportunity to call evidence, examine witnesses and make submissions, etc.

The Hon. K.T. GRIFFIN: The Opposition supports these amendments.

Motion carried.

Amendment No. 6:

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

That the House of Assembly's amendment No. 6 be agreed to.

It is consequential on amendment No. 1.

The Hon. K.T. GRIFFIN: The Opposition supports the amendment.

Motion carried.

Amendment No. 7:

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

That the House of Assembly's amendment No. 7 be agreed to.

The new subclause is based on a similar provision in the Builders Licensing Act. Clause 13 provides that a person may be disciplined by the tribunal if he acts unfairly in the course of carrying on a business as travel agent. The new subclause provides that regard shall be had to any prescribed code of practice in determining whether a travel agency business is properly supervised or whether a travel agent has acted unfairly. I think that this matter was also raised by the Hon. Mr Griffin in previous debate in the Council.

The Hon. K.T. GRIFFIN: I support the amendment. Again, I am pleased that this matter is now consistent with the provisions in the Builders Licensing Bill and that it more appropriately and clearly defines the concept of unfairness.

Motion carried.

Amendments Nos 8 and 9:

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

That the House of Assembly's amendments Nos 8 and 9 be agreed to.

These are drafting amendments considered necessary by Parliamentary Counsel to ensure that clause 17 is consistent with the definition of 'authorised name'.

The Hon. K.T. GRIFFIN: The Opposition supports the amendments.

Motion carried.

Amendment No. 10:

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

That the House of Assembly's amendment No. 10 be agreed to.

This deletes clause 18 and is consequential upon the House of Assembly's amendment No. 6 which amended clause 13, to which we agreed.

The Hon. K.T. GRIFFIN: The Opposition supports it.

Motion carried.

Amendment No. 11:

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

That the House of Assembly's amendment No. 11 be agreed to.

The clause to which this amendment relates requires a travel agent to keep proper accounting records to record and explain the financial transactions and the financial position of the business. Subclause (3) presently provides that these records may be kept as part of or in conjunction with the records of any other business carried on by that person. The New South Wales Act on which the South Australian Bill is closely modelled does not have a provision equivalent to clause 19 (3). Following further discussion with New South Wales authorities, it is considered undesirable to permit composite accounts to be kept where a person carries on a business of travel agent as part of a much larger business.

For the proper administration of the Act it is necessary for the financial position of the travel agency's portion of the business to be properly ascertained for an examination of the relevant accounting records. This applies with even greater force to the compensation scheme, because the trustees would find it extremely difficult to monitor the financial position of a travel agency business if the accounting records were combined with, for example, those of a large retail store. Accordingly, the amendment deletes 19 (3).

The Hon. K.T. GRIFFIN: I am not sure that this is a good amendment by the House of Assembly. When we considered this matter earlier I pointed out that in a provincial rural town a business may operate an agency as a post office and insurance agent and may do a little bit of travel business, having a variety of agencies all of which being part of one business. If such a business is not able to keep its travel agent records as part of its wider recording system adopted for its overall agency business, it may well involve that small rural business in additional time, trouble and expense.

There is also the problem of what happens if the records are kept on computer. They may be separately identifiable but they are kept in conjunction with the records of any

other business. It seems to me that the elimination of subclause (3) will mean that, if a person runs a program on his computer for the business, even if he separately identifies within that computing program that part of the business that relates to the travel agency, that is not permitted. I would like the Attorney to deal with those two matters, because at first view the amendment appears to create problems.

The Hon. C.J. SUMNER: The deletion of this subclause would not mean that a travel agent could not keep his accounting records in conjunction with the records of another business. There would be no prohibition in that regard. Under clause 17 (1) it would still be possible for the travel agent to keep records in conjunction with those of another business, provided those records are necessary directly to record and explain the financial transactions and financial position of the business. I believe that what is being said is that it may be appropriate in, say, a small rural operation that carries on two or three businesses, including that of travel agency, and it may be easy to keep records in conjunction with other records that are readily accessible and readily understandable by anyone who wishes to inspect them. On the other hand, it may not be appropriate for a much larger organisation to keep those records mixed up with the records for the rest of its business, because it could not be deemed to be correctly recording and explaining the financial transactions and financial position of the business.

In other words, that business might be able to hide the travel agency business in the general scheme of things, and the tribunal might then take the view that it is not satisfactory for that business to keep accounts for the travel agency business in conjunction with accounts for the other businesses and that they will have to be separated. It would be a matter of a case by case decision as to whether the records are being kept correctly to record and explain the financial transactions and financial position of the business.

The Hon. K.T. GRIFFIN: I understand the difficulty, but the fact that subclause (3) was included but is now to be removed suggests that we might be taking away something that would prejudice people, particularly small business people. I now have my concern on the record and there is a regulation making power which prescribes accounting records that must be kept, I hope that in drafting those regulations that concern will be kept in view. I recognise that it is undesirable in larger businesses to mix the income of different businesses but, provided it is possible to separately identify the transactions, it seems to me that that satisfies the requirements of the clause. On that basis, I will not object to the amendment and I will let it go as it is.

The Hon. C.J. SUMNER: I do not think there is any disagreement with what the honourable member has said in regard to the Government's intentions. Those remarks will certainly be borne in mind. There is no intention to impose obligations on small businesses that are unworkable and unnecessary. As the honourable member pointed out, separate accounts may be necessary in the case of a large organisation and certainly that matter will be addressed in the regulations. We have no disagreement with the points made by the honourable member.

Motion carried.

Amendment No.12:

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

That the House of Assembly's amendment No.12 be agreed to.

This amendment deals with clause 20, which was inserted into the Bill by the Legislative Council and deals with trust accounts and the obligation on a travel agent to maintain a trust account. I said at the time that it was difficult to argue against that, but apparently it has been argued against quite vociferously by the industry. The fact is that none of the other participating States will include a trust account requirement. The Western Australian Act has already been passed without a trust account provision, and the latest draft of the New South Wales Bill, which will be introduced in the near future, does not include a trust account provision. The Victorian Bill has not been received, but it is expected to be very similar to the New South Wales draft.

Discussions with officers of the New South Wales and Western Australian Consumer Affairs Departments have indicated a strenuous opposition to the inclusion of trust account provisions. If trust accounts were effective, a compensation scheme would not be needed, although that is not necessarily the case. There is a compensation scheme and trust accounts as far as legal practitioners are concerned, and the compensation fund has been called upon on a number of occasions.

However, the experience in New South Wales has shown that trust accounts can be abused and many require costly Government administration. The Bill not only incorporates a compensation scheme: it also gives power to the Commercial Tribunal to investigate a travel agent where there is a danger that the business will fail. If the circumstances warrant, the Commercial Tribunal can impose suitable conditions upon the operation of the business to prevent loss to consumers.

In a submission to the then Federal Minister for Sport, Leisure and Tourism, Jetset Tours and 10 other parties including the ANZ Bank, the National Australia Bank, Travel Strength, Westpac Travel and Elders-IXL indicated that it might cost $3 000 per annum to operate a trust account. This additional burden on travel agents, who would already be required to pay licensing fees and payments into the compensation fund, would be onerous. Travel agents work on an extremely small profit margin and, if the proposed cost per annum of operating a trust account is correct, this would substantially reduce the profitability of small travel agents. The provision relating to trust accounts has been deleted from the Bill on the basis that I have just outlined.

The Hon. K.T. GRIFFIN: I am disappointed that the industry has reacted in that way. I suppose that I should not really be surprised: there was an argument against the trust account requirement in New South Wales. I had hoped that it would be accepted as one of the means by which honesty could be ensured within the industry. I accept that it is not the only answer, because even with legal practitioners there are periodically defalcations, notwithstanding some fairly extensive auditing requirements.

I suppose that in response to the argument that it has not worked in New South Wales one can only ask how many other cases there might have been if there had not been the trust account legislation, so the fact that there have still been some defalcations in New South Wales, notwithstanding the trust account legislation, is not in my view the only argument which might be put against having it in this legislation.

The amendment which I moved, which is now in clause 20, would not have come into effect if regulations had not been prescribed, so that it provided a framework for trust account requirements but no obligation. I suppose, looking at this scheme, maybe we ought to take it one step at a time: the travel industry is to be subject to a licensing system, a surveillance system and to contribute to a compensation fund. Perhaps that must be the first step in supervising the travel industry and protecting the consumer. If there are difficulties with the licensing system and the surveillance system, I think that in a couple of years further consideration ought to be given to a trust account system on similar bases as those who govern the legal practitioners' trust accounts.

Although I am disappointed, on the basis that we take one step at a time I will not to oppose the amendment from the House of Assembly. We should get the licensing system established, the compensation fund established and let the indusutry come to grips with that and work with it; let the licensing system demonstrate its value; and then, if there are still problems in terms of the use of funds gathered by travel agents, let us look again at trust accounts as, perhaps, yet another mechanism for providing further controls to ensure honesty and integrity within the travel industry. Reluctantly, that is my position. We will not oppose the amendment: we will see how all this works out in practice.

Motion carried.

Amendments Nos 13 and 14:

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

That the House of Assembly's amendments Nos 13 and 14 be agreed to.

These are drafting amendments consequential upon the amendment made to clause 8.

The Hon. K.T. GRIFFIN: We support the amendments.

Motion carried.

Amendment No. 15:

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

That the House of Assembly's amendment No. 15 be agreed to.

That is the erased type which is now part of the Bill.

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

Motion carried.

Amendment No. 16:

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

That the House of Assembly's amendment No. 16 be agreed to.

That is an erased type provision.

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

The Hon. C.J. SUMNER: The only change from the erased type is that the Crown is required to pay into the compensation fund. I did not want there to be any confusion.

The Hon. K.T. GRIFFIN: That is consistent with the amendment to clause 5.

Motion carried.

Amendment Nos 17 and 18:

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

That the House of Assembly's amendments Nos 17 and 18 agreed to.

It is necessary that the trustees under the compensation scheme have rights of subrogation to enable them to recover against a licensee or former licensee amounts paid out of the compensation fund in respect of the activities of that person. As the trustees have no separate corporate existence, it is also necessary that they be able to sue under the name 'Travel Compensation Fund'. These rights may be conferred only by statute, and cannot be conferred on the trustees by the trust deed itself. Accordingly, the amendment inserts two new clauses for this purpose.

Following discussions with other participating States, it has been agreed that the legislation should provide for a lifting of the corporate veil in appropriate cases. The right of subrogation against a body corporate will not be of any value if that body corporate is in liquidation or insolvent. Accordingly, clause 26a (2) provides that the rights of subrogation may be exercised by the trustees against the members of the governing body of the body corporate. However, if such a member establishes that he could not by the exercise of reasonable diligence have prevented the occurrence of the circumstances which led to the making of the claim, that member would not be liable under this provision. The two new clauses are considered to be an integral part of the uniform scheme.

The Hon. K.T. GRIFFIN: I have some difficulty with subclauses (2) and (3). There are already provisions in the Companies (South Australia) Code establishing the liability of directors of a body corporate. What this amendment seeks to do is not get at the members, and that means the shareholders, I presume, or the directors. The difficulty is that, in the amendment which is proposed, there are no criteria by which action can be taken against the members of the governing body, and that is a quite significant widening of power and goes further than the provisions of the Companies (South Australia) Code.

That Code sets out the criteria on which members of a body corporate may be pursued individually. I would like to move an amendment which I have not written out and have not had prepared but which would, in effect, delete subclauses (2) and (3) so that the trustees are subrogated to the rights of the claimant. But the provisions contained in the Companies Code in relation to the liability of directors would in fact be the basis upon which action may thereafter be taken against those members. It may be that, when one looks more carefully at that, we need to refer specifically to the provisions of the Companies Code, but I am very disturbed at the prospect of unlimited liability by members of a governing body without criteria being established as they are established in the Companies Code.

The Hon. C.J. SUMNER: I am not sure whether the honourable member's concerns are directed towards whether or not this amendment would mean that the corporate veil would be lifted to the extent that the shareholders of the company could be pursued.

The Hon. K.T. Griffin: Members of the governing body.

The Hon. C.J. SUMNER: If there is any doubt about that, we can tidy up the drafting. If the honourable member's only concern is that it lifts the corporate veil with respect to directors, except where the directors prove that they could not, by the exercise of reasonable diligence, have prevented the occuurrence of the circumstances out of which the claim arose, we would insist that the clauses remain in the Bill. If there is no material difference between this situation and that provided for in the companies legislation, no harm can be done by including it, albeit in an excess of caution, in this legislation. However, if the honourable member thinks that the drafting leaves some ambiguity about whether the corporate veil is lifted with respect to shareholders, I am happy to consider an amendment to deal with that problem.

Perhaps it could be dealt with by deleting the three words after 'determine' in subclause (2) so that it would then read 'An action will lie and the rights may be enforced, if the trustees so determine, against any one or more of the members of the governing body of the body corporate.' If the honourable member reads subclause (3), I do not think that there is any doubt that it refers to the members of the governing body.

The Hon. K.T. GRIFFIN: Section 229 of the Companies Code deals with the duty and liability of officers, and the obligation is placed on officers there defined to act honestly and diligently. Provision is made for a court which convicts an officer of not acting honestly or diligently, to also order recovery from the person as a debt due to the corporation any profit, or loss or damage. Under that section of the Companies Code there is a comprehensive scheme which deals with default by officers and they are as follows: director, secretary or executive officer; receiver or receiver and manager; official manager; liquidator; trustee administering a compromise or arrangement made between the corporation and another person or other persons.

It seems that what is happening here is that, regardless of the status of the body corporate, the trustee can in fact initiate proceedings against members of the governing body

of the body corporate. It worries me that it is inconsistent with the Companies Code and is not really establishing proper mechanisms to determine liability on the part of directors. It is a different matter to say that the directors are guilty of the same offence of which the body corporate is guilty, unless they prove that they could not, by the exercise of reasonable diligence, have prevented the occurrence of the circumstances of the offence. There, the onus of proof is beyond reasonable doubt, but in this instance it seems to me that it is on the balance of probabilities.

It is a much wider liability where the onus on a member of the governing body is reversed and it is determined on the balance of probabilities. There is no question of any offence having been committed as is required under section 229. In the short time that I have had to look at the amendment and the Companies Code, I express the real concern that subclauses (2) and (3) go very much wider than section 229 of the Companies Code. There is also the potential, at least, for some injustice. I do not want to see that go into the legislation without further and more detailed consideration.

The Hon. C.J. SUMNER: It is true that this does take the matter somewhat further than the Companies Code and it is not, as I indicated before, just an excess of caution. I think that the honourable member has correctly identified the situation, namely, that to trigger the operation of the Companies Code there is a need for there to be a criminal offence established against the directors. Under this amendment it would be possible to pursue the directors for a debt owing civilly even though no criminal offence was established. However, the defence would still be available to the directors that they could not have by the exercise of reasonable diligence prevented the occurrence of the circumstance out of which the claim arose.

The reason for having this somewhat more extensive power in the Travel Agents Bill is simply that by the use of the corporate veil directors of companies could avoid their obligations to their clients, could then rely on the compensation fund to reimburse the clients and then the compensation fund could not be reimbursed by the corporation that they are directors of because of the corporate veil.

As I understand the position, industry feels that that is not satisfactory, although I can perhaps check that. I would expect them to find that unsatisfactory because the compensation fund would then have to be supplemented by those people in the industry who were reliable and solid financially when some companies might have gone into liquidation and the directors, because of the corporate veil, would have no obligation to meet any of the debts that the compensation fund had incurred because of its payment to clients of the travel agency that had defaulted.

Unless there is a provision of this kind one has, in effect, the responsible and financially sound parts of the industry providing compensation for the less sound parts of the industry without any rights for the compensation fund to claim against those less sound parts of the industry where there is a company involved, because the directors can just hide behind the corporate veil. I do not think that that is a satisfactory situation. The failsafe mechanism is there, namely, that the directors can escape their civil liability if they prove that what happened in their company could not have been prevented by the exercise of reasonable diligence on their part. I think that unless you have that lifting of the corporate veil in this Bill then there is a capacity for injustice to those who must contribute to the compensation fund.

The Hon. K.T. GRIFFIN: It is a complex question; I do not deny that. It was not until the amendments were received from the House of Assembly just prior to the dinner adjournment that we had an opportunity to look through them. I repeat that I am concerned at what appears to be an extension of liability of the members of a governing body of a body corporate and that whilst I certainly do not want to protect those who are unscrupulous—and I do not think that we would be protecting them by deleting subclauses (2) and (3)—I want to ensure that there is no potential for injustice.

I am not sure how we resolve this matter. I suppose we will get an indication if I move to strike out subclauses (2) and (3) and we can then get an indication from the cross-benches as to their attitude to the problem and resolve it possibly without a division.

The CHAIRPERSON: Are you so moving?

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

To amend the House of Assembly's amendment No. 17 by striking out subclauses (2) and (3).

The Hon. M.J. ELLIOTT: I have been listening intently to the two lawyers talk over something couched in some legalese. I will be supporting the Government in what it has here at this time because I have not heard sufficient argument to do otherwise. I believe that too often directors have abrogated their responsibility and I am certain that not only in this case but in many other parts of the law similar things should be included.

The Hon. K.T. GRIFFIN: If I lose the motion on the voices I will not call for a division. What I will do in years to come is send directors who suffer injustice to the door of the Democrats.

The Hon. K.T. Griffin's motion negatived.

The Hon. C.J. Sumner's motion carried.

Amendment No. 19:

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

That the House of Assembly's amendment No. 19 be agreed to.

Clearly, any person involved in the administration of this Act should be able to report to the police any evidence of fraud or other conduct which would more properly be investigated and dealt with by the police. Clause 28 as presently drafted would prohibit this. The amendment specifically recognises that information may be communicated to the Commissioner of Police.

Motion carried.

Amendment No. 20:

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

That the House of Assembly's amendment No. 20 be agreed to.

This is a drafting amendment to ensure that the Bill is consistent with the Government's policy of non-sexist drafting.

Motion carried.

Amendments Nos. 21, 22 and 23:

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

That the House of Assembly's amendments Nos. 21, 22 and 23 be agreed to.

These three amendments to clause 38 are designed to provide greater flexibility in power to grant exemptions. Exemptions are presently restricted to persons and classes of transactions and may be granted only in respect of the whole Act. These amendments will allow, for example, a single individual to be exempted from the operation of all or part of the Act; for example, a small country travel agent could be exempted from certain provisions of the Act which could be met easily by travel agents in the city but which would be difficult to comply with in the country.

Motion carried.

Amendment No. 24:

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

That the House of Assembly's amendment No. 24 be agreed to.

It was designed to flesh out the reference to a code of conduct in clause 38 (4). That subclause deals with how a code of practice may be prescribed, but the clause as presently drafted does not specifically confer a regulation making power to prescribe a code of practice.

Motion carried.

Amendment No. 25:

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

That the House of Assembly's amendment No. 25 be agreed to.

Motion carried.

POULTRY MEAT HYGIENE BILL

Adjourned debate on second reading.

(Continued from 4 March. Page 801.)

The Hon. PETER DUNN: I support the Bill, although I have many reservations about its purpose. It will not improve the product markedly. We can look at the figures showing the number of people in South Australia who have become ill from what is predominantly salmonella infection. There are some cases, but when I rang the Health Commission its officers were unable to give me any definite figures. So, if it was a problem they would have told me.

What else does the Bill do? It allows South Australia to export its poultry products interstate. At the moment New South Wales and Victoria have said that they will not accept our processed poultry because it has not been inspected. I questioned an adviser from the Department of Agriculture who had told me we were not exporters, but he could not produce the figures. All in all, it appears as though the poultry industry runs without many figures at all. It is hard to determine whether it has really got its act together.

I do not believe that the South Australian Chicken Meat Council believes that this provision is necessary, because it sent a circular to the then Minister of Agriculture when this Bill was first introduced. I spoke to it at some length at that time. In its letter to the Hon. Frank Blevins (then Minister of Agriculture) the Chicken Meat Council stated:

> We believe that the competition in South Australia is the strongest in the nation and this in itself ensures that only first grade product is placed on the market. Failure to meet competition sees any product from a substandard processor automatically withdrawn from the shelves and a competitor put in its place.

That is the crux of this Bill. That speaks volumes for the Bill. In other words, what is the use of the Bill? Will it improve productivity and bring more money to the producer? What will it do?

As the Minister said in his second reading explanation, we have 39 producers in this State. What will the Bill do to those 39 producers? I believe it will reduce the number of producers, because standards will be imposed on poultry processing works that may make it difficult for some to remain viable. As is indicated in the South Australian Chicken Meat Council's letter, there is great competition in this State. Obviously, there are thin profit margins so we can assume that it will not improve productivity. It is doubtful whether the health of the State will be much better because of it; there is certainly no evidence of that.

Again, it is regulation for regulation sake, which seems a pity. I read in today's paper that we have probably the least number of millionaires or wealthy people in the Commonwealth, which is some indication of the way in which we are going right down the line so far as wealth goes. It is reasonable to assume that each time we put an impediment in the way of this industry, we add a cost to it which it really does not need.

Bringing it into line with the Eastern States has some merit. I presume they do not want to take our product, because they believe that it is not up to standard, so the Bill will have some merit in raising the standards of hygiene to a satisfactory level for those people. However, it has inherent problems that I mentioned when the Bill was first introduced. I say consistently that instead of spending money on putting inspectors into the system if we upgraded facilities such as poultry slaughter houses using that amount of money, and put it into advertising correct methods of handling poultry we would not have the problems that were supposedly apparent as we heard in the Minister's second reading explanation.

Those problems, of course, are cross-infection with salmonella. I have a report of the Metropolitan County Board of Health which mentions a number of incidents of infection in different foodstuffs, which I presume were taken at random.

I shall read these figures into the *Hansard* record. Of 30 samples of whole chicken, 25 were satisfactory and five were unsatisfactory. They had salmonella infections in them. In relation to chicken pieces, six were tested, and three of them had salmonella infection. Twenty-one samples were taken of the bag of liquid that the chook had been in and those samples were satisfactory. Twenty-two samples of tray liquid were tested, and 21 were satisfactory, with one being unsatisfactory. In relation to cooked chicken, eight samples were taken, no infection was found and all samples were satisfactory. In relation to corned beef, of eight samples taken two were satisfactory and six were unsatisfactory, as they had high platelet counts.

Not only chicken but other foodstuffs as well cause problems. For instance, 30 samples of paté were tested; 18 were found to be satisfactory, with 12 being unsatisfactory. Problems do not occur only with chicken: for instance, eight chicken sandwich samples were tested, and they were all satisfactory. So, it does not ring true to say that chickens are a great problem.

The Hon. I. Gilfillan: Did they do any sampling at Parliament House?

The Hon. PETER DUNN: No, our food here wouldn't kill a brown dog—it is better than that. However, one of the problems in relation to infection and cross-infection arises from the rapidity with which big processors process their birds. They can process up to 4 000 birds an hour, and in so doing they seek to chill those birds rapidly, and they do so by dipping them in iced water. There are two reasons for this: one is to lower the temperature of the bird before it goes into a freezer, and the second is that a hot carcase takes up a certain amount of liquid when it is rapidly cooled, and then when it is snap frozen that liquid and fluid becomes part of the carcase and thus adds to the weight and in a sense is worth money.

Perhaps we should be looking at changing that method. It seems to apply across the board, even in relation to the relatively small producers who dip chicken carcases in a running bath of iced water. I would think it would be better if the chickens were not washed but put into cold air in a cold chiller. Air circulated in a chiller would have an equally good effect without allowing for cross-infection. One infected bird can rapidly infect a number of others. All cold water on birds does is simply keep the germs alive; it chills them and keeps them alive until the carcase is warmed again either intentionally for consumption purposes or accidentally while being transported. So, there is a problem in that regard and we should have addressed that situation rather than the matters presently in the Bill.

It was said in the Lower House that this Bill is the Manos Bill. That is probably not far from the point. As members would know, Mr Manos put advertisements in the *Advertiser* just before the last election, and this is probably the pay-off for him. He is a very big producer; this will no doubt reduce some of his competition. The name applied to the Bill in the Lower House is probably apt, for that reason.

The Hon. T.G. Roberts: You aren't that cynical, though, are you?

The Hon. PETER DUNN: No. I just happen to think that that statement made in the Lower House is fairly accurate. We should be promoting self regulation in the industry. The regulation could be formulated quite easily by negative licensing. We went into that matter in detail when the Bill was last before us. I shall not go through the matter in detail at this time; perhaps it can be explained more clearly by some of my colleagues on this side of the Chamber.

In a sense it is hard to understand the principle of this Bill. It will cut out the little primary producer who kills, say, 40 or 50 chooks a week, perhaps not even that many. However, a certain number of birds can be killed for Christmas, perhaps chickens, turkeys, geese and ducks. The kids may have fed the birds all year, and then mother might help pluck, draw and clean them up. I can assure members that those birds would be extremely clean when taken to the market, and they are well accepted by the community. However, this Bill will put paid to that. It will prevent such activities by small producers, who quite often live some distance from the city. They produce a few birds for local consumption, but under this Bill they will have to transport those birds away to satisfy demand elsewhere. It will be deemed to be more hygenic, but I can see no justifiable reason for that opinion. No outbreaks of infection of any consequence appear to have occurred. I think the costs arising from the Bill will be great.

I asked the Department of Agriculture to brief me on this matter. I asked specifically whether any extra inspectors would be required. I also raised this matter during the second reading debate previously. I was told that there were plenty of inspectors to do the job. That begs the question of whether they have enough work to do now in the red meat industry, or perhaps they will not inspect the places in question. I am amazed to find that no extra inspectors will be required and that the costs will not go up. It is difficult to believe, because making an inspection of 39 premises and ensuring that they are up to date must involve a cost. Even if local government picks up that job, costs involved will increase because someone will have to be employed, thus incurring a further cost. I suggest that negative licensing would involve considerably less cost.

I said quite a lot about this Bill when I spoke on it previously. I do not think anything else needs to be said, except that I would like to see negative licensing introduced in relation to the Bill. I am aware that interstate pressures are compelling us to fall into line with procedures undertaken in other States, but I am not sure that we should necessarily go to that extent in this Bill. It seems to me that the Bill will promote the build-up of a heirarchy, another QUANGO type arrangement in the State, in which various people will be employed. I do not think that that will help the industry or the primary producers in any way. As I have pointed out, producers in this State are very competitive: if a product is not up to standard it is replaced very quickly with that from a competitor. That is the way the market should operate, with good clean competition.

The Hon. J.C. BURDETT: I support the second reading. It is apparent from the second reading explanation that there is a real health problem, at least potentially so, in regard to the processing of poultry meat. Matters relating to that have been explained in the second reading explanation of the Bill. The Hon. Mr Dunn has a lot more knowledge than I have of actually processing poultry meat and of the industry in general, but it is clear to me that there does seem to be at least a potential health problem. The Hon. Mr Dunn suggested that the health problem has not been greatly documented. However, it does appear to exist.

I support the Bill and the Government in trying to control a health problem that is apparently occuring in the community. It is proper when such a problem is identified to do something about it. When a problem like this occurs in the community that requires some sort of control, we should decide what sort of control is needed. Do we need a heavy handed bureaucratic licensing system or can the problem be tackled in another way, perhaps in the way referred to by the Hon. Mr Dunn, as negative licensing. There are some areas where greater controls are required and where positive licensing is necessary, so that negative licensing is not satisfactory. For example in relation to a licence to drive a motor car, obviously there must be a positive licensing system. Few people at this stage would say that the liquor licensing area could be dealt with by negative licensing.

For some years people who have been interested in industry control, where necessary, have recognised the merit of negative licensing, avoiding bureaucratic control where that is appropriate. I know that the Hon. Mr Sumner and I have supported this method in appropriate cases. I suggest that it may be appropriate in this case. The negative licensing system is so called because a licence is not issued and in this case the producer would not be licensed, as is contemplated by the Bill in its present form. We would set down a code of conduct or a code of hygiene, setting out the health standards that must be observed, and they would be worked out by the Government and the department (in this case the Department of Agriculture) in conjunction with the industry. They would be given the force of law through regulations, and this is contemplated in the amendments that the Hon. Mr Dunn has placed on file.

Under those amendments the industry is the consultative committee and one of its functions is to recommend the making of regulations under the Act. Recommendations would be made to the Minister so that ultimately I guess this measure would be under the control of the Minister and the department. That is part of the negative licensing principle: a licence is not issued, hence the term 'negative licensing'. The Government in conjunction with the industry sets out a code of conduct (in this case, basically, a code of hygiene regarding the way in which health problems can be overcome). If there is any complaint against a member of the industry for breach of the code, there must be some sort of tribunal to hear complaints. In accordance with the amendments that the Hon. Mr Dunn has placed on file, that tribunal would be the court (the same court as referred to in the Bill, namely, the district court).

The penalties are high—$5 000—and the Hon. Mr Dunn's amendments provide that a court convicting a person of an offence against a certain subsection may upon the application of the prosecutor order that the person be disqualified from holding or obtaining registration of any poultry processing works or any specified poultry processing works under the Poultry Meat Industry Act 1969 indefinitely, for a specified period or until further order. That is part of the standard negative licensing procedure. A licence is not issued, but the Government and the industry work out a code that must be adhered to and provide for an authority (in this case the court—and there could not be a better authority than that) to hear complaints, impose penalties and restrain

the offender from operating in future either indefinitely or for a specified period.

As I have said, this sort of procedure is commonly called negative licensing because a licence is not issued. It is also commonly called co-regulation. The Hon. Mr Dunn said that he believed in self regulation of industries, and that is fine where we can be sure that all members of the industry will comply if there is an industry organisation, but sometimes we find that the members of the industry who least comply are those who do not belong to the industry organisation. So the term 'co-regulation' connotes the cooperation between the Government and the industry. We would not just have to rely on an industry association: there would be a code of conduct that has the force of law, and that is exactly what the Hon. Mr Dunn's amendments will do. I will not refer in detail to those amendments: I will do that in Committee.

The Hon. Mr Dunn has proposed that, instead of a heavy handed licensing system under which the 39 producers in the State would be licensed and another bureaucracy would be set up, we would simply provide a health code of conduct, which will take care of the problems. I am most aware of the problems outlined in the second reading explanation, and they must be addressed. There must be some sort of effective control that will prevent what could be a very severe health hazard in the community. The problems do not have to be addressed by a heavy handed licensing system; the system proposed by the Hon. Mr Dunn would be quite satisfactory. By setting up a consultative committee with substantial industry representation to recommend to the Minister the making of regulations and by making regulations which have the force of law and which set out the matters with which the members of the industry have to comply and the health standards in as full, as strong and as enforceable a way as could be done under the Bill even if it is not amended, those regulations would have the full force of law setting out what must be done in order to ensure proper health standards.

If a breach of the health standards is suspected, a complaint can be made to the court, which can impose a substantial penalty and can also restrain the offender concerned from carrying on with his processesing either indefinitely or for a specified period. That would seem to cope with the situation without going overboard and without all the adverse effects outlined by the Hon. Mr Dunn. I support the second reading, and I believe it is very necessary to have controls where a health hazard has been identified. We should be careful not to go overboard but simply to take those measures that are necessary to cure the evil. I support the second reading but indicate that I will support the amendments which the Hon. Mr Dunn has placed on file.

The Hon. R.J. RITSON: I support the second reading of this Bill and will be supporting the Hon. Mr Dunn's amendments. Although none of the second reading speeches mentioned in detail the matter of concern that is to be dealt with, I thought that I would take this opportunity to describe to honourable members the specific nature of the problem. It is a problem which is a cause of anxiety to public health officers employed by the Health Commission.

The poultry which are bred for human consumption on occasions carry a food poisoning organism as a normal component of their gut bacteria, and this organism can be quite specifically identified by testing. The organisms in a sense have a finger print, so that when those organisms turn up, not just in chicken meat but elsewhere in the community, they can be identified as organisms that probably came from poultry.

They can be transmitted from poultry into other foodstuffs and cause poisoning in a number of ways. They can be isolated in thaw water of both commercial and domestic refrigerators, so that a person may not buy a chicken but may buy some other item of food which, due to handling in a supermarket, has been contaminated with thaw water from a contaminated chicken.

It is possible in the home, for instance, to cut up a raw chicken on a chopping board; another person then may make a sandwich on the chopping board; the chicken is cooked and the organism cannot be found in the chicken because it has been cooked, but it turns up in the sandwich. Nevertheless, the work of the Health Commission, which involves typing and tracing these organisms found in food poisoning cases, indicates that the poultry industry is a significant contributor to the general pool of food poisoning in our community, and chicken meat is regarded as bacteriologically more unclean than other forms of meat.

As I said at the outset, only a few birds in each batch are involved in this way, but this is where the problem with processing comes in, because the large producers have production line methods which involve mechanical evisceration (that is, mechanical gutting). If the mechanical eviscerator should happen to pierce the bowel of a bird carrying these organisms, that contamination is spread to every other bird that goes through that instrument. The next problem is that the birds are chilled quickly to reduce their temperature from body temperature to a temperature at which they will not deteriorate, and they are chilled by being placed in iced water. The problem there is that, if one contaminated bird should go into that iced water, all the other birds being cooled in this way will be contaminated.

I understand that public health officers want some modification to the equipment involved in the mechanical evisceration, and they want the processors to re-equip with cold air chilling instead of iced water chilling, and in that way the cross-contamination from one bird to a whole batch of birds will be diminished.

The whole pool of salmonella and other food poisoning organisms will be likewise drastically diminished. I cannot but support the Government in its intention to do that, and would not therefore like to see the Bill defeated in its entirety. However, for the life of me I cannot see why one has to look, on every occasion that we want to regulate anything, to a system of positive licensing; a system where one says, 'Nobody may perform a certain function unless they have the licence,' which involves the bureaucracy of the application for the licence, the licence fee and the renewal of the licence just so that there is then the added sanction that people who do not comply with regulations may lose their licence.

The only advantage of that system is habit. The only reason that we do it is that we have always done it that way. It is a pity that the phrase 'negative licensing' has now become jargonistic because, like 'privatisation', it makes the ears go numb. All that is involved is a set of regulations, a statutory requirement for people to do the things which the health officers want them to do in their processing, and a penalty for the people who do not comply—without the formality of the application for a licence, the fee and the annual renewal.

There is absolutely no reason at all why the Bill cannot be passed in a form as will be moved by the Hon. Mr Dunn, which simply requires the changes that the public health specialists want under pain of penalty full stop. In fact, the amendments have some other provisions which I think have merit in that they involve a phasing-in consistent with giving some consideration to an industry which is going to have to alter its equipment. It involves the setting up of a consultative committee so that the industry itself can have some input into the way in which these provisions are enforced. I do not quite understand the anxieties for the

small producers, and I certainly do not believe that this legislation is motivated by a desire to get rid of the small producers.

It has been said that the small producers will not be able to conform with the new requirements and, therefore, will go out of business, but I cannot quite understand that. Indeed, if a person is processing (as somebody said) 30 or 40 birds a day, I really do not think that they will have a production line and be required to have cold air chilling facilities. There is no reason why a separate set of practices cannot be devised and regulated for small producers who do not use automated evisceration. I do not see why the public health officers cannot in a different way keep an eye on the different processes that may be used by the small producers.

In closing, I heartily support the need to gain further control over the bacteriological problems which we have come to understand in recent years. I believe that it can be done without licensing by the simple provision of penalties for people who do not comply with requirements laid down by duly appointed officers and, for that reason, support the second reading and urge the Council to support the amendment.

The Hon. BARBARA WIESE (Minister of Tourism): The Government does not accept the amendments which will be moved by the Hon. Mr Dunn. We are very concerned that this legislation should be passed in order to provide for a non partisan authority to impartially administer the legislation proposed, which is designed to provide to poultry processors clear standards for construction and hygienic operation of their plants. Comparable standards are available and practised by people in the red meat industry in this State and there is no reason why poultry producers should not be subject to the same sort of standards. These standards have already been adopted in other States of Australia and this would really bring us into line with those States.

It would be in accord with an Agriculture Council agreement which was originated in 1976 and which has been restated at intervals since that time. Standards of hygiene in operation, as will be provided in the regulations to this Bill, independently monitored, supervised, and verified, must be available to South Australian poultry processors if they wish to move their product into States where processors are already subject to those standards. The absence of verifiable standards in this State has already led to some operators in South Australia having to subject themselves to inspections by people from other States at their own expense to prove that their product is acceptable to people in those States.

The Bill is oriented towards benefiting consumers of poultry in South Australia as well as setting standards for the people who are processing the poultry. It also will benefit poultry processors, since all of those processors will know that no operation in this State is advantaged over their competitors with respect to standards of construction and operation. The interstate market will be more readily accessible to those processors who aspire to sell to people in those other States. The cost to the Government of this proposal is relatively small and the cost to processors will vary, depending upon the current hygienic state of their plants. At the moment, there is great disparity between the best and the worst processors in South Australia.

Competition between processors will keep the cost to consumers to a minimum, but the benefits to this important group of people will be the knowledge and real protection that will be provided by uniformly high standards of poultry processing impartially monitored by the people we propose will do the job. This legislation has been talked about in South Australia for some four or five years, so people have been warned that it is coming and there is a feeling that the industry is ready for it. Draft copies of the Bill were circulated to people in the industry for their comment, and the Department of Agriculture received no unfavourable comment at all about the legislation.

With respect to the regulations which will accompany the legislation, already there has been vast consultation but, before they are actually brought before the Subordinate Legislation Committee, there will be further extensive consultation with people in the industry to ensure that the regulations are reasonable and fair before they are finalised. There has been very broad consultation within the industry amongst large and small processors and there is support for it, so I ask honourable members to accept the Bill.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Amendment of Poultry Meat Industry Act, 1969.'

The Hon. PETER DUNN: I move:

Page 1, lines 26 and 27—Leave out the definition of 'the Authority'.

All other amendments are consequential, so this is really a test case. The Minister said that the industry had been well warned about this Bill. I have in my possession a letter from the South Australian Chicken Meat Council to the Hon. Frank Blevins (who was the then Minister), which states:

Dear Sir,

I am writing at the request of members of the Chicken Meat Council in relation to the proposed Poultry Meat Hygiene Bill. The contents of the Bill have been discussed by our industry and the Department of Agriculture on a number of occasions and we were at the stage where Dr Robertson had agreed to give us a draft copy of the Bill to review prior to going to Parliament. This action appears to have been neglected.

So, I do not know that the Minister is quite correct in saying that the industry was well briefed on it.

The Hon. Barbara Wiese: What date is that?

The Hon. PETER DUNN: May last year. I do not know whether that happened after the sending of this letter but, at that stage when the Bill was introduced, it had not happened. This amendment has been very well explained by the Hon. Mr Burdett. It is a method of negative licensing setting up a group of people to advise and assist the Minister in drafting regulations for the control of the industry. I think that that is perfectly proper. There is no point in spending a lot of time on this, because it is a method by which the industry can be controlled. It is quite complex and I think we could treat this as a test amendment.

The Hon. BARBARA WIESE: I indicated earlier that the Government does not accept this or any of the amendments proposed by the Hon. Mr Dunn. Our reason for this is basically that we do not believe that this is a reasonable way to attempt to provide the sorts of standards that the Government believes are desirable in this industry. The sorts of proposals put forward by the Hon. Mr Dunn will not provide the sort of intervention that is necessary to provide protection for people.

These proposals are suggesting that a consultative committee which is dominated by processors should be making the rules and that no regulations should be promulgated unless they make recommendations to the Governor. That completely ignores the principle to which I thought most parliamentarians adhere, that there should be some accountability to the Minister and to the Parliament. However, the amendment has failed to provide that.

The Hon. R.J. Ritson interjecting:

The Hon. BARBARA WIESE: No.

The Hon. R.J. Ritson: You must have a licence, must you?

The Hon. BARBARA WIESE: I think so, yes.

The Hon. R.J. Ritson: You cannot think of any way of having regulations and penalties but no licence?

The Hon. BARBARA WIESE: No.

The Hon. R.J. Ritson: Then you had better go back and license everything else that is regulated.

The CHAIRPERSON: Order!

The Hon. BARBARA WIESE: In other areas governed by legislation of this kind licences are part of the process and it seems reasonable that that should be the case with the poultry processing industry, as well. These amendments also fail to recognise the reality that the poultry processing industry in South Australia favours the provisions of this Bill: that is something that seems to have been overlooked by members of the Opposition. It also overlooks the fact (or chooses to ignore it) that the authority which already exists is well practised in impartial administration of food processing industry legislation.

There are a number of reasons why this amendment is not reasonable. I do not understand why the Opposition is opposing it when we already have legislation in place to cover other food products. The method for policing it works perfectly well in other areas.

The Hon. J.C. BURDETT: I support the amendment. I did not disagree with anything that the Minister said in her second reading reply. Certainly, the sorts of controls about which she was talking ought to be imposed. The question is how they should be imposed. Certainly, competitiveness, as she said, is something that comes into the matter. However, in her second reading reply she did not really make any suggestion about what is wrong with this proposed method of control. When she spoke just now during the Committee stage she said that the amendments on file in the name of the Hon. Peter Dunn do not provide the necessary standards and the necessary intervention. I would like her to explain why, as I think that they do. The standard or methods of setting up the standards are there and the possibility of intervention is there.

The Minister suggested that the amendments provide that the regulations must be recommended by the committee, which has a large number of producers on it. That is not the case. One of the functions of the consultative committee is to recommend to the Minister the making of the regulations under the Act, but there is no provision that they can only be made in that way. The regulation making powers in the Bill are not taken away. The Minister could make the regulations without the recommendation of the consultative committee, if that became necessary. The Minister suggested that in all cases such as this the licensing procedure was that you do have licensing and do have the bureaucratic procedure. That is not the case.

As I explained before, negative licensing is well accepted. It is adopted in appropriate cases by this present Government. One example is with regard to letting agents. The Bill that controls them was introduced by the Attorney-General and provides for a negative licensing system and not a positive licensing system. I do not see that anything that the Minister has said suggests that there is anything wrong with the method proposed by the Hon. Peter Dunn's amendment.

The Hon. BARBARA WIESE: I will deal with the matter of negative licensing first. The point that we are making about this legislation is that it is providing national uniformity. This Bill is modelled on legislation passed in New South Wales, I think in 1982. The provisions for licensing in this Bill are comparable to the provisions that currently exist for people who are in the red meat industry. I cannot understand why the Opposition is suggesting that poultry producers should be treated any differently from red meat producers or processors.

What could possibly be the justification for discriminating against poultry processors in this way? The other point that should be made about the process that they are recommending is that recourse to the courts is a costly, long winded exercise which leaves the offender to continue his offence until the sanction is eventually imposed.

The Hon. R.J. RITSON: I was a little surprised that the Minister said a moment ago that we always regulate by licensing—that that is the way we seek to control things. I do not know how much a butcher's licence costs, yet a butcher is regulated by statute and subject to penalties for breach of health regulations as well as for breaches of shopping hours.

The statute books are full of requirements and penalties that control activities without licences. The Minister has just told us that there is this need for uniformity. I can appreciate the need for uniformity of the actual health precautions that need to be taken because they are based on certain scientific truths. I can even see that it would be reasonable to have uniformity of penalty, and of methods of supervision, but when it is possible to break new ground by doing something in a slightly simpler way by eliminating some of the bureaucracy associated with positive licensing, the Government seems to be afraid of trying a simpler way and retreats into the comfortable shell of the old saw that we have always done it this way, and that is the reason we do it this way. It would have been refreshing if the Government could have taken a small step along the road to cutting a bit of red tape. It could have had the same regulations, penalties and inspectors to enforce them but no licensing.

I do not know why the Government is afraid to consider that—whether it wants to make sure that the number of administrative jobs in the Public Service does not drop or what it is trying to do, but it puzzles me that the Minister keeps saying, 'We do it this way because it is the way we do it.' I make a final plea for a little removal of red tape. Keep all the regulations you want and all the penalties you want, but as to the question of courts being slow, I do not understand that at all.

If one has to go to court to get an order to punish someone for a breach of regulations or an injunction to stop them processing, that is one matter, but if a person has a licence and one withdraws the licence and they keep processing, one still has to go to court to proceed against them for processing without a licence. If somebody is going to break the regulations they will break them, whatever sanctions there are. So, I just do not understand, but I guess the result is foregone: the Government will have its way and the red tape will grow.

The Hon. BARBARA WIESE: That is a very negative contribution. The only point I make is that the honourable member seems to overlook that one of the major benefits that can come from this legislation is reciprocal recognition of standards and procedures across the States. The more similar our practices, licensing arrangements and other things are to those which exist in other places the easier it will be for processors in this State to sell their products on interstate markets.

That is a very important point, because at the moment some processors have to go to quite extraordinary lengths in order to prove that they are doing a reasonable job or that their standards are up to scratch. They have to subject themselves to inspectors coming from other States sometimes at their own expense in order to prove that they are doing the right thing. So, uniform legislation will make it a lot easier for those people to conduct their businesses.

The Hon. R.I. RITSON: Clearly, uniform processing and uniform health inspection would achieve that. But surely when someone is looking at where they can buy their poul-

try, that is what they would look for: they would say, 'What are the actual physical standards of preparation of this meat? Is it adequately inspected? Are breaches adequately enforced?' If the answer to that is 'Yes' in fact to those three things—the nature of the process, the inspection and enforcement of sanctions against breaches is the same—then why does it matter if in one case a person has to have a licence to begin with and in another case they simply get punished without a licence?

The Committee divided on the amendment:

Ayes (8)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn (teller), C.M. Hill, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (9)—The Hons G.L. Bruce, B.A. Chatterton, J.R. Cornwall, M.S. Feleppa, Carolyn Pickles, T.G. Roberts, C.J. Sumner, G. Weatherill, and Barbara Wiese (teller).

Majority of 1 for the Noes.

Amendment thus negatived.

The Hon. PETER DUNN: Because the rest of this Bill relies on my first amendment, which was not successful, I will not continue with any of my other amendments.

Clause passed.

Remaining clauses (4 to 38), schedule and title passed.

Bill read a third time and passed.

ADJOURNMENT

At 12.37 a.m. the Council adjourned until Thursday 6 March at 11.30 a.m.