LEGISLATIVE COUNCIL

Wednesday 1 April 1987

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

The Clerk (Mr C.H. Mertin) read prayers.

QUESTIONS

THEBARTON DEVELOPMENT

The Hon. K.T. GRIFFIN: I seek leave to make an explanation prior to asking the Minister of Local Government a question about the Minister's approval of Thebarton development.

Leave granted.

The Hon. K.T. GRIFFIN: In the *Government Gazette* of 19 February 1987 the Minister of Local Government has given approval to the Thebarton council to establish a development corporation under the Companies (South Australia) Code or the Associations Incorporation Act. Pursuant to that approval, a company, Thebarton Development Corporation Pty Ltd, has been established. The Minister's approval does not relate to any specific scheme of redevelopment but rather to the establishment of a company to allow it to undertake schemes of development and redevelopment at its discretion. To this extent the approval appears deficient and not in accordance with section 383a of the Local Government Act. If the Minister's approval is legal, it means that a company such as the Thebarton Development Corporation Pty Ltd can then undertake specific schemes not ordinarily allowed to local government without the ministerial approval envisaged by the law.

In the case of Thebarton Development Corporation Pty Ltd, the object is to implement and manage redevelopment schemes for and on behalf of the council, although those schemes are not specified. The company has two shareholders—the Town Clerk and the Mayor—and they are, presumably, holding their shares in trust for the council. The two shareholders are limited in their powers, but the directors who run the company are not. I understand that there is to be a contract for services between the council and the company binding the company to act exclusively for the council. The council grants an indemnity to the company in respect of all losses and liabilities sustained or incurred under the contract. That obviously extends to borrowings by the company and other liabilities and losses. The indemnity is from ratepayers' funds.

The Articles of Association provide for remuneration of directors and do not prevent a director from contracting with the company provided the interest is disclosed to the directors. In practice the directors conduct the business of the company without being subject to the constraints of the Local Government Act in relation to disclosure of pecuniary interests, to any requirement for open meetings or to provide information to the council, to any of the constraints on borrowing or to any limit on remuneration of councillors. Projects can be undertaken in other parts of the State, even interstate and perhaps overseas by the council using this vehicle.

There are difficulties with this sort of company because the Companies Code and law places obligations on directors to act in the best interests of the company, not necessarily the shareholders, and control of day-to-day decisions of the company by the Thebarton council cannot be required. In addition, serious questions arise as to whether electors have the same right to require accountability of the company and its directors as they do with the council itself. In many respects a company puts a barrier between the electors and activities which are being undertaken with ratepayers' moneys.

The disturbing aspects of the Minister's approval is that it can allow the law to be circumvented, avoiding the requirement to advertise any proposed development and preventing ratepayers from exercising their rights as section 383a envisages. As this concept is new in the local government area, it is important to clarify whether or not all of these issues were addressed by the Minister prior to purporting to give approval. My questions to the Minister are as follows:

1. Does the Minister approve the use of companies or other legal vehicles under section 383a for getting around the provisions of the Local Government Act?

2. Did the Minister have before her the details of the structure of the company and its relationship to the council prior to purporting to give approval?

3. Does the Minister believe that she need only approve a vehicle for undertaking schemes at large for local government and not the scheme of development or other activity itself?

The Hon. BARBARA WIESE: I certainly do not approve of a situation in which councils might try to establish companies in order to get around the provisions of the Local Government Act. I am not quite sure exactly what the honourable member means by that but, if he is suggesting that it would give councils an opportunity to avoid scrutiny or to avoid proceeding in a lawful manner, that would not have my approval. The new provisions of the Local Government Act, which make provision for councils to establish companies in order to pursue and encourage development in their local areas, are designed to give greater flexibility than previously existed under that Act with respect to such ventures. It is intended to provide an opportunity for greater entrepreneurial activity on the part of local councils in pursuing economic development and other schemes in their local areas.

To that extent I think that all members would agree that it is a forward looking scheme that could provide enormous benefits to local communities. The scheme to which the honourable member refers was approved by me, having as many details as possible available to me at that time. I took advice from officers in my department as to the suitability of the scheme and as to whether it was in accordance with the appropriate provisions of the Local Government Act. It was on that basis that I approved the scheme.

I understand that recently at Thebarton council meetings some questions have been raised by some members of council about some of the procedures that are being followed. Council members have expressed concern about the applicability of pecuniary interest provisions of the Local Government Act, for example. I understand that the pecuniary interest provisions in the Local Government Act do not come into play in relation to a company of this kind but rather that the provisions of the Companies Act are applicable in these circumstances. In fact, the directors of the company are responsible to its shareholders—in this case the council—and so it is possible for members of council to obtain the sort of information referred to in concerns expressed by members of council.

This matter is of concern to me, as this is the first company of its kind to be established under this new provision of the Local Government Act. As a result of recent press reports relating to this council development, officers of the Department of Local Government have had discus-

sions—in fact, today—with representatives of the council and, I think, the company. I have not yet received a report from my officers about the nature of those discussions, but I hope to receive more information about the procedures that are being followed in the setting up of this company, once my officers have had an opportunity to report to me. I will then be happy to provide to the Council any further information that I think would be of benefit.

The Hon. K.T. GRIFFIN: By way of a supplementary question: does the Minister realise that her approval, gazetted on 19 February 1987, relates to the formation of a company or association and not to any specific scheme of redevelopment within the boundary of the Corporation of the Town of Thebarton? If she does not realise that that is what has been approved, will she undertake to have the matter investigated and bring back an explanation of what she believed was the subject of the approval?

The Hon. BARBARA WIESE: I have not seen the entry in the *Gazette*, but certainly I undertake to look at that entry and to bring back any further information that might be of benefit to the council concerning the terms of approval of the scheme.

FOOD ACT

The Hon. M.B. CAMERON: I seek leave to make a short explanation prior to directing to the Minister of Health a question on the subject of the Food Act.

Leave granted.

The Hon. M.B. CAMERON: Under the Food Act of 1985 a food quality committee was set up. I understand that that committee is supposed to meet bi-monthly, although I have been informed that it last met in October 1986, and that the next scheduled meeting will be in April, six months after the last one.

In fact, I have reason to believe that in the first 12 months of its operation it has met only two or three times. In the past, the monitoring of the quality of food was carried out by what was the Metropolitan County Board and, of course, the Food Act replaced that body. Each year this board published a report which I believe was tabled in Parliament—it was certainly made public. The last report of which I have a copy detailed a lot of particulars as to how the operation took place.

A number of samples were taken and it detailed the samples, the type of food tested, the number of samples of that type of food, whether they were satisfactory or unsatisfactory and remarks about how that particular area of food was distributed and sold. There were 21 487 visits by health surveyors and I refer to some samples. In 1983-84, 30 samples of pate were taken; 18 were satisfactory, 12 were unsatisfactory and five samples had a very high plate count, three had coliforms present, one had *E.coli* present, and so on.

In relation to minced meat, there were 46 samples of beef; 41 were satisfactory, three of the beef contained sheep and one had excess preservatives, and so on. In relation to sausages, 30 samples were taken: 17 were satisfactory and 13 were unsatisfactory. I think that members who were around at the time will recall that people were a little upset to find that their sausages had too much fat and not enough meat. In relation to oysters, 19 samples were taken: five were satisfactory and 14 were unsatisfactory. I know that those results caused some difficulty at the time. Some very probing questions were asked in this Council about that matter. This is very valuable information and normally it is made public. As I said, I recall the report's being tabled in Parliament. It provided the community with a clear indication of the activities associated with ensuring that food quality in the State was of the highest possible level.

On 4 December the Minister tabled a copy of the new form of report that is required under the Food Act. I discovered that no information of the type to which I have referred was contained in that report. There was some indication of the number of samples, but it did not indicate the sort of information that we received previously and about which the public were informed. All it really indicated was that the Health Surveying Services Branch was particularly busy and it would be very busy carrying out its responsibilities under the Act. Section 10 of the Food Act provides:

> The commission shall, on or before the thirty-first day of October in each year, submit to the Minister a report on the administration of this Act during the year ending on the preceding thirtieth day of June and information upon such other matters as the Minister may direct.

Under that section the Minister has the power to direct the committee to provide other information. My questions are: does the Minister intend to ensure under section 10 of the Act that information of the type previously provided to the community by the Metropolitan County Board in very clear detail is provided as an addition to this report of October 1986 and in future reports? Can the Minister explain why the Food Quality Committee is meeting so irregularly, and will he seek an explanation from either the committee or the Health Commission?

The Hon. J.R. CORNWALL: Prior to the new Food Act 1985, we operated under the Food and Drugs Act 1908. The original legislation, for which the Hon. Mr Cameron seems to have such fondness, was passed by the South Australian Parliament back in the days when food in this State and around the suburbs of Adelaide was literally delivered by horse and cart. It was back in the days when the butcher's cart used to pull up in the street and the lady of the house would go to the front and, the heat and dust notwithstanding—

The Hon. C.J. Sumner: Fight her way through the flies.

The Hon. J.R. CORNWALL: She would fight her way through the blowies. She would then get the meat and hang it in the meat safe or the Coolgardie safe, depending on how affluent the household was. I am sure Mr Cameron does not really want us to go back to 1908. There might well have been some attractions to life in that era, but the quality and the food standards in those days, I would have to say, were very much more primitive than they are in 1987. The honourable member has also indicated that he has a hankering for the old public health legislation. He seems to be fighting tooth and claw against our attempts to update the public and environmental health legislation in this State and move it appropriately towards the year 2000.

The Food Act has, of course, replaced that part of the old Food and Drugs Act, and the Controlled Substances Act, which is the most comprehensive legislation of its kind in the country, has replaced or is in the process of replacing the drugs part of the Food and Drugs Act. They are significant pieces of legislation with which I have been very happy and, I might say, a smidgin proud to be associated.

In relation to the role of the old County Board which belonged under the old legislation, *vis-a-vis*, the Food Quality Committee, I think perhaps nothing better illustrates the difference between the 1908 approach, when food was delivered locally by horse and cart, and the 1987 approach, when food is delivered not only on a State and national basis but increasingly on a transnational basis.

Under the new legislation, we have, for example, uniform food regulations right around the country. That is a very significant achievement, which would not have been pos-

sible without the new food legislation. We have uniform labelling laws so that consumers are not only entitled to expect but increasingly able to know with considerable precision the comprehensive ingredients in foodstuffs, particularly in packaged and processed foodstuffs, which they purchase. That was not available under the old County Board set-up. The County Board was a body of very well meaning men and, just occasionally, the odd woman. It was not a technical committee.

The Hon. C.J. Sumner: Odd?

The Hon. J.R. CORNWALL: I do not mean odd in the mental health sense but in the sense that they were something of an oddity amongst members of a board that was very much dominated by male citizens.

An honourable member: The occasional woman.

The Hon. J.R. CORNWALL: The occasional woman—I think that may be a better way of putting it. The County Board was, in other words, a fine creation of its time but, as in relation to the Central Board of Health and local boards of health, the time has come to move on from the 1873 and 1908 models and start to address ourselves towards the end of this century and beyond. The Food Quality Committee, in contrast, is very much a technical committee. If Mr Cameron had taken the trouble to look at the Act, had set aside his characteristic laziness and had had a look at the composition of the Food Quality Committee, he would have seen that the membership of that committee is very precisely spelt out. That was not an accident. It was approved by both Houses of Parliament. It is there to give technical advice on a whole range of issues.

As to the question of how often the board should meet, quite obviously, it does not meet to review services as such. It meets as a technical committee to examine technical issues which are referred to it from time to time. As far as information goes as to how many retailers or wholesalers we have detected with insufficient meat in their meat pies or poor quality of pâté de foie or any other one of a whole range of foodstuffs, I would be delighted to respond to any specific questions that might be raised. I think it is very much in the public interest that we know, on an annual basis and with some precision, the excellent work that is done now by the health surveying services branch of the South Australian Health Commission.

I will do whatever is necessary to ensure that not only the Hon. Mr Cameron but also the Attorney-General (and Minister for Consumer Affairs), who has an abiding interest in meat pies—he has given them up, he tells me, but he used to have an abiding interest in meat pies—the South Australian Parliament and, most significantly and most importantly of all, the South Australian public are apprised on a regular basis. I will ensure that section 10 is invoked to the extent necessary to see that the public are told in considerable detail about the excellent work that is done to ensure that the good citizens of South Australia have one of the best food protection services in the country.

SOUTH AUSTRALIAN TRAVEL CENTRE

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Tourism a question on the subject of the South Australian Travel Centre.

Leave granted.

The Hon. L.H. DAVIS: The ground floor of the South Australian Travel Centre for many overseas and interstate visitors is one of their first contact points in South Australia. I have been advised by several people in the tourism industry that the ground floor operation of the Travel Centre is a disaster area. As at midday today, one-third of the brochure shelves was empty. The number of staff now servicing the public at the front counter has been severely cut back. In the past few weeks it has not been uncommon for queues of people to wait for up to one hour—particularly in the lunch hour—to make arrangements for tourist packages or accommodation. Many of these people are from interstate and overseas, and they are angry at having to wait for such a long time and have made that anger well known to staff at the Travel Centre.

There are now only six people servicing the front counter, and if two are tied up at a computer making a booking, for example, for a visitor, this places even greater pressure on the remaining four staff. New staff recently employed in this area have had a baptism of fire. I have been advised that morale on the ground floor is at an all time low and, on occasion, staff have been reduced to tears coping with the extraordinary pressure. I have received no complaints about the ground floor staff: they are seen as very dedicated, professional and hard working.

I understand that since the honourable member became the Minister of Tourism in mid-July 1985—20 months ago—she has not mingled with staff on the ground floor, discussed problems, canvassed issues or sought their ideas. The only time she is seen on the ground floor is for promotions with television or the print media. My questions to the Minister—

Members interjecting:

The Hon. L.H. DAVIS: We are dealing in facts. My questions are, first, what plans does the Minister have to rectify this shemozzle at South Australia's front counter for tourism and, secondly, in future will the Minister consult with her ground floor staff so that she is more aware of the problems and frustrations of both visitors to the Travel Centre and the staff of the centre's ground floor?

Members interjecting:

The Hon. L.H. DAVIS: You obviously were not over there at midday today, were you? You don't know what you're talking about, Ms Pickles—you just stay on safe ground.

The PRESIDENT: You have asked your questions, Mr Davis.

The Hon. BARBARA WIESE: I do not think that the Hon. Mr Davis knows what he is talking about, either. I have been in and out of the Travel Centre a number of times this morning and, in fact, the number of visitors in the Travel Centre today is way down on the number of visitors who have been passing through that place now for a very long time.

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: So, in fact, I do not think the honourable member has very much knowledge at all of the business of the Travel Centre or the level of visitation. I will address some of those issues now. First, it is quite true that members of the ground floor staff have had a number of difficulties in the past few months in dealing with the vast number of visitors who are now attending the South Australian Travel Centre. I would have thought that, instead of complaining about that, perhaps the Hon. Mr Davis might acknowledge, as a beginning, that this is an indication that South Australia is becoming an increasingly important visitor destination for people both from interstate and overseas.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: Record numbers of people have been coming into the Travel Centre. If the Hon. Mr

Davis understood anything about the travel industry and the normal workload of the Travel Centre he would know that this time of the year is normally the time when visitor numbers fall away and when there is an opportunity for Travel Centre staff to review the work that they have been doing, to reorganise their activities and to make sure that levels of literature, material and all other things they need to do their job are adequate. This year, because we have been so successful with our advertising and promoting of South Australia as a tourism destination we have had record numbers of people visiting this State and the visitations—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —are continuing into this period of the year which, as I indicated earlier, is normally a slow time. That is the first point that needs to be made: that we are doing very well in the promotion of this State in relation to tourism and that people are interested in getting more information about the State and are coming into the Travel Centre.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis has asked his question.

The Hon. BARBARA WIESE: As I have already indicated, because of increased numbers of inquiries there have been pressures in the Travel Centre—and I certainly acknowledge that, as do the people in management positions in the centre. In fact, as recently as last week there was a meeting of Travel Centre staff to discuss some of the issues which have arisen during the past month with repect to customer service, because it is clear that there are some organisational changes which could be introduced into the Travel Centre to streamline the handling of people as they come through the door.

There was a meeting last week where many issues were discussed in a calm and rational way because the staff members who work on the ground floor of the Travel Centre, as the Hon. Mr Davis has suggested, are all very dedicated and very professional people. I would like to publicly pay tribute to the people who work in that area because they work under pressure and do a remarkable job. They had a meeting last week at which many of the issues regarding customer service were discussed. There will be a further meeting this week to discuss some of the issues which were not discussed last week.

The Hon. L.H. Davis interjecting:

The Hon. BARBARA WIESE: Be quiet! There are some issues which were not discussed last week and which will be discussed at the continuation of their meeting to be held this week. I am confident, having received a report from the Manager of the ground floor area, that there will be a number of measures introduced immediately, some on a trial basis, to ensure that the public areas of the Travel Centre and the procedures that they follow in handling customer inquiries are streamlined and improved.

I will now deal with the outrageous allegation that I do not speak with or mix with members of the ground floor staff. In fact, I go in and out of that building through the ground floor every day of my working life and, in fact, speak regularly with members of the ground floor staff, as I do with members of the department in other areas of the building. I do not quite know what the honourable member is suggesting I should do. Should I be spending all my time on the ground floor? Is that what he suggests? Should I be wasting the time of the ground floor staff by having discussions with these people about the way they are doing their work? That is not my job. I keep in touch with the people in my department about areas that are of relevance to the way I do my job. I certainly hear from them if they feel that there are improvements that could be made, either directly, because I speak with them regularly, or indirectly through the appropriate channels of the Department of Tourism. It is the Director of the Department of Tourism who is responsible for the good organisation of the department. We work together closely on all these issues.

There is some suggestion in the question asked here today, and certainly in other questions that have been asked in previous weeks with respect to my relationship with the staff in the Travel Centre, that somehow or other we are at odds, or that members of the Travel Centre staff do not approve of me as Minister. As a postscript to my remarks, members of this Council might be interested to know that when such allegations about management of the Travel Centre and the Department of Tourism were made some weeks ago members of the ground floor staff came to my office later in the week bringing me flowers and saying, 'We really appreciate the work that you do as Minister of Tourism and would like to indicate that we support you fully. This is a token of our esteem.' That is the fact of the matter and indicates that my relationship with staff on the ground floor in the Travel Centre is a very good one indeed. As I said earlier, I fully support members of the department who are working in that area, under tremendous pressure on some occasions, and who do it in a very responsible and professional way.

GOVERNMENT HOUSE GROUNDS

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General a question about Government House grounds.

Leave granted.

The Hon. I. GILFILLAN: Members would be aware that there has been publicity regarding a suggestion that the Governor's residence be moved to a location other than the present Government House. There was a quite remarkable and enthusiastic response to that suggestion from various members of the public. Indeed, I received several highly commending letters about it. As a result of that, I was informed by people employed in the Public Works Department that there is a program to rebuild the Government House wall along North Terrace. I am advised that the plan is to move gradually along, recycling the current fabric, which is rather old stone, into a similar structure.

As the matter is so obviously before the public mind at the moment (and I assume the Government's mind, as I have written to the Premier about moving the Governor's residence, but have not yet received a reply) will the Attorney-General give some indication (as he may see it down the track a bit) in relation to the matter of the Governor's long-term residence and what will happen in relation to this wall? It appears that there is much enthusiasm for the public to have, in the first instance, physical access to at least part of the 10 acres which are virtually shut off not only from physical, public access but at present virtually from public view.

This area of beautiful gardens and open parkland currently employs at State expense five full-time staff who cost something like $120 000 or $130 000 a year. My questions will be directed towards urging the Government to consider making available at least a portion of that garden for public use and, if that is not acceptable, at least to replace the North Terrace wall with some transparent form of fencing which would allow the public to see into this beautiful South Australian asset. I ask the Attorney-General:

1. Does the Government envisage an eventual move of Government House to an alternative site?

2. Does the Attorney-General know of plans for work on or replacement of the Government House wall on North Terrace?

3. Would the Government consider reducing the area which is currently fenced off within the Government House grounds, thus enabling a considerable portion of those grounds to be available for public enjoyment?

4. If the Government is not at this stage prepared to take that step, would it consider replacing the existing wall along North Terrace with an open design, possibly a wrought iron fence, enabling a clear view into Government House grounds?

The Hon. C.J. SUMNER: The question of moving Government House has been considered by successive Governments for a considerable time, as have a number of alternative sites. The most recent publicity about this matter was, as I recollect, promoted by the honourable member, but obviously his humility did not allow him to admit to that when asking his question today. A number of options have been put forward. Many years ago a colleague of the Hon. Mr Cameron, now the Federal member for Boothby (Mr Steele Hall), floated the option of Birksgate. At another stage another Government thought that Carrick Hill might be appropriate for the Governor's residence but that was rejected on the basis that it would not be suitable for the sort of functions which a Governor must, by virtue of his office, carry out.

The Hon. M.B. Cameron: How long has Government House been on that site?

The Hon. C.J. SUMNER: I am not sure exactly.

The PRESIDENT: Order! The honourable member can ask a supplementary question if he wishes to do so.

The Hon. C.J. SUMNER: It has been on that site for some time. The Hon. Mr Gilfillan now says that he has written to the Premier with his new found suggestion about Government House and no doubt the Premier will consider that in due course. Since the election of this Bannon Government, the issue of relocating Government House has not been considered.

I am not aware of the question of the wall along North Terrace, which is exercising the honourable member's mind. To my knowledge, there has not been a Cabinet submission on that issue. That does not mean that someone in the depths of the bureaucracy may not be preparing an interdepartmental report on the wall along North Terrace. What I find surprising from the honourable member is that he wants to push the wall over in favour of some kind of open wall, presumably with bars or netting—

The Hon. C.M. Hill: Cyclone fencing.

The Hon. C.J. SUMNER: Yes, or cyclone fencing. That would enable the good citizens of Adelaide to peer upon the grounds where His Excellency and Lady Dunstan currently reside. If there had been any suggestion from the Government that a sacred and heritage ridden wall, such as the Government House wall along North Terrace, be abolished anywhere else in the city, the Hon. Mr Gilfillan and the Hon. Mr Elliott would no doubt have been there with their band of rent-a-protester to object to the destruction of the heritage of Adelaide.

The Hon. R.I. Lucas: They would have laid down in front of the bulldozers.

The Hon. C.J. SUMNER: I am sure that they would. They would protest at great length about the heritage of Adelaide if the proposal to destroy any other wall in the city that was over 100 years old was put forward, as they protest about anything that involves the development of the city of Adelaide or even the slightest touching of something that may be 100 years old. Yet, when it comes to the Governor and to Government House, they apparently have no such qualms. They are quite happy to destroy the Governor's fence on North Terrace. That is yet another example of the Democrats' completely confused approach to decision making which they exhibit in this Chamber on virtually every occasion that they make a contribution in it.

My answer to the second question is, 'No, as far as I am aware.' I have answered the first and fourth questions. If the Government has any plans beyond what I have indicated to the Council today, I will bring back a reply for the honourable member.

MINIMUM RATES

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation prior to addressing a question to the Minister of Local Government on minimum rates.

Leave granted.

The Hon. DIANA LAIDLAW: From the Minister's reply to a question on the same subject by the Hon. Legh Davis yesterday, it was apparent that the drive to abolish the minimum rate was not initiated at local government level. This understanding would seem to be supported by the fact that, since the capacity for local councils to charge a minimum rate was introduced in 1928, there has been no legal challenge against any council that has employed a minimum rate. Councils have raised this with me, and it is legitimate to ask from where within the Government the idea originated. I ask the Minister: is it true that the proposition to abolish the minimum rate was sponsored by Treasury as a cost cutting exercise to save on pensioner concessions in the South Australian Housing Trust rates bill?

The Hon. BARBARA WIESE: No.

The Hon. DIANA LAIDLAW: My supplementary question is: in view of the Minister's answer, was it proposed by the left wing of the ALP as an income redistribution measure? If not, was it proposed by the Department of Local Government as an innovative exercise by the new management personnel in the department? If not, was it proposed by the Minister herself?

The Hon. BARBARA WIESE: This matter was not proposed by the left wing of the Labor Party.

The Hon. L.H. Davis: Who did propose it? It wasn't the Local Government Association.

The Hon. BARBARA WIESE: Be quiet and listen, you silly goose. The issue, as I indicated on a number of occasions in the past—

The Hon. L.H. Davis: That was a very sexist remark!

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: On a point of order, Madam President, could you ask the honourable member to withdraw that sexist remark?

The PRESIDENT: There is no point of order.

The Hon. L.H. Davis: I might be a gander but I am not a goose.

The PRESIDENT: Order!

The Hon. BARBARA WIESE: I am delighted to withdraw that dreadful remark I have made! The honourable member is a gander. The issue of the minimum local government rate, as I have indicated many times in this place, is a matter to be discussed in asociation with the review of the rating and finance provisions of the Local Government Act. Therefore, the question of whether or not the system was being appropriately used was considered in that context,

together with every other provision that existed in the relevant section of the Local Government Act. The matter was discussed in the Department of Local Government and within local government forums as well. The Local Government Association certainly discussed the issue, as it was one of the provisions that needed to be discussed.

The Hon. L.H. Davis: Where did the recommendation come from?

The Hon. BARBARA WIESE: If the honourable member waits a little he might hear.

The Hon. L.H. Davis: Well, we have been waiting for months and months.

The PRESIDENT: Order! You have not even asked this question, Mr Davis.

The Hon. BARBARA WIESE: Certainly it was not an issue which originated in the new management of the Local Government Department because, as the Hon. Ms Laidlaw should know, the new management of the Department of Local Government came in very late in the day as far as the discussions on the rating and finance provisions of the Bill were concerned, and therefore the question of what we should do with the minimum rate originated some time ago, and the issue of whether it should be retained, modified or abolished was discussed, as I have said, within the Department of Local Government and in the local government areas themselves.

The Hon. Diana Laidlaw: Where did the idea to abolish the minimum rate come from?

The Hon. BARBARA WIESE: I would imagine that it was originally suggested to my predecessor by representatives of the Department of Local Government. Certainly the issue was raised with me by members of my department. Whether or not the idea originated from within the department or as a result of discussions with people in local government, I cannot say. However, the issue has been around for a very long time, certainly prior to my appointment as Minister of Local Government, and it has been discussed in the context of reforms to the rating and finance provisions of the Bill. I do not know that there is much more that I can add to that reply.

TRUTH AND BEAUTY

The Hon. C.M. HILL: I seek leave to make a short statement prior to asking the Minister of Local Government a question on the subject of truth and beauty.

Leave granted.

The Hon. C.M. HILL: The editorial in the March edition of the publication *Grapevine*, the South Australian tourist news, written by the Minister, under the heading 'From the Minister's desk', stated in the first sentence, 'I have come to the conclusion that truth, like beauty, is in the eye of the beholder.' I ask the Minister what she really means by that sentence, particularly relative to the subject of minimum rates.

The Hon. BARBARA WIESE: That is a very peculiar question, Ms President. The article to which the honourable member refers was in an edition of *Grapevine* which, as he indicated, is a publication of the Department of Tourism. The publication relates to tourism issues. The issues addressed in the March edition of *Grapevine* were tourism issues and, as far as I am able to see, they bear no relationship whatsoever to the issue of minimum rates. Unless the honourable member can expand on his remarks, I do not know what he is talking about.

WASTE MANAGEMENT PLAN

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Local Government a question on waste management.

Leave granted.

The Hon. M.J. ELLIOTT: On studying the metropolitan Adelaide solid waste management plan—the first 10 year plan which was released I believe in 1985—I noted that there were a number of objectives. Among those was an objective to reduce the generation of waste; another objective was to conserve resources by means of recycling and re-use of waste and resource recovery. Those are extremely admirable objectives, but it has been suggested to me that we are not getting terribly close to achieving them.

Just before the 10 year plan was drafted, the Southern Region of Councils indicated to the Waste Management Commission on 19 October 1984:

> The region applauds the foreshadowed involvement of the commission in the handling and treatment of liquid and prescribed waste. The problem of handling liquid and prescribed waste is one which needs to be faced by all providers of disposable facilities. From its own experience—

and this is the important point—

> the region warns that while recycling and resource recovery are attractive goals, care must be taken to avoid the practice of scavenging. The region welcomes the investigation of options for waste treatment and is aware that considerable research has already been undertaken into reducing the quantities of solid waste and some novel ways of handling such waste. It is hoped that this question might be more fully addressed in the 10 year plan.

After the 10 year plan came out, in the summary of the commission's response it expressed grave misgivings about the 10 year plan's first draft, and in particular it felt that the commission should direct its priority not towards treating the symptoms of solid waste generation problems (like the appointment of new staff in the area of policing regulations rather than researching solutions) but rather towards solving the problem itself. It has been suggested to me that we are still no closer to resolving the problem of solid waste generation and an effort should be made to reduce the various problems. I do not know whether the Minister is aware of what has been happening in New South Wales, in the Wyong shire, but I point out that the authorities there have just been through a trial where they have used a two bin system, involving some 750 households. One bin was used for general waste and the second bin was used to take glass, paper and other recyclable materials, with both bins being collected on a weekly basis. Interestingly, when the householders involved were surveyed after the trial period, it was found that some 97 per cent of the people approved the system. The Wyong shire authorities were absolutely delighted with how it went. To give some indication of the sort of savings that were achieved—

The PRESIDENT: Order! I draw the honourable member's attention to the time: both question and answer must be completed within 60 seconds.

The Hon. M.J. ELLIOTT: I have drawn the attention of the Council to the report: it has enormous savings in reducing solid waste to something like half. My questions are:

1. What is the Waste Management Commission doing *(a)* to reduce solid waste and *(b)* to encourage recycling?

2. Is the Minister aware of the scheme in the Wyong shire or similar schemes elsewhere, particularly in Europe?

3. If not, will the Minister instruct the Waste Management Commission, as a matter of urgency, to look at this matter?

The Hon. BARBARA WIESE: In view of the time, can I just indicate that the Waste Management Commission has just embarked on a number of programs to deal with some

of the issues that have been raised by the honourable member. Rather than my attempting to detail those things now I undertake to obtain a full report from the Waste Management Commission and bring it back for the honourable member's benefit.

ELECTORAL ACT AMENDMENT BILL (No. 2)

The Hon. K.T. GRIFFIN obtained leave and introduced a Bill for an Act to amend the Electoral Act 1985. Read a first time.

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

That this Bill be now read a second time.

The right to vote is a precious right and is the basis for any society to be democratic. In many democracies such as the United States of America, the United Kingdom, France, West Germany and Canada, and in smaller democracies such as New Zealand, the right to vote has been accompanied by a freedom to choose whether or not to exercise that right by attending at a polling booth, obtaining a voting paper, marking it and placing it in a ballot box. In countries like India there is no compulsion to vote. Even in the Philippines when voting recently on the new constitution, voting was not compulsory. What makes Australia different?

Australia is in a small minority of western democracies where compulsory voting is the law. In South Australia voting has been compulsory for 40 years, although enrolment remains voluntary. In countries with voluntary voting there is no doubt that candidates and Party machines are more active in endeavouring to persuade the electors to go to the polling booths and to vote for them. The carriage of voters to the polling booths in those countries is well organised.

In countries like New Zealand and the United States of America, the membership of political Parties is significantly higher because of the need to have active supporters prepared to give a higher level of commitment to get voters to the polls than under a compulsory voting system. In an article in the *Bulletin* of 13 November 1984 Don Aitkin, writing on the subject of compulsory voting, stated:

> Compulsory voting in Australia has for 60 years removed the need for the Parties to get out the vote on election day, to canvass every household, to do the dozens of labour intensive things with which Parties in other countries have to contend.
>
> So Australian political Parties have small memberships, mostly because they do not need large ones. As a result, the Parties have become career structures for the politically active. Those already in the Parties do not want hordes of new members pouring in—they would only disturb existing arrangements.

Mr Aitkin says that on the basis of the most generous allowances, somewhere between 250 000 and 300 000 Australians belong to political Parties, which represents about 3 per cent of the electorate. He compares that with the British figure which used to be about 12 per cent, although it has fallen a little in recent years. He goes on to state:

> A safe national figure for ALP membership is 50 000. The Liberals probably have half as many again, the National Party at least twice as many. It is a bizarre picture. The governing Party has a smaller membership than its rivals, yet it is the Party which talks of its historic role in representing the Australian spirit and makes much of participation.

All this will change with voluntary voting. Then, electors will have to want to exercise the power given to them in casting their vote and be prepared to make the effort to do so. They will have to be convinced about policies and personalities. There is no doubt that voluntary voting will enhance the political process in South Australia and Australia, as it has done in democracies where the freedom to choose whether or not to vote is recognised.

The right to vote should be taken seriously, but there is no reason to make it a dull and boring and onerous responsibility under pain of penalty for not attending at the polling booth and marking one's name off the list. Voluntary voting will add some spice to the electoral process. Voters will have to be convinced about the need to vote and the candidate to vote for. We already have voluntary enrolment in South Australia although, regrettably, that does not follow through to the Federal arena. While some would argue that people should be compelled to exercise that right as the price of being part of a democracy, that is a blatant contradiction in terms. A democracy allows freedom of choice, but in this instance the State is denying that choice. It is all very well for people to argue that, technically, the only obligation of an elector is to go to the polling booth and have one's name marked off the roll after collecting a ballot paper which need not be completed, but that is to split hairs and does no justice to the debate. While some politicians regard this semantic argument as a serious assessment of the present situation, it ignores the substance of the issue of compulsion.

Some who argue against freedom of choice see great harm in allowing political Parties to organise transport to polling booths. Some opposed to freedom of choice in voting argue that transporting people to the polls allows undue influence to be exerted, but that is not a justifiable criticism because that may occur now under the present system of compulsory voting. The answer is to provide heavy penalties for breaches of the electoral laws and to ensure in the electoral laws that such undue influence is proscribed.

One can put up arguments about comparative resources available to the Parties to promote themselves, but that matter will never be resolved. For example, Liberals may argue that the trade union affiliates of the Labor Party will compel their members to vote or will have greater human resources to arrange to get people to the polls, but that ignores that a substantial number of union members will not be dictated to by their unions or even vote for them. If a substantial number of union members did not vote Liberal at State and Federal elections, we would never win elections.

On the other hand, some Labor supporters will argue that voluntary voting plays into the hands of the Liberals because Labor supporters will be less likely to go to the polling booths. I reject that argument. It debases the intelligence of voters. The fact is that, in all Western democracies, opposing Parties do have opportunities to govern and they are elected: in the United States of America, the pendulum swings between the Democrats and the Republicans; in the United Kingdom, the pendulum swings between Labor and the Conservatives; in New Zealand, the pendulum swings between the Labor Party and the National Party. There are complacent electors supporting both sides of the political spectrum, but voluntary voting would give them a choice—to show they care or to remain complacent.

At least, voluntary voting will make blue ribbon seats less blue ribbon and require candidates and members of Parliament to work for their electorates and woo the electors with policies as they have never done before. Parties, members of Parliament and candidates will no longer be able to take the electorate for granted. Parties will really have to do the work which compulsory voting presently does to get people to the polling booths.

Voluntary voting at elections is the only way to go. Two side benefits of voluntary voting are that the estimated 2 per cent donkey vote will be eliminated and the 60 000 who

failed to vote at the last State election in 1985 will not have to be followed up with 'please explain' notices nor will the 4 000 who failed to explain have to be fined or, in default of paying a $20 expiation fee, be prosecuted. This will be a thing of the past. This Bill repeals division XI of part IX of the principal Act which provides for compulsory voting. I commend the Bill to the Council.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

ROAD TRAFFIC ACT AMENDMENT BILL (No.3) (1987)

Adjourned debate on second reading.
(Continued from 18 March. Page 3473.)

The Hon. L.H. DAVIS: First, I commend the Hon. Murray Hill for giving the Legislative Council the opportunity to review this important aspect of the Road Traffic Act. Along with my close colleagues, the Hon. Martin Cameron and the Hon. Bob Ritson, I have been privileged to be a member of the random breath test committee which has met on two occasions in recent years to review the operation of random breath testing in South Australia. The last exhaustive review of the random breath testing level in South Australia was the report of the select committee of the Legislative Council which was tabled in this place in April 1985, just two years ago. I was a member of not only that committee but also the committee that met in the period of the Tonkin Liberal Government to review the introduction of random breath testing and, in fact, it was the recommendations of the first select committee which led to the introduction of random breath testing in South Australia with a prescribed level of .08.

Certainly, it is true that in New South Wales, Victoria, Queensland and Tasmania there is a provision for a road traffic offence if there is a concentration of .05 grams or more of alcohol per 100 millilitres of blood. South Australia is out of step with those other four States to the extent that we have a level of .08. At the time that the select committee reviewed this particularly important aspect of random breath testing there was a good deal of evidence about the actual level at which an offence would be created. Several pages of transcript from the evidence actually appear in the comprehensive report of the select committee.

At page 42 of the select committee report of just two years ago it is stated that Dr McLean, from the University of Adelaide, in evidence to the committee said that a reduction in the BAC limit from .08 to .05 would not catch many more of the people involved in accidents. The accident prone drink drivers tend to have a BAC level above .08. In fact, Dr McLean's research indicated:

> Two-thirds of the casualties who had been drinking were above .1, compared with something like 5 per cent to 10 per cent of the general driving population.

There was also evidence from statistical information which tended to reinforce the evidence given by Dr McLean and which indicated that drivers and riders with a blood alcohol content in the range of .05 to .079 accounted for barely 10 per cent of total drivers or riders with a blood alcohol content in excess of .05. On balance there was a view that the level should be left at .08. However, as members would well know, there was a requirement that drivers learning to drive should have a zero blood alcohol level and that level, of course, has been enforced. It is an educative measure which I understand has worked quite well.

The Hon. Murray Hill also pointed out, again quite correctly, that no one measure will achieve a reduction in the road toll. A whole series of factors have to be looked at in addressing this very severe problem—a problem which needs attention. I welcome the concern of the Hon. Murray Hill in this matter because, notwithstanding all the efforts in South Australia in recent years, our road toll in 1986 was at the highest level for seven years and that, sadly, went against national trends.

One of the factors that I think is extraordinarily important is education, and the P and L plate system, as amended in recent years, appears to be working well. There are high standards involved in requiring new drivers to qualify for a licence. I understand that, generally speaking, most drivers with an L plate do not qualify for a P plate at their first test, and I think that that is quite acceptable; we should have high standards. We should expect a lot from our young drivers.

Education in the schools, in the community at large and at the time of applying for a driving test, I think, is important. In fact, one of the issues which was considered by the last select committee was the fact that education in this area was badly under funded and that the community would be much better off if more money was spent in this area than in hospitals later on. Of course, so often we get this wrong: money spent in the preventative area, whether we are talking about road safety or health, is money far better spent than money spent in treating the problem which emerges because of lack of proper preventative education.

I suggest also that it is a matter of attitude. That, of course, runs very closely with the education program. It is a matter of not only providing young people with driving skills but also a proper attitude to driving on the roads. I think we also should recognise that we become used to the driving patterns which exist in our own State; in Adelaide we have one million of South Australia's population of 1.4 million. In other words, over 70 per cent of this State's population is concentrated in the capital city. But Adelaide does not have a dense population, in the sense that it is very spread out, stretched on the Adelaide Plains, ranging from Noarlunga in the south through to Elizabeth and Salisbury in the north, trapped in the coastal plain between the sea and the gently rolling Mount Lofty Ranges. Whilst Adelaide city itself and the suburbs have been magnificently planned by Colonel Light that, in itself, has been a deficit, a negative, as far as encouraging driving skills is concerned, because we have wide roads set out on a square grid.

It encourages sloppy driving, and on more than one occasion I have heard drivers from interstate or overseas remark that drivers in South Australia are not careful drivers. They are not drivers used to driving bumper to bumper under pressure, as are the drivers of London, Sydney or Melbourne. I suspect that it would be money well spent to have someone impartial and objective come in—from overseas, preferably—to look at the driving habits of South Australian drivers, to address those problems and perhaps suggest a program of education. I certainly do not claim to be a good driver although, as a member of Parliament, obviously I have to drive many kilometres both in the city and in the country, and I am conscious that when I go overseas my driving skills are perhaps found to be wanting.

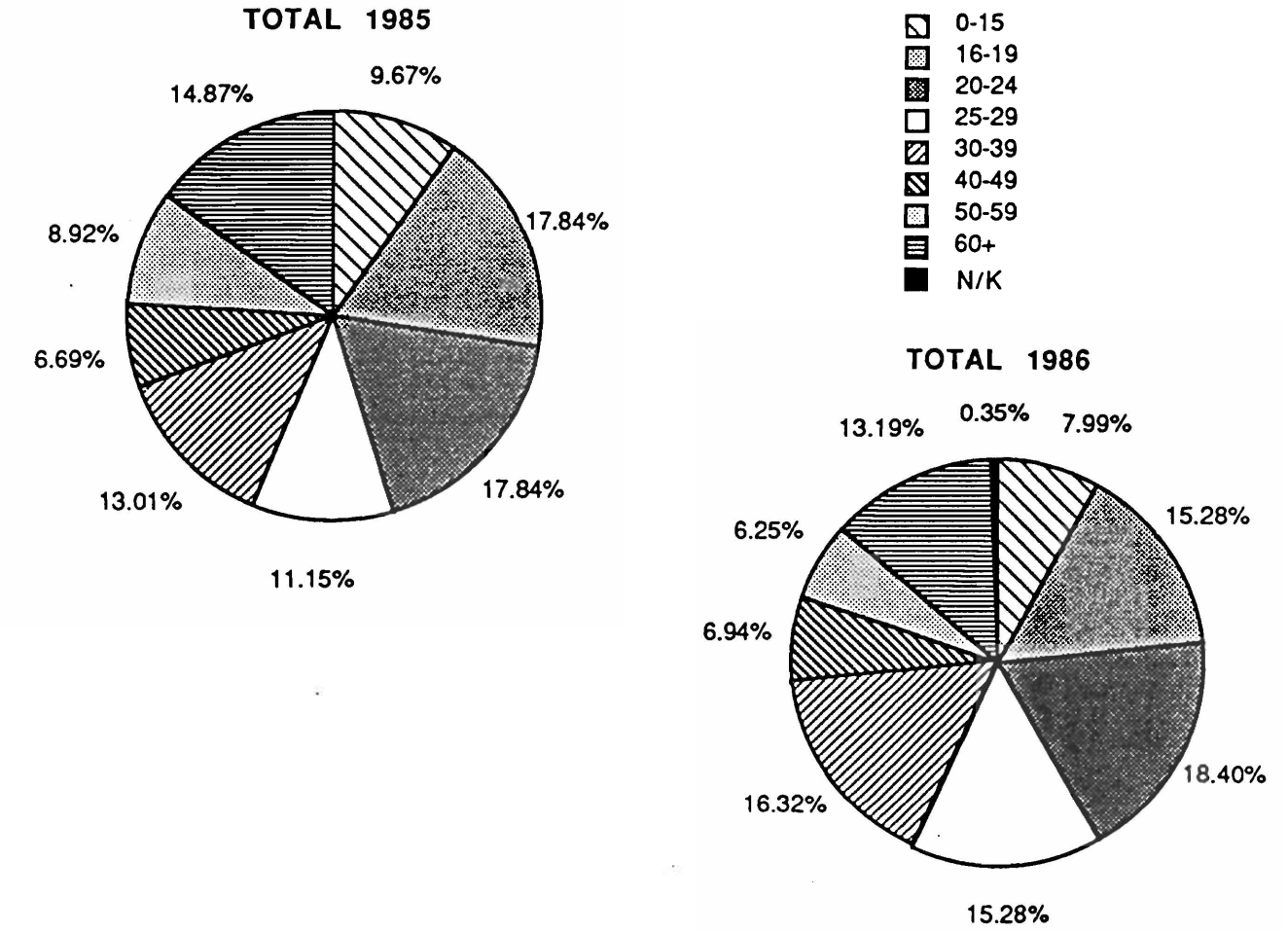
Having driven in Naples last year and on the highways of Italy, I certainly feel much better qualified to try my luck on the highways and byways of South Australia. So, I do not think that we should have any illusions about the magnitude of the problem: in South Australia generally we cannot be considered to be the world's best drivers. I think

that much more attention could be paid to that problem and that, of course, begins with the young drivers, the next generation of drivers, to give them the necessary skills, the proper education and the right attitudes towards driving on the roads—consideration for their fellow driver and for pedestrians, motor bike riders and cyclists.

The next point I would like to make is the very sad point that the fatalities on the road invariably are among the younger people. I would like to have inserted in *Hansard* pie charts of a purely statistical nature which outline fatalities by age on South Australian roads, and I seek leave to have the charts so inserted.

Leave granted.

FATALITIES BY AGE



The Hon. L.H. DAVIS: That underlines a point which has been made on more than one occasion in this Chamber: that it is the young driver who is more likely to be the victim on South Australian roads, whether dying in a road accident or being maimed or badly injured. Sadly, it is also true that a large number of those drivers had been affected by alcohol. There has been a relatively constant statistic involved, whether we are talking about South Australia or other States, when we look at the alcohol factor in road accidents.

That factor as a rule of thumb is that 40 to 50 per cent of all road fatalities involve a driver with alcohol in his or her blood. Half of those road fatalities are innocent victims of accidents involving a driver with alcohol in his or her blood. They are fairly gruesome statistics and, notwithstanding the very real efforts that have been made in States around Australia, that figure remains fairly constant. In South Australia there has been by and large a bipartisan approach to this problem of road safety and, in particular, to the problem of drink-driving.

It is a complex problem. It is a problem, however, that must be addressed, and community attitudes towards this have changed noticeably over the years. Ten years ago it would not have been possible to introduce random breath testing. Five years ago there was considerable unrest and suspicion about random breath testing which, in fact, manifested itself in some fairly violent media attention. Members, of course, are well aware of that. We have matured to the stage where we accept the problem and recognise that it needs to be addressed.

Sadly, South Australia does not lead the way in its approach to road safety, in my view. I think that mantle rests equally with New South Wales and Victoria, and I think that Tasmania also deserves some merit for the efforts it has made. Members of the select committee in 1985 travelled to New South Wales and saw the massive random breath testing program which was in operation in that State.

The first committee had visited Victoria and had seen the success of its random breath testing program which had been introduced back in 1976, and in the 1970s Victoria could rightly claim to have been a world leader in road safety, having introduced seat belts and random breath testing. Certainly, there are political risks associated with the introduction of measures such as this, in the sense that lobby groups can make life difficult for government; media can sway a community against measures which are in the best interests of the community. But we have now reached the stage in the debate on road safety where I believe there is a much more mature and objective approach to this subject, particularly as it relates to drink-driving.

People who have visited Europe, America or other countries where there are much stricter controls operating with regard to drink driving can see that Australia still has a little way to go. In the Scandinavian countries, for instance, one does not have a drink if one is about to drive. One of the attitudes that it is important to encourage is that drinking should not be a swill but a pleasant social occasion.

Whilst it may seem paradoxical, I supported the introduction of legislation allowing the sale of liquor on Sundays notwithstanding the fact that that led to an increase in the hours during which liquor was available for sale and could well lead to an increase in the road toll. I voted for that legislation because I believed that we should adopt a civilised approach to our drinking habits. In Europe, where it is customary for drink to be available seven days a week and for restaurants and bars to be open seven days a week, people have reached the stage where they have a civilised approach to drinking. That should be encouraged in Australia.

Random breath testing is not designed to catch people who have been drinking. That, of course, is a common misapprehension. It is designed to act as a deterrent. I will quote from a recent report, the *Review of the Legal Blood Alcohol Concentration for Drivers,* which was prepared by the Department of Transport's Road Safety Division and tabled in March 1987. This useful publication states at page 2:

> The object of RBT is clearly to deter as many people as possible from driving at illegal BACs, and RBT has shown itself to be an inefficient detector of 'high risk' offenders compared with police patrols. The deterrent effect of RBT derives from its known ability to detect drivers whose risk of accident has been increased by the intake of alcohol, but whose driving behaviour is not necessarily overtly affected. Random and non-random approaches to detection are therefore complementary.

That is a very important point, that we should have no one single deterrent factor for drink driving. The review makes the excellent point that we are looking at a random and a non-random approach to the detection of drink driving; we are looking not only at the roadside drink detection but at the intervention of road patrols. The review continues:

> A reduction of the legal limit would not detract at all from the apprehension of highly intoxicated drivers by police patrols but, if deterrence is effective, may reduce the number of people driving at high BACs.

The review then refers to one of the well known writers in Australia on the subject of random breath testing, Homel, who in 1986 said:

> . . . the testing of one's friends and the mere sighting of an RBT unit had considerable efficacy in maintaining fear of apprehension in the individual. That is, deterrence could be maintained for some time without even the direct experience of being tested. There is convincing evidence from New South Wales that a significant reduction in the number of alcohol-related accidents has been achieved despite a large decrease in overall detection rates and, in particular, a decrease in both the proportion of apprehended offenders over .15 and the mean BAC of this group, following the introduction of RBT.

It makes great play there of the importance of random breath testing operating as a deterrent. The arguments for and against the reduction of the legal limit are also addressed in this publication. I will now briefly traverse those arguments. First, is the argument for maintaining a high legal limit of .08, that it will catch high BAC offenders? The author of this report, Leanne Weber, said in evidence to the select committee of 1985:

> McLean argued for retention of the .08 legal limit on the basis that a reduction to .05 would not catch many more of the people involved in accidents. This argument led to the suggestion that:
>
> . . . it would not be outrageous to entertain a level of .1 if by so doing one could ensure that enforcement would become more efficient.

McLean did not advocate such an increase. There is a summary of five propositions resulting from this argument, as follows:

> 1. High BAC drivers are responsible for the majority of serious road accidents.
> 2. The best way to reduce alcohol-related accidents is by detecting these high risk drivers.
> 3. Detection of high BAC drivers will be less efficient with a lower legal limit.
> 4. More people will be prosecuted under a .05 legal limit.
> 5. The cost of additional prosecutions would be balanced by a reduction in the severity of the problem.

The report then takes each of those propositions individually. I will not discuss all of them, but will touch briefly on some of them. There is no doubt that drivers with a blood alcohol content over .15 account for a vastly disproportionate number of alcohol-related road accidents. That was one of the very great concerns of the 1985 select committee, that an increase in random breath testing would not necessarily act as a deterrent to the seasoned drinker—the person who has a BAC of over .15.

It will certainly act as a deterrent to the social drinker. In fact, the person who goes to a dinner party and may have four or five drinks would perhaps cut back to two or three. Certainly, it does influence driving patterns. Anecdotal evidence from New South Wales and Victoria suggests that on Friday and Saturday nights many more women drivers now drive their husbands or boyfriends home from parties. That suggests well established evidence that men tend to drink more heavily than women.

The Hon. Diana Laidlaw: Women are more responsible.

The Hon. L.H. DAVIS: That may be so, or it may be that they do not drink as heavily or are able to convince their boyfriends or husbands that they should drive them home so as to avoid the risk of prosecution.

The problem of the seasoned drinker is the greatest problem facing society on the roads, that is, a person with a blood alcohol content of greater than .15. To put the matter in perspective, a person with a blood alcohol content of more than .15 has had at least 20 drinks in a five hour period—either 20 nips of spirit, 20 glasses of beer, or 20 glasses of wine. That is an enormous quantity of alcohol and equivalent to three bottles of beer, three bottles of wine or 20 nips of spirit.

Someone with a .15 blood alcohol content after five hours would have burnt off .01 an hour for that period bringing the person back from .20 to .15. That is where the real problem on the roads lies. There is evidence that random breath testing is yet to have a dramatic impact on the seasoned drinker. The interesting point made in this review is that the reduction to .05 in New South Wales—

The Hon. J.R. Cornwall interjecting:

The Hon. L.H. DAVIS: That is true, we are talking about the habitual drinker rather than the seasoned drinker—a person with a drinking problem. The reduction to .05 in New South Wales added a new group of moderate drink drivers to the pool of apprehended offenders resulting in

an increase in charges and a decrease in mean BAC. There is an argument that subsequent potentially higher level drink driving episodes may be prevented because of specific deterrent effects and considerable general deterrent spin-offs will be gained through the social network of the convicted person. In other words, by dropping the limit from .08 to .05, it can be argued that someone will be prevented from progressing from the .08/.05 range to the range above that. This recently published review argues that point. It goes on to say that, if one accepts that .08 is good, .05 must be better. On page 30 of the report a persuasive argument along those lines appears, as follows:

A strictly deterrence-based aim of RBT is to deter people from drink driving in order to reduce alcohol-related crashes. Maximum deterrence implies both deterring as many people as possible from driving after drinking for as long as possible and inducing those people to decrease their consumption before driving by as much as possible. Any argument that claims 0.05 is 'more deterrent' than 0.08 must demonstrate how a change in legal limit could influence either stage in the decision to avoid drink driving.

. . . it is apparent that fear of being tested is the main factor determining the decision to avoid drink driving, but that a lowering of the limit may have a secondary role in determining how much is actually consumed by the 'well-intentioned' drink driver.

Arthurson (1985) has suggested that a lower limit may increase the likelihood of successful 'drinks counting', although it seems likely that specific attempts to count drinks may be a less frequent strategy than simply 'drinking less'. Another possibility is that a reduction may even influence heavier drinkers more than lighter drinkers by encouraging them to completely separate drinking and driving.

The initial response to RBT in South Australia indicated that drivers at all BAC levels moderated their behaviour, but that heavier drinkers were more easily 'undeterred' by the failure to maintain a high risk of detection.

That presented some of the arguments for and against. I will turn now to the conclusions of this recently released report on legal blood alcohol concentration for drivers.

The Hon. C.M. Hill: Where is that report from?

The Hon. L.H. DAVIS: The Road Safety Division of the Department of Transport, dated 27 March 1987, and just recently released. I quote from the conclusions, as follows:

There is sound evidence for a statistically significant increase in mean crash risk at blood alcohol levels between 0.05 and 0.079. The risk of a serious accident is approximately doubled (in that category) and the risk of a fatal accident more than doubled for the average driver in this BAC range.

That is an interesting observation because it is at variance with some of the evidence that was presented—

The Hon. C.M. Hill: This is the latest.

The Hon. L.H. DAVIS: —to the 1985 select committee.

The Hon. C.M. Hill: That report is two years old.

The Hon. L.H. DAVIS: The report continues:

Accident risk increases with increasing alcohol consumption for every individual driver, although the rate of increase will vary between drivers. Younger drivers and inexperienced drivers are likely to be at considerably higher risk of crashing at blood alcohol levels below .08.

That is a particularly important factor. Not only do they not have the skills acquired over years of driving experience, they do not have the drinking skills that the habitual drinker has in terms of being able to handle his liquor and drive at the same time, albeit with a much reduced effectiveness. The report continues:

While this information may guide the decision, the setting of the legal limit must ultimately be considered in the context of its principal mode of enforcement, random breath testing.

This review comes down in favour of reducing the limit from .08 to .05. On page 41, it argues:

A reduction of the legal limit to 0.05 is likely to bring considerable benefits with respect to the long term ideal of complete and voluntary separation of drinking from driving . . . and the more limited aim of replacing police enforcement of the legal limit with individual controls and social sanctions.

In the short term, a well enforced legal limit provides a justification for avoiding drink driving which can help overcome peer pressure. In the longer term, there is evidence that dissenting attitudes may come in line with the enforced behaviour.

At the individual level, this introduces the possibility that responsible drink driving behaviour may come under the control of new individual attitudes or may, at least, become 'habit'. At the social level, a climate is likely to be created which regards drink driving as anti-social and replaces formal sanctions (enforced through RBT) with informal ones (i.e. social unacceptability).

These long term educative effects are obviously likely to be maximised by setting the legal limit, at any one time, at the lowest level which is acceptable to the majority of the community. This line of argument does not necessarily lead to the eventual adoption of zero blood alcohol limit for all drivers, but gives unequivocal support to a reduction to 0.05.

That is the latest argument and, as the Hon. Mr Hill says, time marches on. This matter was last seriously canvassed in depth at a public level with a very comprehensive select committee report in 1985.

I have agonised over this decision. One of the problems that I have is that until this report came in (there is another report I have yet to see), there has been very little statistical information available. That is one of the very big criticisms that was advanced by the select committee in 1985, namely, some of these important trends in road accidents are slow to emerge through statistical information. It is hard to make objective judgments of suggestions in the absence of such information. Notwithstanding the fact that I do not have any real research assistance, in the last week I employed someone to put some figures together for me on trends in other States. I seek leave to have incorporated in *Hansard* some information that is of a purely statistical nature on the trends in New South Wales, Victoria and Tasmania with respect to random breath testing and roadside testing in recent periods.

Leave granted.

ROADSIDE TESTS AS A RESULT OF APPREHENSION FOR SUSPECTED TRAFFIC INFRINGEMENT

NEW SOUTH WALES (Calendar 1986)

Number of Drivers Tested	Number with Positive Reading	Driver Numbers 0.05-0.079	0.08-0.149	0.15 & over
27 403	949	242	456	183

VICTORIA (1 July 1984-30 June 1985)

	Number of Drivers Positively Tested	Under 0.05	0.05-0.079	0.08-0.99	0.10-0.149	0.15 & over
Metropolitan	8 644	1 395	689	1 217	2 773	2 570
Country	5 981	856	617	647	1 860	2 001
Total	14 625	2 251	1 306 (8.9%)	1 864	4 533	4 571

RANDOM ROADSIDE BREATH TESTING

TASMANIA (1 July 1985-30 June 1986)

Number of Drivers Tested	Number with positive reading	Under 0.05	0.05-0.99	0.10-0.149	0.15 & over
204 251	3 724	391	1 498 (0.07 to 0.099 1212)	1 498	324

The Hon. L.H. DAVIS: The first set of statistics covers roadside tests as a result of apprehension for suspected traffic infringements in New South Wales and Victoria. In other words, these are not the ordinary random breath tests where drivers are pulled in for a formal random breath test by an established random breath test unit or a police car operating as a breath test unit. These people have been apprehended for suspected traffic infringements. The figures indicate that, in New South Wales, of the number of drivers tested in the 1986 calendar year for suspected traffic infringements, 949 out of 27 403 had a positive alcohol reading. That represents 3.5 per cent, which is rather higher than would be the result with random breath testing.

Of that figure of 949 with a positive reading, 242 were in the range of .05 to .079. That is nearly 26 per cent, a not insignificant figure. In Victoria, the figures are separated into metropolitan and country regions. The total number of drivers tested was considerable. Only 8.9 per cent of the total was in the .05 to .079 category—a surprisingly low figure indeed and tended to bear out the evidence of the 1985 select committee, namely, that the number of people apprehended in the .05 to .079 range is not great. Lastly, the Tasmanian statistics are quite useful, in terms of setting out the number of people in the .05 to .09 category—Tasmania does not have a .05 to .08 category.

I hope that this information will be helpful to members in determining their attitude to this matter. I have canvassed briefly some of the issues in this very important debate. I want to say that in effect I am speaking at the cross benches, as I am uncertain about this measure. However, I want to conclude by saying that although considerable public attention has been paid to this important matter of whether we should reduce the level from .08 to .05, I would not want the public, the community, to think that this is the most important matter in relation to road safety. I certainly do not believe that it is: I think it is a peripheral matter, in terms of our overall strategy for adopting improved measures for road safety, and reducing the road toll of deaths and accidents. As I said, it comes back to the point that the Hon. Murray Hill made in opening this important debate, and that is that we need a combination of education and improved driver attitudes, publicity and, of course, a proper enforcement of road safety legislation. A great concern that I know is shared by several members of the 1985 select committee is that some of the very important measures that were recommended by that committee have yet to be implemented, or implemented effectively. This is a cause of continuing concern.

The Hon. G.L. BRUCE secured the adjournment of the debate.

GOOLWA FERRY

Adjourned debate on motion of Hon. L.H. Davis:

That the Regulations under the Highways Act 1926, concerning Goolwa ferry permit revocation, made on 22 January 1987, and laid on the table of this Council on 12 February 1987, be disallowed.

(Continued from 18 March. Page 3479.)

The Hon. G.L. BRUCE: I oppose this motion.

The Hon. L.H. Davis interjecting:

The Hon. G.L. BRUCE: I sat here and listened to the honourable member in a reasonable amount of silence and I hope that he will give me the same courtesy. As Chairman of the Joint Committee on Subordinate Legislation, I was responsible for the committee's hearing evidence and its deliberations in relation to this regulation. The Hon. Mr Davis went to a lot of trouble quoting extracts from the evidence that was taken by the committee, which evidence was tabled in this place. I want to outline the brief that the Subordinate Legislation Committee was given when this matter came to it and the evidence that was subsequently received. I shall not go right through the brief, but the part that I want to refer to in particular is as follows:

Operators regularly cite cases where the privileged few have abused the system by:

(a) loaning permit vehicles to friends at holiday periods.

(b) casually using their permit to make a journey for other than essential needs.

Ferry operators are continually involved in disputes, mainly with non permit holders and on occasions are called upon to settle disputes between permit and non permit holders. Over recent years the department has clearly become 'the meat in the sandwich' in all matters of dispute regarding the priority permit system for the Goolwa ferry. It is acknowledged that this ferry serves an island community where no alternative access is available for road traffic. However, similar situations exist at the other twelve (12) ferry crossings where the principal town lies on one side of the river and local residents residing on the opposite side are dependant upon those ferries for the services provided for the respective towns. No preferential treatment is provided for these residents.

That was part of the preamble to this matter when the regulation was wheeled up before the Subordinate Legislation Committee. During the course of our deliberations a vast amount of evidence was taken. The practice of the committee has been to table, in most cases, the evidence taken that we feel is relevant and for the purpose of allowing members to use it for debate. The Hon. Mr Davis, as is his right, took advantage of the minutes of evidence that were tabled, and I in turn am now taking advantage of my right to put an opposing argument that was put to us.

Evidence was received from witnesses representing the District Council of Port Elliot and Goolwa. One aspect that was raised concerned the encouragement of tourism. While it sounds as though that might be an argument against abolishing the permit system, I do not believe that it is. The District Council of Port Elliot and Goolwa submitted:

Goolwa is one of the most rapidly growing towns outside the metropolitan area. Its tourist growth potential has been recognised and supported by the current Government. Funding has been provided for a PATA Task Force Study on Tourism, the establishment of the Steamranger operations, the funding of a Signal Point River Murray Interpretive Centre as a major State bicentennial project and support given for the Marina Hindmarsh Island and Goolwa ship constructions at Hindmarsh Island. All of the tourist developments will undoubtedly make Goolwa one of the most interesting tourist destinations in the State. As Hindmarsh Island is an island and creates a curiosity factor, the use of the ferry can only increase, making it more difficult for the permanent residents to carry out their day to day activities.

I acknowledge that that last comment is right, that it will make it more dfifficult, but by the same token, it makes it more difficult for those tourists who are interested and fascinated by the projects going on at Goolwa, and also at Hindmarsh Island, which is the access to the Murray Mouth. I believe that, in the fullness of time, if a lot of traffic and tourism is involved eventually the Government will have to come to grips with a way of coping with it. However, that should not be done at the expense of just one section of the public, namely, the tourists. I believe that they have just as much right to access to the island as does anyone else.

Evidence given by a Mr Thomas Chapman is well worth reading and bearing in mind. I must congratulate all those witnesses who came in and gave evidence. They were all, of course, looking to retain their advantage of having a permit. In evidence, Mr Chapman said:

At the moment the marina is developed to approximately 100 berths.

Mr Chapman is in charge of a new marina development on Hindmarsh Island. He continued:

The ultimate size of the original plan showed probably 500 to 600 berths, depending very much on the size of the boats. The basic infrastructure is in place and about 10 per cent of the development has been completed at this time. It provides a facility which was needed and seen to be needed by a number of people—Government, local government and private enterprise. The marina provides a number of support facilities for the people on the island and they are outlined—a general store which provides food, ice, milk and those sorts of products, and it is the only licensed fuelling outlet for motor vehicles, so it has done something to try to reduce the peak loadings on the ferry. The development went ahead on the basis of the knowledge of the ferry permit system providing a back-up which, as you will see later on, is necessary when you are running a complex the size of this one.

Of course, Mr Chapman was seeking to retain the permit system. This marina consists of 100 berths now and, given the fullness of time, it will be 500 or 600 berths so, if this marina is developed, those people who have to wait in line to get their vehicles across to their pleasure boats will not take kindly to it and there will be adverse reaction to those people who use the island for pleasure and its tourist facilities.

While recognising that there is a problem for the developer of the system, I believe also that there will be a larger problem if we deny reasonable access to those people who have berthed a boat in the waters of the island at some thousands of dollars cost and at the same time they have to pay rent to the marina. If those people have to sit around waiting and watching only a few residents sail past them, it will create a problem. I must admit that no evidence was presented to the committee by the tourist people on the island that they wanted the permit system stopped, but I believe that the evidence presented to us shows that there is a certain amount of resentment on the part of those people. I quote some evidence given by Mr John Ledo, the Assistant Commissioner (Operations) of the Highways Department. If any member wishes to peruse the evidence in detail, they are at liberty to do so, but the evidence to which I refer relates to how Mr Ledo sees the problem, and he states:

... but one thing that does not come out is that there were problems at the time the council was administering the system prior to 1982. I have here a letter sent to us in February 1981 which I will table, if appropriate.

He tabled that letter which was from the secretary of the Australian Workers Union. The letter pointed out that the position in 1981 was quite chaotic, so it is not true to say that the problem has developed recently. There is evidence and correspondence and the council also received some evidence from the ferry operators regarding their problems. The problem went back to 1981 and perhaps longer.

I understand that the permit system has been operating for at least 20 years and possibly longer. It is not true to say that there have been no problems during that time with this permit system: there have been problems, but of course the problems have been shelved to the ferry operators to sort out. While they have honoured those permits, there has been a great deal of ill will and problems have existed. In fact, Mr Ledo further states:

The problem is really in peak periods. Indications are that the average daily traffic on the ferry is about 650 vehicles. The ferry we have now is modern and takes the equivalent of 12 cars. The cycle time—loading, crossing the river, unloading, loading and coming back again—is seven minutes, provided there is no time wasting. It only takes something of the order of 1½ minutes to actually cross the water and the rest of the time is in loading. We reckon that something of the order of 30 days in the year give a significant problem, and the worst period is during the January long weekend, which happens to clash with the Goolwa-Milang yacht race, when it is rather chaotic down there.

We have recorded delays of up to 2¾ hours at that time. On normal working days through the week, there does not seem to be much of a problem. I would further add that in very busy times we put two operators on the loading and can cut something of the order of about one minute off the seven minute cycle, so that really gives us, doing a calculation based on the seven minutes and 12 cars per load, of about 2 800 cars per day. Comparing that with the average daily traffic of about 650 vehicles, I think it is pretty obvious that there is plenty of capacity for the ferry.

That was not denied by the witnesses. Of course, the problem is that there is not sufficient capacity at peak or holiday times. The cost of running that ferry is $283 000 a year, which cost is not borne by the people on Hindmarsh Island or the people of Goolwa: it is borne by the people of South Australia on a highway system and they are all entitled to the same rights to use that ferry as is the case with any other ferry crossing on the river.

I admit that, when people live on the island and they feel that they should be able to get across and have quick access to the other side, it is a problem. There is a priority system laid down with all other ferry crossings and Goolwa, once it abolishes the permit system, would be no different. The operations at Goolwa would consist of all ferries having a priority system for genuine emergency cases. This system works satisfactorily with all other ferry crossings. Guidelines are provided to ferry operators, but obviously at some point the discretion falls to the operator and the general priority listing standing at Goolwa comprises the CFS, police, St John ambulances, doctors, district nurses, veterinarians (and they are on call), sea rescue, perishables (fish, ice, etc., but not refrigerated transport), school buses and genuine emergencies. I have no doubt that, in the case of a genuine emergency, the ferry operator would use his discretion and see that nobody was unduly delayed.

I firmly believe that the people living on the island are aware of the delays and when they occur. Given that knowledge, it is not beyond the bounds of imagination for them to be able to come to grips with trying to rectify the situation. I understand that in a lot of cases residents of the island have more than one vehicle, so it might be inconvenient to drive a vehicle across and leave it on the other side, so they can get dropped, go across on the ferry and pick up the car, but if that means a saving of two or three hours on a particularly busy day, I am sure that, if they know the problem may exist on only 30 days of the year, and especially in the holiday periods, it is not too much to expect them to come to grips with it.

Evidence was given to the committee that some of the locals had these permits, they were aware of their rights and went sailing through. This was not denied by the witnesses and it was reported by the ferry operators. Some witnesses said that the system had been abused; that they would go across and get a packet of chips or a pasty on the other side, and would come back past the queue and give the people waiting the V for victory and thumbs up sign as they went past the holiday shackowners who had been waiting for some hours. It is no wonder that the ire of these people was aroused. There is a problem when people living on the island abuse the permit system.

I put it to Mr Ledo that, if a decent system were worked out, surely the people themselves would try to police it and see that it was not abused. His view was that that had not happened over the past 20 years and he could see no reason why they would now change their attitude and not abuse the system. It has been abused. Evidence was given that as many as five permits were given to one family and the reason was that they had four or five—

The Hon. L.H. Davis interjecting:

The Hon. G.L. BRUCE: That was cut out.

The Hon. L.H. Davis interjecting:

The Hon. G.L. BRUCE: In the early times, that is right. Of course, when that number of permits floated around the system, it lent itself to abuse. At one stage apparently 400 permits had been issued and, at the last count, I understand 199 permits were current. People on the island comprise persons involved in primary production, commercial interests and retired people. The district council recently indicated that 222 Hindmarsh Island ratepayers were on the electoral roll for the area. Of those, approximately 30 are farmers, an estimated 37 per cent or 82 people are retired and 110 people are non-resident. Members can see that it amounts to a small number of people, though the problem is large in their minds. It is a matter of 199 permits as against the rest of those people who want to use the island. I feel that those other people, the tourists, are entitled to use the ferry. In his evidence Mr Ledo stated:

> People who live at Cowirra across the river from Mannum have the same sort of difficulties; at times there are fairly heavy loadings on the ferry, but it is not so bad now that there are two ferries. For many years people were faced with huge queues when they had to conduct business in Mannum, the alternative being to drive to Murray Bridge.

I asked him:

> At least there was an alternative, but there is no such alternative at Hindmarsh Island.

He replied:

> The length of the queue at Hindmarsh Island in terms of actual times of travel would rarely exceed the extra time of travel taken to go from Cowirra to Mannum via Murray Bridge. It is very rare that there are huge queues there—perhaps only a few days of the year.

Therefore, in reply to my question he was saying that surely, given that there is an access road for people to go to their port of call, they would probably take more time going around the river to the bridges than would people waiting on Hindmarsh Island. In relation to those people, there was no priority system at all. In regard to abuse of the system, I asked Mr Ledo:

> Surely the people on the island would police it themselves and would know if the system was being abused and they could not get on to the ferry.

He replied:

> I guess that comment could be made about the system that prevailed at the time. Certainly, indications of abuse and the evidence from locals supports the view that there has been some degree of abuse. I cannot see that self-discipline will be any better under the new system than under the old one. We have done everything we possibly can to keep this sensible and reasonable.

Of course, it still does not work: the ferry operators are still the meat in the sandwich. The Hon. Mr Burdett asked Mr Ledo:

> Having read the evidence given by the residents and others on the council, what is the likelihood of the department making a recommendation to the Minister that there be a return to some sort of permit system?

He replied:

> I can only respond as John Ledo, Assistant Commissioner in the department: I would not recommend of my own volition a return to the permit system. I have read the evidence sent to me and have also read a huge number of letters sent both to the department and to the Minister in relation to this matter, so I have a lot more angles on this matter than have been tabled here. For instance, there was one letter where a lady was concerned about getting her cat to the vet: that is an example of the sorts of things coming along.
>
> I have read all the evidence and am not swayed from the recommendation that I made earlier, which led to the action that the Minister took. Whether the Commissioner of Highways is prepared to recommend otherwise is for him to say: it would not emanate from me on the basis of what I have read and seen and as a user of the ferry from time to time with some knowledge of the locals there. I stick by what I have said.

Mr Ledo has strong views and he believes that the recommendations and the regulations that do away with the permit system are just and fair. This problem goes back many years. It has been a festering sore for quite a long time. Committee members asked about the cost of another ferry, but it was cited as $1.5 million. The committee asked many questions in that regard, but it seemed that the figure of $1.5 million could not be changed. The work and effort in relation to another ferry would cost $1.5 million and the cost of providing that service for about 30 days of the year at the most seemed to be exorbitant, given the number of people who use the ferry. There are about 600 crossings a day. All in all, it seems to me that, while the situation is unfortunate for the citizens of Hindmarsh Island—

An honourable member: Impossible!

The Hon. G.L. BRUCE: I do not believe it is impossible: I believe that life can be built around it. People who use the highway system (and it is a highway) are just as entitled to use it as anyone else without having to wait around for a priority. I am sure that, now that priorities are denied to them, permit holders will find alternative ways to get across to do their jobs. There is nothing to stop anyone getting on the ferry as a pedestrian. I am sure that, when people realise what the arrangements are for putting a car on the ferry at peak times and that it might take some time, they will consider alternative ways of getting across. I understand that the marina has about four permanents, but I am not too sure about the actual number of permanents and casuals. People could go across on the ferry and be picked up by someone working at the marina or the operator.

The Hon. Mr Davis said that an extra arm was built alongside the ferry to take the extra permit holders, and that serves a double purpose. It can be used for parking vehicles. There is nothing to stop a resident from parking his vehicle, going across to Goolwa, doing his shopping and going back.

The Hon. L.H. Davis interjecting:

The Hon. G.L. BRUCE: Yes. People can park there, do a bit of shopping, go back and pick up their vehicle on the other side without taking their car on the ferry if that means a two or three hour wait. It all depends on one's business. If a person needs their car on the other side, alternative arrangements would have to be made. Given the nature and amount of evidence put before the committee, I believe that it is not unjust to recommend that this permit system be abolished. We are doing no more or no less than looking after the interests of all the people of South Australia, not just the few who reside on Hindmarsh Island. I oppose the motion.

The Hon. J.C. BURDETT: I support the motion. I believe that all members of this Chamber would be aware of the problem of delays that occur from time to time, usually at weekends and holiday periods during the summer months, in crossing on the ferry from Goolwa to Hindmarsh Island. Of course, that problem applies to everyone but it falls by far the hardest on the residents. If members were not aware of the problem before the Hon. Mr Davis spoke quite extensively last Wednesday, I am sure that they are well aware of it now. The problem is easily explained, although it is a very serious problem for the residents concerned.

Hindmarsh Island is just that—an island. There is nowhere that you go after that. Every tourist or non-resident who goes from Goolwa to Hindmarsh Island by car must cross on the ferry and must come back again, and every resident who travels from Hindmarsh Island to the mainland at Goolwa by car must cross by the ferry and must go back.

In the past, as the Hon. Mr Bruce said, and for quite a long time, a permit system has applied which gave priority to residents of Hindmarsh Island. They could display their permit and go to the head of the queue, having priority over non-residents. All of the evidence given to the Subordinate Legislation Committee, except the evidence of Mr Ledo, supported the retention of the permit system.

Evidence was given to the effect that delays of up to three hours occur. Certainly, delays of one and two hours were quite common. If the permit system was abolished, residents would have to put up with that. The Hon. Mr Davis quoted extensively from the evidence given to the Subordinate Legislation Committee, and I will not cover the same ground in detail. The honourable member also referred extensively to the letters that he has received, quoting many of them—I believe he detailed about 60 letters. I have received a similar number. Generally, for a number of days of the year (and there has been some argument as to how many days) there can be a two hour or three hour wait at the ferry. This can be quite traumatic for residents of Hindmarsh Island who must wait to cross that short stretch of water and then in many cases travel to Adelaide or quite some distance beyond that.

The Hon. Mr Davis gave details: people waiting to take cattle to market [the cattle would be spoiled if they waited]; children waiting to go to and from the island, travelling by car during an *exeat* weekend if they are at boarding school; the problems of people from the island travelling to weekend sport, in which most people expect they ought to be able to participate; and so on. I recall a letter from a resident who was a member of the Currency Creek CFS and who would experience problems in travelling to attend to his duties, including emergencies, if the permit system were ended. Of course, it has been ended for the time being. The Government, about 18 months ago, spent $50 000 on a priority lane (which has been referred to by the Hon. Mr Bruce) to make this system work better.

Members interjecting:

The Hon. J.C. BURDETT: It was a priority lane, and that is what it was meant to operate as, so that residents crossing could use the priority lane, which would make the permit system more effective. In my view, it is obvious that residents ought to get priority. About 18 months ago, when the department spent that amount of money, it obviously thought so, too. It has obviously thought so for 20 years, as it has maintained the system. The Hon. Mr Bruce said, and it is true, that all of the witnesses acknowledged that there have been problems for the ferry men. Some of those were outlined by Mr Ledo: problems of abuse when residents exercised their permit rights, etc.

I point out that those problems were usually not the fault of the residents but of other irresponsible elements in the community. As I said, it was acknowledged that there were problems, and the answer surely is to resolve those problems—which should not be beyond resolution. It is admitted that there were too many permits. Of course, we can cut down on the number of permits either by changing the guidelines, which will probably not be necessary, or by policing the guidelines more strictly. The residents, faced with this problem, acknowledged that there were too many permits.

The residents saw no problem in restricting the number of permits to those who needed them, and an issue which was canvassed before the committee to some considerable extent was the possibility of permit holders paying a fee for their permits which was designed to defray to some extent the cost of administering the scheme. That was proposed by some of the residents of the island, and no-one to whom it was put disagreed with that. It was pointed out by some of the witnesses that privileges of this kind, like loading zones in Adelaide, are not usually paid for by the people who enjoy the privileges.

Nonetheless, the suggestion that a fee of $15 or $20 or something of that order for the permit may inhibit people who did not really need a permit, although they qualified for it, from obtaining one, and might reduce the numbers. That was a proposition which was not accepted by Mr Ledo, who did not really seem to accept the problems of the residents at all. The problems are all problems which can be addressed, for goodness sake. If there are problems with the ferry operators having to sort out the system of too many permits or of permits not being in an appropriate form, these things can be addressed.

A suggestion was put up that, instead of a permit to a vehicle, as at the present time, displayed on the windscreen, there should be a permit to the individual, identifiable by photograph. The cost of this, of course, could be defrayed by the fee for the permit, as I mentioned. The course which I recommend to the Council is to disallow the regulation and thus require the Government to address itself seriously to reforming the system and making it work. It should not be too great a problem to make a system like this work. All sorts of similar systems in various areas—not only in transport—have been made to work. The Hon. Mr Bruce quoted the district council, which strongly opposed the subject regulation and supported the permit system.

The Hon. Mr Bruce spoke about the tourist industry, a most important industry in South Australia, which ought to be encouraged, not discouraged. I certainly support that, and there was evidence about it. Evidence given indicated that what a great number of the tourists wanted to do was to see the mouth of the River Murray. At the present time, apart from having a four-wheel drive vehicle, an aircraft, or a boat, the only way to see the mouth of the River Murray is to cross on the ferry to Hindmarsh Island, where one could view the mouth of the River Murray. Many people did this. Having viewed the mouth of the River Murray several times myself, I think that is an excellent thing and I commend it to people.

A number of witnesses suggested that that objective could be achieved by a road on this side of the river to the mouth, sensitively constructed so that there was not ready access to the fragile sand dune areas, so that people could drive to the mouth of the River Murray. Mr Ledo did not agree with that, and I think there were some other reservations about it, but that is a very real possibility as far as the tourist trade is concerned. The Hon. Mr Bruce also quoted Mr Chapman, who strongly opposed the subject regulation and supported the permit system. It is not true to say that there is no other occasion when residents are given preference. They are given preference in regard to the Australian Formula One Grand Prix. The Australian Formula One Grand Prix provides permits and privileges to residents, and there are all sorts of occasions where there is traffic congestion, for various reasons, and it is the residents who are given the preference.

There are an enormous number—at least, it is an enormous number to me, because it is a considerable number which ought not to be ignored—of genuine residents who are disadvantaged. I think the Hon. Mr Bruce suggested it was in the order of 200. That is a group of people who cannot be ignored when they are being disadvantaged through not being given ready access to a highway, as the Hon. Mr Bruce quoted, and a transport system. Mr Ledo was the only witness who supported the regulation and opposed the permit system. The question of five permits to one family

can be and has been solved. Questions of duplication, if they still exist, can easily be overcome. The Hon. Mr Bruce referred to Mr Ledo's evidence about the dual ferry at Mannum, and residents of Cowirra across the river.

From my personal observations during the many years I lived in Mannum, the problem was nowhere near as great after the dual ferry system was implemented. It was only on a very few occasions, maybe at Easter, holiday weekends or periods like that that there was a great problem. That was not during the period when residents of Cowirra were needing to cross the river to Mannum to do business. If they did have to go via Murray Bridge that involved nowhere near the same waiting time, as it is about an hour from Cowirra to Mannum via Murray Bridge as opposed to two or three hours waiting on Hindmarsh Island.

The Hon. Mr Bruce referred to the evidence of Mr Ledo and said that he had not only seen the evidence before the select committee but had also seen a host of other letters which had been sent to the Minister and to him. I suggest that most of those letters came to us as well, about 60. I think that they were probably from the same people. What those letters did, of course, was oppose the regulations and support the permit system. I intend to support the people who live on Hindmarsh Island by choice, or for genuine reasons. They have the right to live there and the right to reasonable access to the transport system.

The Hon. Mr Bruce said that there were alternative ways by which they could overcome their problem. What alternative ways? Can they swim or paddle a canoe? How can they get their cars across when they need to do so? That is the whole point—there is no alternative way to get to the mainland because they live on an island. There is only one access to that island and they ought to be given priority to use that access. I support the motion.

The Hon. C.M. HILL secured the adjournment of the debate.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2) (1987)

Adjourned debate on second reading.

(Continued from 18 March. Page 3482.)

The Hon. C.M. HILL: I support the Bill. I will remind the Council of some of the background to this measure. Members will recall that last year a Local Government Act Amendment Bill was introduced in this place and an amendment was inserted in that Bill providing for ratepayers in council areas, where those areas were involved in proposed amalgamations, to have a vote as to whether or not they supported amalgamation arrangements. There was a conference with regard to that Bill because the Houses could not agree on its total content. Out of that conference came an arrangement under which the Bill was to proceed in the form that the Minister of Local Government wanted, and as soon as possible this year the Hon. Mr Gilfillan was to introduce a private member's Bill incorporating the clause in dispute at the conference; so we have this Bill before us now. Another condition that came from that conference was that the Minister was to refrain from proclaiming any amalgamations whatever until this question was finalised.

The Bill now before us provides for a situation where an amalgamation is recommended by the Local Government Advisory Commission. In that situation the Minister will not proceed to proclaim that amalgamation until the citizens affected in the area involved in the amalgamation have the right to cast a vote to say whether or not they want to proceed with the amalgamation proposal. I stress that it involves the people in the whole area under consideration. In other words, if two councils are to be amalgamated people from the areas of those two councils will cast their vote and a simple majority will decide matters one way or another.

I will repeat my views because in some areas of the State (one area being well known to the Hon. Mr Chapman from another place), there has been some misunderstanding where I stand on this matter. I will put the record straight. When the previous Bill was in the Council I said on 25 November 1986 (and I am talking here of the debate on the Local Government Act Amendment Bill (No. 4)) that in my view any one council involved with a proposed amalgamation ought to be able to object to it and that the citizens from that specific area ought to have the right to a poll to say whether they wanted to be part of the amalgamation proposal.

Perhaps I can make this matter a little clearer by giving an example of council A, a large council, and council B, a neighbouring small council. It is quite understandable that in some circumstances the small council may not want to amalgamate. It was that situation that I endeavoured to cover by way of amendment. I explained in my speech on that day the various changes in local government which are bringing it more into what is called 'community government' in today's world. I would like members to look at this matter from the point of view of the current situation in local government. I will repeat a paragraph of my speech on that day, when I said:

> Local government is becoming more sophisticated in its organisation generally. It has improved communication between councils and local citizens. It is emerging into a human services era in which more and more services will be supplied at the local or grassroots level. As a result, citizens will be more involved in what is emerging right across Australia as community government. As a result, too, more and more local groups will be having their say on local issues. There is a groundswell of public interest in community matters generally. Sensible debate and discussion—although perhaps emotionally charged—can take place and indeed on local issues it should be encouraged. That surely is part of the democratic process. That groundswell will be reflected in areas where amalgamations are being imposed on some communities. I believe that such communities should have the right to say, by way of a poll, whether they want an amalgamation or not. But I hasten to say that, whereas a few years ago such polls would tend to give a 'No' vote, the electorate is now more educated, more involved and more realistic about the financial situation than was the case previously.

I turn to what has happened to the passage of that Bill in December last year. The Australian Democrats informed me at that time that they would not support the amendment of which I gave notice and which I have just explained. They placed their amendment on file. That amendment, like the Bill before the Council, encompassed a poll for the whole area involved. In other words, in my previous example, all the citizens from council A and all the citizens from council B would be given a chance to say in the final decision whether they agreed with this proposed proclamation by central government. It was obvious to me in December of last year, knowing what the numbers are in this Chamber, that I could not successfully proceed with my amendment. In my judgment, it was better to support Mr Gilfillan's amendment than not to attempt to make any change at all.

A solution was found to the problem in that, in supporting Mr Gilfillan's amendment in an endeavour at least to have a poll held in these rural areas, members on this side, including me, supported Mr Gilfillan and we won the day in this Chamber. The other House did not agree and that brought about the need for a conference between the Houses.

Because the Government was very anxious to get its Bill through and because of the nature of its main clauses (it was one of the many reform Bills to update the Local Government Act and bring it into today's world), a solution was found and this issue of polls was put off; hence Mr Gilfillan's Bill, which is now before us.

This Bill will give local people the last chance to have a say in their future. The role of the Local Government Advisory Commission is to go into the various areas. It takes evidence and submits its recommendations to the Minister who, I am sorry to say, is not present during this debate. The Minister's practice in regard to the commission's recommendations is to agree with them. She indicated that to me in answer to a question on amalgamations last year. When the advisory commission makes its recommendations to the Minister, the Minister recommends and the Government proclaims. The people in those rural areas are not consulted other than by that machinery measure—the commission—on which the majority of people are appointed by the Government of the day.

The human reactions and feelings on the question of amalgamation are running very high. It is an extremely emotional issue and we in this Parliament should be duty bound to respect the views of the people who object to amalgamation. They call this a central government and, from their point of view, the Government interferes with their sense of community and their local situation. As entities, some of these councils are over 100 years old. Generations of people within those areas have contributed to the fashioning of local community spirit and administration. It must be remembered that it is voluntary service. The history and heritage of the local areas are intermeshed with the life and activities of the local councils. I make the point as strongly as I can: surely the democratic approach is to allow a poll as a final act in this amalgamation question.

The Hon. I. Gilfillan: Of the whole area?

The Hon. C.M. HILL: Yes, I am supporting the Bill.

The Hon. I. Gilfillan: In preference to your original amendment?

The Hon. C.M. HILL: If you want to ask me my opinion about the two approaches, I favour my own. As the honourable member would not support it, this Chamber could not pass it, as I said, so I am supporting his Bill.

The Hon. I. Gilfillan: I want unqualified support for the Bill. It has to be enthusiastically supported.

The Hon. C.M. HILL: You get my support by my hand going up. Don't worry about it being qualified. I am telling you that—

The Hon. I. Gilfillan: It is the way your tongue is wagging that worries me.

The Hon. C.M. HILL: I am telling you that I will give you a vote in other words.

The Hon. I. Gilfillan: It is more than a vote. We have to have enthusiastic support. That is the arrangement.

The Hon. C.M. HILL: I do not know that I can speak more strongly than I am speaking on the subject. I make the point that, if financial considerations are paramount in this question of the need for some amalgamations, that is something that the people themselves can decide in these proposed polls. That issue can be explained to the people prior to the poll and they can still make their judgments as to whether they want amalgamation.

I digress from that for a moment and make the point that this Bill does not affect ordinary boundary changes or annexations of portions of one council with another. In those situations there is not a loss of the whole council entity. With those boundary changes, the whole council does not disappear forever as it does with the Government's plan for total amalgamations by which it accepts a recommendation from the advisory commission and, through the *Gazette*, proclaims that change has occurred. The people would wake up the next morning and find out that the axe has fallen.

I urge the Government to permit these councils this final democratic say in their future. People should remember that big is not necessarily best in local government. During one of my terms as Minister of Local Government, I visited nearly all councils in rural South Australia. I concluded that many small councils were efficient and stable. Their ratepayers were happy, many had local voluntary input in their community affairs and that input in many cases was a contributing factor in the way those councils made ends meet. In other words, they managed to live contentedly and happily. Why should central government blast them out of existence by gazetting amalgamations without at least at the final moment giving the local people a poll on the question, the result of which the Government will respect? The Government should not fear those local polls. I admit that, a few years ago, any Government would have feared a local poll, but times have changed and we are living in an ever-changing world. The local people, through the ballot box, would not necessarily reject amalgamations. I say that because I know the good sense and logic which these people in far flung areas of the State can apply in making judgments of this kind.

In summary, whilst I rather regret the fact that my original proposal was unable to succeed in this Chamber, by supporting Mr Gilfillan's amendment and by supporting his Bill which is now before the Chamber, at least I will give the people a last chance of having their own poll and of telling the Government of the day, no matter what colour it is, whether they want to go on with the proposal.

The passing of this Bill is certainly better than having no ballot out in those areas at all—I am absolutely determined on that point. So, I support the Bill and I urge the Government to do so also.

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

GOOLWA FERRY

Adjourned debate on motion of Hon. L.H. Davis (resumed on motion).

(Continued from page 3669.)

The Hon. M.J. ELLIOTT: I lived in Swan Reach for two years, and problems with the ferry there were similar to those experienced at Hindmarsh Island, although some were distinctly different. I recall seeing on many occasions incredibly long queues, with people having to face very long waits. However, the good fortune for the residents of Swan Reach was that they lived on the side of the river where the shops, schools, and so on, were located. All but probably 10 or 15 people in the town lived on that side of the river. There were ways of avoiding the inconvenience caused by those very long queues. Quite often, if one was going away for the long weekend one would be travelling in the other direction to most of the other traffic and would be coming back when other people were leaving the town. One had alternative routes available: one could go up to the Blanchetown bridge, or one could even go down south via Murray Bridge—and that was often quicker than waiting in a long queue. However, as I have said, as far as day-to-day business

and one's day-to-day life was concerned, all the goods and services that one required were on the same side of the river as were the residents. That is the significant difference.

I do understand that the residents of Hindmarsh Island have to contend with a very unique situation and, because of that, I think that there is some justification in their having a permit system. I certainly take on board the opinion expressed from time to time that permits have been abused, but it does seem clear to me that the abuses have multiplied many times over since the permit system has been under the control of the Highways Department. That is not an implicit criticism of the Highways Department, but with a large bureaucracy, with the office which administers the system based in Murray Bridge, it is not surprising that abuses might occur very easily.

Whilst I will support the motion that the regulation be disallowed, I do so with some provisos. I believe that if a permit system returns it should fall back on the local community to operate it, to ensure that there are no abuses. After all, those in the local community know everyone in the area and they know who are the ones most likely to abuse the system. For instance, they know who the shack owners are who perhaps might tell slight stories about their place of residence, etc. I am suggesting that the permit system should be put under the control of the District Council of Port Elliot and Goolwa and that any additional expenses incurred should fall on that council, and perhaps it might be able to pass those costs on via the permit system.

I think there is a need to have the permit lane clearly labelled so that people do not find themselves in the wrong lane, then being sent back to the other line. A number of other things of a mechanistic kind will incur some costs, but if the residents insist on this right then they must also bear some of the incidental costs.

I would say that, if in 12 months time I can be convinced that abuses to the system are continuing (in other words, that the district council has failed to make the system work) I would support the proposal that the permit system should go. I think that the people concerned have been given a very clear warning by this Council. The Government has promulgated the regulation and, whilst I am supporting its disallowance, I make it clear that those involved must make the system work. It must not be abused; otherwise, I might not support a disallowance motion in the future. I do not think I really need to say anything further—one can talk for a long time without saying much. I support the motion for disallowance, with the provisos that I have outlined.

The Hon. L.H. DAVIS: I welcome the support from my colleagues, in particular, the Hon. Murray Hill and the Hon. John Burdett, on this matter, and I also want to thank the Australian Democrat (Hon. Mike Elliott) for his contribution and indication of support. The matters involved have been fully and thoroughly canvassed, and I think the fairly limp effort of the Hon. Gordon Bruce indicates that the weight of evidence in this case is heavily in favour of disallowing this regulation. The first point that should be made is that the Government should take the vote in the Council today as a condemnation of this high-handed action. I would expect the Government, and in particular the Minister of Transport and the Highways Department, to consult with the District Council of Port Elliot and Goolwa, the residents of Hindmarsh Island and the ferry operators to ensure that a workable and sensible solution is found. I believe that it can be achieved. We have already seen indications that abuses in the past have been stamped out in the past 12 or 18 months and, of course, in the past 12 or 18 months $60 000 of Government money has been spent on upgrading the priority permit system by means of using an additional lane and that, of course, was an indication from the Government that it supported the principle. However, the Government, under pressure from the Ferry Operators Union, has moved to overturn this permit system, which has given priority to the residents of Hindmarsh Island for the past 20 years.

We heard the Hon. Gordon Bruce trying to defend the $60 000 upgrading by saying that the area created will provide useful parking—a very limp excuse indeed. I am pleased that the majority of the members of this Council support this measure to overturn the regulation. I would hope that the Government treats this vote in the Council today not merely as an opportunity to reintroduce the regulation tomorrow, and leave it at that, but as a sign from this Chamber that it should review the decision and give the residents of Hindmarsh Island some justice and some priority, to avoid the delays of up to three or four hours which will occur on 40, and maybe up to 50 or 60, days a year as Hindmarsh Island becomes an increasingly popular tourist destination.

The Council divided on the motion:

Ayes (12)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis (teller), Peter Dunn, M.J. Elliott, I. Gilfillan, K.T. Griffin, C.M. Hill, J.C. Irwin, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (9)—The Hons G.L. Bruce (teller), J.R. Cornwall, T. Crothers, M.S. Feleppa, Carolyn Pickles, T.G. Roberts, C.J. Sumner, G. Weatherill, and Barbara Wiese.

Majority of 3 for the Ayes.

Motion thus carried.

CITY OF ADELAIDE (DEVELOPMENT OF PARKLANDS) BILL

Adjourned debate on second reading.

(Continued from 25 February. Page 3114.)

The Hon. M.J. ELLIOTT: In supporting this Bill, I draw attention to the way in which we have treated a lot of what might be considered State assets. I think that the Hon. Mr Gilfillan has already talked quite expansively about what has happened with the parklands, but in fact the issue spreads far beyond the parklands. In Adelaide we have what are considered to be second generation parklands which were proclaimed not all that long ago, yet already those second generation parklands are being nibbled away. For instance, in the Salisbury area we have seen an agreement whereby the Golden Grove developers will build a golf course in return for which they will be given an amount of land which they can use for housing development. That makes some financial sense, but it shows also how quickly parklands can be nibbled away. At Noarlunga the E&WS Department is planning to double the size of its sewerage works. Once again, that is in second generation parklands, at the very estuary of the Onkaparinga River, which I would have thought would be considered to be a fairly important site, but the E&WS Department is going to double the size of its installations there.

It is also perhaps worth looking at what was one of our most unique parklands and I refer to the foreshore of South Australia. As we are only a little over 150 years old, it might be interesting to look at what instructions were given to Colonel Light by the Colonisation Commissioners in 1836. They stated:

In all your surveys you will reserve as a public road all land on the coast within not less than 100 feet of highwater mark and

you will also reserve a road at least 66 feet wide along each side of every navigable river and around every lake.

Of course, that has been nibbled away bit by bit. Taking shacks as an example, in 1917 the concept of a yearly camping licence was raised. By 1945 there was a yearly shack licence and from there it went to life tenure. Now shacks are being classed acceptable or non-acceptable and the acceptable shacks are being freeholded for amounts as little as $1 000 to $2 000 on land which, if a monetary value were placed on it, I would suggest is quite valuable. Something like 600 shack sites have already been freeholded, with another 800 about to be freeholded.

I have digressed from the parklands themselves to illustrate how freely we take public land and then, in bits and pieces, we are willing to give it away. We never look at the totality of what we are doing; we keep taking a bit here and a bit there and, as we proceed along that path, we end up losing something which was very valuable to us.

Of course, the State Government went to the ultimate absurdity with its Jubilee Point proposal where, not only has it gone over 100 feet from the coastline, but also, it has gone 400 metres the other side off the coast to build an artificial peninsula out to sea in the middle of metropolitan beaches. Most of this is happening under the powers of Executive Government or other forms of administration. The important thing is that this Bill has some of these important State assets being brought directly under the view of the two Houses of Parliament. In relation to many of these other assets about which I spoke, if that had occurred in the past, we might have been more sensible in the way that we treated all these various lands. I support the Bill.

The Hon. G. WEATHERILL secured the adjournment of the debate.

SELECT COMMITTEE ON ENERGY NEEDS IN SOUTH AUSTRALIA

Adjourned debate on motion of Hon. I. Gilfillan:

That the Interim Report of the select committee be noted.

(Continued from 25 February. Page 3117.)

The Hon. M.S. FELEPPA: Before I address myself briefly to this debate and to the interim report that is before the Council, I congratulate the Hon. Mr Gilfillan as Chairman of the select committee for his contribution which has undoubtedly been great. In particular, I thank the research assistant, Mr Bruce King, the Secretary Mr Blowes and, more importantly, *Hansard*. I would also like to take this opportunity to place on record my appreciation to the Hon. Miss Laidlaw and the Hon. George Weatherill who in my interests refrained from smoking in the committee room. I sincerely appreciate their consideration.

One of the most positive aspects of the deliberations of the select committee has been the exposure of its members to the enormously complicated question of South Australia's long-term gas supplies. On the basis of evidence provided to the committee there can be no justification for members of the committee at least offering simple solutions to the State's energy needs. What became apparent during the sittings of the committee was the remarkable turnaround that has been achieved on the gas supply and price questions since the Bannon Government came to office in 1983.

At that time the State had guaranteed gas supplies only until the end of 1987, as a result of an agreement signed by the Tonkin Government just before losing office, and embarked on a period of great and rapid gas price escalation. Now, in early 1987, the State has gas supply security until at least the end of 1993, and is paying less for gas now than it was paying at the beginning of 1985—more than two years ago. Even more important is the way in which the State's future gas supply options have opened up in the past few months. This, of course, is not accidental.

For several years the Government has maintained a conscious policy of keeping in close touch with all possible gas supply sources and has maintained a close working relationship with both the gas and exploration companies involved. First and foremost of these options was the proposal by the Cooper Basin producers to double exploration for gas in South Australia during 1987 and 1988. This, of course, involves drilling 100 wells and is aimed at providing a substantial block of gas for South Australia's use. In making this proposal the producers have responded positively to the Government's challenge that they must prove up substantial reserves on which new contracts could be based if they are to retain their established pre-eminence in the South Australian gas market. Most members would know that the producers' proposal is now a reality and the accelerated exploration program is well under way.

Secondly, the Queensland Government has, after lengthy consideration of its future gas needs, decided in favour of releasing some gas for interstate needs during the next few years. Thirdly, the Northern Territory Government is also keen to see its Amadeus Basin reserves further expanded and become a possible source of new supplies to southern markets. All of these options, and others, are being closely pursued by the South Australian gas task force and its associated gas negotiating group established by the Government last year.

It is the responsibility of the task force to ensure that the State's improved gas position is built upon and secured long-term. At this point I endorse the remarks made by the Chairman of the select committee on 3 December on behalf of the members of the committee, as follows:

> ... the committee's recommendation that the newly formed natural gas task force be obliged to consult with industrial and domestic consumers recognises that consumers should be involved in price negotiation. The task force will be responsible for further gas pricing arrangements. Without satisfied customers, both industrial and domestic, the full picture of South Australia's gas needs will not be acceptable. We have put forward a recommendation that the task force be required to seek direct inputs from consumer interests.

The Government has always made clear that its preferred position is to source the State's future gas needs from within South Australia. However, the Government has made it equally clear that it will sign contracts for proven gas only. For that reason, it must keep open the maximum number of options, including the possibility of sharing gas currently committed to AGL, while the various potential suppliers seek to convert their possible and potential reserves into proved and probable reserves. With these few words I commend the interim report of the committee to the Council.

The Hon. G.L. BRUCE secured the adjournment of the debate.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2) (1987)

(Second reading debate adjourned on motion.)

(Continued from page 3670.)

The Hon. BARBARA WIESE (Minister of Local Government): I oppose the Bill introduced by the Hon. Mr Gilfillan and I must say, before I outline the reasons for

the Government's opposition, that I do sympathise with Mr Gilfillan on this question, because I am sure that he must have agonised at some length over the introduction of this Bill once he had done his homework in local government and was able to determine that there was, in fact, no consensus in local government on the question of polls with respect to amalgamations. But during the debate that took place in this Chamber late last year the Hon. Mr Gilfillan had given an undertaking that he would introduce a Bill of this kind and, to his credit, he has honoured that commitment. It is now the responsibility of the Parliament to determine the issue of polls and whether or not they should be conducted in association with amalgamation proposals.

As I have already indicated, the Government will oppose this Bill, and I would now like to outline the reasons for our opposition. First, I believe that this measure is premature because the current provisions relating to the operations of the Local Government Advisory Commission were passed by this Parliament barely two years ago and have yet to be tested. To this point no amalgamations have been recommended by the Local Government Advisory Commission. The Commission itself is specifically structured to ensure that all interested parties in a boundary change question are given an opportunity to present their point of view. The commission itself is representative, informed and impartial. In addition, the Minister has no powers to direct the commission and, at the same time, the Minister is required to refer all proposals for amalgamation to the commission for its consideration. The Minister can proceed with a proposal for amalgamation only on the recommendation of the commission.

These checks and balances together ensure all interests in the process, and it gives protection to everyone who has something to contribute to a debate on an amalgamation question. As such, therefore, the need for additional restrictions on the current process is questionable. Mandatory poll provisions contained in the Local Government Act previously were specifically rejected because in the past they have frequently obstructed reasonable boundary change. It is questionable whether, in a highly charged atmosphere surrounding a controversial amalgamation proposal, meaningful, informed debate can take place. Conversely, the arguments for an independent external body undertaking an assessment of the situation are reinforced. That is not to say, of course, that local opinion should be discounted in any way and, indeed, the commission is required under the Act to hold public hearings on any amalgamation proposal.

The issue, rather, is whether a representative, informed and independent body might be able to make a more balanced judgment on a controversial situation. Notwithstanding those comments, poll provisions are already contained in the Local Government Act. Section 29 of that Act, for example, provides that the Minister may direct that a proposal for an amalgamation should be submitted to a poll of those who are directly affected by the proposal. The results would not be binding, nor is there a requirement for a poll to be held. However, where disquiet exists the legislation already provides for further testing of local opinion. Moreover, should a council itself wish to test an amalgamation proposal and to get the views of its electors on a question of amalgamation, the power resides in section 102 of the Act for a council to conduct a poll on any matter. Certainly, the question of an amalgamation proposal would be one of those issues which would fall into that category. So, as I have said, the power already exist within the Local Government Act for polls to be conducted.

I would like to make a couple of comments about the Bill itself. It is interesting to note, first, that the philosophy which is evidently behind this Bill is not being extended to the select committee process. If amalgamations are not to proceed with majority support by the commission process, why is it that the parliamentary process is not to be similarly restricted? Aside from the concerns I have already outlined, the Bill appears to be technically flawed, and some issues really have not been addressed at all. For example, no provision is made for any party to determine entitlement to vote, nor for the apportionment of costs involved when polls are to take place. Frequently, in the case of amalgamation, there will be the proposal that severance of part of a council area be included in the proposal. In such circumstances, the responsibility for the preparation of the voters rolls, etc., needs to be determined. Whether the council instigating the polls should pay the costs or whether costs should be distributed among the affected areas is not addressed. Those are all issues which would have to be clarified if such a proposal as that which has been put forward by the Hon. Mr Gilfillan were to be accepted by the Parliament.

Finally—and I think this is the most important of the issues, and the Hon. Mr Gilfillan has stated this himself—the views of local government on this issue are to date most unclear. The debate in the Parliament before Christmas made clear that there was a need for local government to consider this matter further. In the interval since then there has been a lot more consultation on the issue. The Local Government Association has conducted its own survey of councils around the State on questions related to this matter. If anything, the survey has made clear that the view of local government is very confused indeed, and we are left with the current Local Government Association policy, which is one of support for polls. As I indicated in this place last year, that was a motion carried at the annual general meeting of the Local Government Association in November last year by a very narrow margin.

The survey carried out by the LGA, which was reported in this Council by the Hon. Mr Gilfillan when he was introducing this Bill, is perhaps as confusing in its apparent design as it is in its outcome. The commission and the select committee process for dealing with the questions of amalgamation seem to be spoken of as alternatives, rather than as options which exist side by side. The questionnaire appears to have suggested that the select committee process should be brought back. The fact is that the select committee process has never been taken away. At any time the select committee process could be used to determine an amalgamation proposal, but it has been the policy of the Government—and, certainly the legislation that was passed through the Parliament was designed in this way—to pursue the questions of amalgamation and boundary change questions through the mechanism of the work of the Local Government Advisory Commission.

As I indicated earlier, that legislation has been in effect now for less than two years. It has not been tested. They have not had an opportunity to put forward any recommendations on amalgamation questions. Therefore, it seems that it is an inappropriate time to suggest changes to the way in which we might deal with these questions of amalgamation.

It seems that there are considerable differences of opinion between the 113 councils that responded to the Local Government Association's survey. No question appears to have been answered by all respondents. However, all questions appear to show the depth of division of opinion within local government. To summarise, in these circumstances, and

given the absence of any clear local government opinion or any evidence of the existing provisions causing hardship and therefore requiring change, there appears to the Government to be little justification for the introduction of the measures proposed in the Hon. Mr Gilfillan's Bill. Therefore, Government members will be opposing the Bill.

The Hon. I. GILFILLAN: I thank honourable members for their contributions to the debate, which were made with varying degrees of warmth of feeling. The Minister has raised several matters upon which I will comment. The first relates to the prematurity or otherwise of a Bill which actually allows democracy to be extended to electors and ratepayers in local government. The issue of whether it should be restricted at all is more the point than whether the Bill is premature. It is my opinion that the opportunity for those affected by amalgamation to have a direct say should be available to them. The Minister mentioned the possibility of a poll being part of the current legislation. She pointed out very effectively how futile that poll would be. No council will insult its ratepayers by going to the procedure of a poll when it is told that the result of such a poll would have no effect: 'It will be some kind of kiteflying and you cannot expect, having given your opinion in this way, anybody need necessarily take notice of it'.

Other questions about the continuing role of select committees being involved in the issue of amalgamations is one worthy of further discussion. I have a great respect for the select committee procedures in this place. On the one occasion I was involved, the question of an amalgamation was handled with great consideration and concern so that people did not feel dragooned into an amalgamation which they resented. That was, in fact, the eventual result of the report from that select committee.

The Minister referred to the Local Government Association's poll of member councils on the issue of whether or not there should be an opportunity for ratepayers to have a say in this matter by way of a poll. As I pointed out in my second reading explanation, I agree that the poll did not show an overwhelming opinion one way or another. However, of the 113 councils that responded, only 44 specifically said that they would not favour a poll. Perhaps the confusion at first glance for those analysing the poll arises from the number of options offered in the poll. I will not go over the ground again, because I do not think that will serve any purpose. I have analysed it as best I can and had it incorporated in *Hansard* for people to look at. The fact remains that the official position of the Local Government Association is that it favours the option of a poll and favours the option which was in the original amendment moved by the Hon. Murray Hill.

It is unfortunate that the Bill before this Council has not had the clear and unequivocal support expressed by the Hon. Murray Hill, because if this is an issue that is to be taken even further I think that it is important that the Council, whichever way it votes on this matter, reflects all the aspects from the Local Government Association's viewpoint and the Minister's viewpoint. Individual members have received submissions from local government.

It does leave it to each individual member, certainly from where I stand, to decide what will be the best in the long run for the development of local government. I make no apology for introducing a measure that allows for a poll of a whole area. However, it is quite obvious that if Parliament is to express an opinion which will then be imposed on the Local Government Association and councils themselves then they need to see and feel that there is a solidarity of opinion and that there has been a fairly substantial consensus about that, if there is to be any diminution of the anxiety and the factionalism that has resulted in local government as a result of this whole issue.

I have been in two minds about how to proceed from this point. It is important that the issue be debated and decided in Parliament. I have had misgivings that the Bill as introduced is only getting half-hearted apologetic support from the Liberal Party. I invite that Party to consider proposing an amendment that more truly represents its preferred position. Unless that is done, there is some falseness in the actual debate and the ultimate decision of this Council on the Bill.

I hope, because it is certainly my intention that, if we move through the second reading stage, the Committee stage will be adjourned until next week. Can the Minister indicate whether she is agreeable to that happening? If she is not, then the matter of bringing amendments forward, and whatever other options there may be that members of the Opposition feel should be discussed, should be considered.

The Hon. Barbara Wiese: Members of the Opposition have not indicated any willingness to bring forward amendments.

The Hon. I. GILFILLAN: They may not have done that, but the Hon. Murray Hill made it quite plain that he is not in favour of the actual content of the Bill.

The Hon. Barbara Wiese: I do not think that anyone is interested in delaying this Bill.

The PRESIDENT: Order! This is not the time for private conversations.

The Hon. I. GILFILLAN: In concluding this debate on the second reading I repeat that I am convinced that the procedure proposed in this Bill is the best one under the circumstances. I regret that the Government has made it plain that it is not prepared to consider it as an option and that the Opposition has been very half-hearted in its support of this measure and has, in fact, indicated that it is only a second best, because this will make it very difficult for local government to know exactly where this Parliament stands.

The Council divided on the second reading:

Ayes (11)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn, M.J. Elliott, I. Gilfillan (teller), K.T. Griffin, J.C. Irwin, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (8)—The Hons G.L. Bruce, T. Crothers, M.S. Feleppa, Carolyn Pickles, T.G. Roberts, C.J. Sumner, G. Weatherill, and Barbara Wiese (teller).

Majority of 3 for the Ayes.

Second reading thus carried.

In Committee.

Clause 1 passed.

Progress reported, Committee to sit again.

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

SECOND-HAND GOODS ACT REGULATIONS

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

That the regulations under the Second-hand Goods Act 1985, concerning partial exemptions, made on 15 May 1986, and laid on the table of this Council on 31 July 1986, be disallowed.

This issue has been around for quite some time, but as we draw near to the end of this session it is important to put on the Council record the Opposition's position in respect of the partial exemption regulation made under the Second-hand Goods Act and to endeavour to deal with this matter before the end of the session. I am conscious of the fact that the general regulations under the Second-hand Goods Act and other regulations have been the subject of submis-

sions to the Joint Standing Committee on Subordinate Legislation, and I understand that that committee is continuing to deal with the questions raised by both the general regulations and the partial exemptions regulation. Notwithstanding that, as I say, it is appropriate to move this motion.

The Second-hand Goods Act, which was passed in 1985, provides for second-hand dealers to be licensed. The principal regulations were promulgated earlier in 1986 but the regulation which is the subject of this motion came into effect on 1 June 1986, and dealt with open markets or trash and treasure type markets, which have been a feature of Adelaide for several years.

The amending regulation, which is the subject of this motion, grants an exemption from licensing as a second-hand dealer where there is a sale for $40 or less of second-hand goods at a second-hand goods market within the meaning of section 23 of the Act by a person who does not carry on business as a second-hand dealer, except at such markets.

Section 23 deals with the authority of a member of the Police Force to enter upon any premises or place at which a second-hand goods market is being or is to be held and to inspect the goods and to require the name and address of any person offering goods for sale. When the principal Act was before Parliament in 1985, the Hon. John Burdett, as the then shadow Minister of Consumer Affairs, made observations about the second-hand goods markets, drawing attention to the potential problems if they were to be exempted from scrutiny under the Act when legitimate dealers operating from shops and in other circumstances had to carry a licence and be subject to regulation.

The Second-hand Dealers Association did make representations to the Attorney-General and, as I understand it, to the Joint Committee on Subordinate Legislation and to me with respect to the problems likely to be created by this regulation. By placing a limit of $40 on the value of any item, the regulation does not deal with a number of situations.

For example, there is nothing to stop a person buying up a whole quantity of army surplus goods and selling them at $39 each, $1 below the limit of $40. In those circumstances, if the sale is made at a second-hand goods market, even if the dealer takes a very large amount of money, he is not required to be licensed, yet in spirit, as well as in practice, he is a second-hand goods dealer. A person undertaking that sort of activity would have to be licensed.

A person may sell a number of items on a number of occasions at a second-hand goods market where each item is less than $40 in price. In those circumstances licensing is not required, yet such a person is for all practical purposes a second-hand goods dealer. There is no doubt that second-hand goods markets do provide an opportunity for disposing of stolen goods, for tax avoidance and for avoiding the provisions of the Act.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: No I did not. If there is to be licensing affecting second-hand dealers operating from premises, it seems to me to be equitable that other dealers trading in other circumstances should be equally subject to regulation.

The Hon. C.J. Sumner: Do you support deregulation?

The Hon. K.T. GRIFFIN: That is an option, and I will deal with that in a moment.

The Hon. T.G. Roberts: Incentivisation?

The Hon. K.T. GRIFFIN: There is nothing like it: incentive and enterprise. I understand that the police have some concern about the way in which stolen goods can be disposed of at second-hand goods markets. In 1985, when the principal Act was being considered, there was a suggestion from this side of the Council that the number of all cars at open air markets should be recorded by operators or that the names and addresses of all people selling at a second-hand goods market should be maintained by the promoters without all of the rigours of licensing under the Act, but on that occasion none of those alterations was acceptable to the Council. I have had submissions from a number of associations relating to this regulation. The Antique Dealers Association of South Australia Incorporated made the following point:

> Our overall view is that, perhaps if we can take the United Kingdom as an example, there is no need for second-hand dealers licences at all, as none exist there and recovery of stolen goods would be equal to that here. If there were no licences the above exemption would of course be no problem. It is our opinion that a vast proportion of traders at open markets are regular dealers, which can be verified by their attendance at public auctions on a regular basis, where they replenish their stocks. By this exemption, they enjoy benefits which we as normal retail traders are deprived of.

A letter from the Licensed Antique, Second-hand and Art Dealers Association of South Australia Incorporated to the Attorney-General also made reference to this, and it states:

> It has been this association's belief that any such exemptions granted would serve to defeat the stated purpose of the Act in that a large percentage of second-hand goods flowing through the community would not be subject to the stringent controls stated in the Act. While we accept that citizens are entitled to dispose of items purchased by them that are no longer required, we believe there can be no logical basis for exempting from the provisions of the Act a certain class of item. It is our contention that, if a person is dealing in second-hand goods, he is by definition a second-hand dealer, irrespective of the value of those goods being sold. In reality we believe that a great proportion of stolen goods are disposed of via trash and treasure type markets and in particular those items of little value are the most readily disposed of at these venues.

Another second-hand dealer, Male's Investments Pty Ltd, states:

> Why is it that other persons like myself have to have premises inspected keep records and most important have a clean non-criminal record and go before a court when these people—

referring to the people selling at open markets—

> can sell goods without any type of control, to where the goods being offered have no records to where they come from.

The Hon. C.J. Sumner: Ask Mr Burdett—he wanted the exemptions for Trash and Treasure.

The Hon. K.T. GRIFFIN: He was not talking about it in that context.

The Hon. C.J. Sumner: Yes, he was.

The Hon. K.T. GRIFFIN: No. I will deal with that matter later. I have also had contact from Trash and Treasure Australia Pty Ltd which indicated that it gets something like 500 families per week through the market selling goods. That organisation was worried about the small hobby person; it agreed that those persons carrying on business should be licensed. It made the point also that, as far as it was aware, only five cases of selling stolen goods had been detected in 14 years.

The Attorney-General raised the question of deregulation, and that may not be a bad option. At least it puts everybody on an equal footing and it means that those who are presently subject to the stringent requirements of licensing and the requirements to keep a second-hand dealer's book with a whole range of detail in it will be relieved from that obligation. I understand that the Attorney-General has discussed this matter with some people in the industry. I am not sure what response he received but, if the police are satisfied that this is not necessary to maintain a watch over stolen goods, then it may well be that that is the best course to follow.

The Hon. C.J. Sumner: You support it, don't you?

The Hon. K.T. GRIFFIN: I don't see any difficulty with it. I would like to see what the Attorney-General comes up with. Anything that can do away with licensing I think is generally to be supported, provided that, if there are people who do not follow a particular code of practice in the concept of negative licensing, they can be dealt with.

The Hon. C.J. Sumner: Like the landbroker.

The Hon. K.T. GRIFFIN: If there is a code of practice in relation to landbrokers that requires the keeping of trust accounts, the lodging of annual returns and a variety of other mechanisms which protect the consumer, then I would have no difficulty with that, either. All those sorts of issues have to be looked at carefully to ensure that there is protection for the community at large and also to ensure that no evil is going to be perpetrated as a result of persons carrying on unlicensed activity. In relation to this particular regulation, it is my view that where genuine second-hand dealers carry on business at open markets, they ought to be subject to the same constraints as those who are required to carry on business from—

The Hon. C.J. Sumner: They sell more than six times—

The Hon. K.T. GRIFFIN: Well, if there is some regulatory procedure by which those who carry on the business of second-hand dealers at trash and treasure or open markets are required to have a licence, then I think that that puts them on an equal basis to those who are presently able to carry on business only from licensed premises and are subject to the constraints of licensing. If there is a way in which there is equality of opportunity for all those operating in the field of second-hand dealing, as opposed to those who are involved in it on a once off or twice off basis, I think that is to be supported. I have moved that this regulation be disallowed in the hope that it will prompt further consideration of a more appropriate mechanism to deal with this issue of open markets, and even, as the Attorney-General suggests by way of interjection, maybe complete deregulation.

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

FREEDOM OF INFORMATION BILL

Adjourned debate on second reading.

(Continued from 11 March. Page 3311.)

The Hon. DIANA LAIDLAW: When I sought leave to conclude my remarks, when last addressing this Bill on 11 March, I had highlighted my longstanding commitment to the introduction of freedom of information legislation in this country, and also my association about a decade ago with freedom of information legislation which was ultimately introduced by the Fraser Liberal Government. I also noted my belief that this Bill, which will open the Government to public scrutiny, will be a very refreshing initiative in terms of the administration of the Department for Community Welfare. It certainly will allow tens of thousands of people who are currently subject to records to see those records that are maintained by the department, to check whether the information is accurate and to assess the basis on which DCW has come to judge their situation.

I also highlighted my recent experiences in relation to obtaining information about activities in the department and, in particular, the Minister's recent decision to exclude or bar me from entering two offices subject to bans. This action by the Minister seemed to be not unusual in relation to his past form when I have sought information in this Council by way of questions and speeches, and where the Minister has often merely ignored the questions asked, digressed or got rather excited and turned to other subjects; or in the case of the questions I asked more recently about SACOTA, he just sat down and flatly refused to even address the question. I highlight those circumstances and experiences because I believe that they very accurately reflect the frustration of members of Parliament in seeking information that is important to their work and to their constituents.

It further reinforces the need for freedom of information legislation in this State. I highlighted those points in greater depth when I spoke on this Bill previously. There is a further point in relation to the administration of the department under this Government that I wish to highlight: once again, I address the subject of accountability. I cite the example of the department's annual report which, over the past three years, has become an increasingly irrelevant document from which to glean information, although it is the most publicly available document from which any member of the public could understand at a glance what is happening in the department in terms of programs, the demand on the department for information and the amount of money that the Government is prepared to provide to the department for the administration of those programs.

I simply cite the foster care program, because there is considerable concern within the community about the quality of these programs. It is very interesting to note that DCW annual reports from 1981-82 to 1984-85 consistently provided specific detail of the full cost to the department of foster care programs in the relevant years, including the subsidies to foster parents. For each of these years, there was also a further breakdown of the total payment to foster parents caring for children under the guardianship of the Minister or court order and the total payment to foster parents caring for children who remained under parental guardianship. There is also an indication in those reports from 1981-82—

The Hon. C.J. Sumner: Is this really relevant?

The Hon. DIANA LAIDLAW: It is particularly relevant. I am highlighting—

Members interjecting:

The Hon. DIANA LAIDLAW: The Attorney always claims that he is interested in accountability and freedom of information: he would be interested to know that the DCW annual reports do not even care to provide the standard of information that has been provided in past years, even under the former Ministers of the Attorney's own Party. This certainly raises suspicion about the Government's commitment to freedom of information.

In 1981-82 and 1984-85 there was also an indication of the foster care subsidy rate as at 30 June of each financial year in question. However, none of this information was included in the annual report for 1985-86. There was no reference to the financial cost of administering the program. I should also note that there were similar omissions from the annual reports in terms of other programs and those details were certainly not available in the yellow book—the budget performance papers. I believe that these omissions are inexcusable at any time but particularly by a Government which, whenever it so chooses to its advantage, professes to believe in freedom of information. I would argue that, given the documents that are already available to the public, it is quite clear that in reality it is far from the truth.

In relation to these annual reports from DCW, one can only assume that it is a deliberate attempt to hide information from the public, or else it is not maintaining the records that it used to maintain in the past. In either instance,

one must be concerned about the accountability and the procedures for accountability within the department.

I should add also that this lack of information in relation to foster care in the annual report 1985-86 was not an isolated example. Compared to previous years, that report, which was the first under the current Minister of Community Welfare, omitted very important references in relation to all programs. In respect to each, little or no financial information was provided. I find that of particular concern at a time when we are entering even more stringent financial circumstances at both the Commonwealth and State levels. It will be particularly hard to critically assess the performance of this Government and the administration of the department if the department, the Minister and the Government are not prepared to provide even the most basic information about financial arrangements from one year to the next.

The Hon. J.R. Cornwall interjecting:

The Hon. DIANA LAIDLAW: I may have access to asking. I just say it is very unfortunate that the most publicly available and accessible document, such as the annual report, clearly is not providing very basic information. As the Minister knows, many people are affected by departmental programs in community welfare and are keenly interested to know from year to year the state of those programs.

In relation to accountability, I want to highlight quickly recent experiences within this Parliament in terms of answering questions which I believed were straightforward, yet the Government, even after some considerable weeks in which it had time to gather the information, was still only prepared to provide non-answers. I highlight concern in relation to the Children's Services Office when questions were answered on 10 and 17 March respectively. The first question asked simply:

> In respect of the Children's Services Office, what are the names, duties, qualifications and previous occupational backgrounds of all appointments to the Children's Services Office since its establishment in 1985?

It was a pretty clear, straightforward and uncomplicated question.

The Hon. R.I. Lucas: Very important, too.

The Hon. DIANA LAIDLAW: Mighty important, in view of the concerns of recent appointments to that office and their relevance to the positions and backgrounds of people involved in this very important area of child development. Yet, I was provided with an amazing response which essentially told me that I was to do my own research from sources to which I do not even have access. It really was a disgrace. I find it a complete disappointment, and it merely re-emphasises my view that, first, the Government does not wish to be accountable or, secondly, it does not have its own records in order to respond to such questions. The other question that I asked in relation to the Children's Services Office was:

> What guidelines have been established by the Children's Services Office to implement the objectives listed in the Children's Services Act 1985 and what measures, if any, have been taken to implement the guidelines?

I would have thought that was a very fundamental question to the whole operation of the Children's Services Office, yet again, if one wanted a 'Yes Minister' answer that meant nothing, I certainly received such an answer. I just find it particularly disheartening that the Government treats such important subjects as the delivery of children's services with such hollow contempt.

The Hon. J.R. Cornwall: That's a terrible accusation.

The Hon. DIANA LAIDLAW: I do not believe that it is a terrible accusation, and if the Minister wishes to prove that my accusation is not just, it might be that the Government try to lift its performance in the answering of questions.

I repeat my contention that, when the Government provides such shallow responses to legitimate questions, we on this side—and also the community—have every right to demand that we have freedom of information legislation. I believe that no cost should be spared on such an initiative and that the Government has deserved everything it is going to get.

Finally, having highlighted these examples of where the Government is not keen to provide even basic information, I refer to a letter in today's *Advertiser*. While it was produced on 1 April, it is certainly no April fool's letter. The letter is from Mr Alan Bundy, National Vice-President, Australian Library and Information Association, and reads:

> Rejoice, Sir Humphrey Appleby. Your gulling spirit flourishes in South Australia.
>
> Attorney-General Chris Sumner has confirmed to us in a recent discussion that the State Government remains committed to freedom of information (FOI) legislation to permit public access to the records of State Government departments and instrumentalities. But there is a difficulty in supporting the private member's Bill for FOI now before State Parliament.
>
> There is nothing intrinsically wrong with the Bill itself. Unfortunately it will, from figures provided by departmental heads, cost just too much to implement at present. Financial prudence by the State Government we respect. Ambit costs from its departmental mandarins we do not.
>
> High costs for retrieving information quoted by some—not all—departments reflect an insensitivity to the need for FOI in our increasingly complex society. Or they reflect very inefficient information-retrieval systems.

Perhaps I could just interpose at this stage that, in respect of the answers I have received to Questions on Notice, I doubt that it would have cost any more to provide me with an accurate answer than it did to go through the system and provide me with the nonsense answers that I have received to some questions. The letter continues:

> FOI has three tangible benefits: fostering accountability to the taxpayer; reducing the 'fell-off-the-back-of-a-truck' nonsense which is a part characteristic of the informal FOI already in place.

The Hon. J.R. Cornwall: That doesn't cost anything.

The Hon. DIANA LAIDLAW: Perhaps you do not even have to encourage it in your departments. The letter continues:

> . . . and forcing Government departments and instrumentalities to organise themselves properly for the information age.
>
> The Australian Library and Information Association would be happy to assist in an audit. It would probably cost no more than proposed changes to administrative regulations to permit South Australians access to their own files only.
>
> And whatever it does cost will be a pittance set against other accepted costs of sustaining a free and open society—a small price for a big principle. If this important private member's Bill is not supported on its merits by all parties in State Parliament it is likely to be the end of proper freedom of information for South Australians for the next decade.

That letter from Mr Alan Bundy—

Members interjecting:

The Hon. DIANA LAIDLAW: Don't reflect in such a way on the integrity of Mr Bundy. He is highly respected and writes a very good and coherent letter and, in view of my own experiences in this place, I can only heartily endorse the sentiments expressed in this letter. I support the second reading of the excellent Bill introduced by the Hon. Mr Cameron.

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

PARKLANDS

Consideration of the House of Assembly's resolution:

That, in the opinion of the Parliament, in the management and development of parklands in council areas of South Australia—

(a) the parklands should be available for use by people;

(b) the public should have free and unrestricted access;

(c) the parklands should be reserved as a place for public recreation, leisure and enjoyment;

(d) every effort should be given to the restoration to public use of areas which have previously been removed from general use;

(e) the character of the parklands as a green belt dividing the City of Adelaide from the suburbs should be preserved;

(f) councils should endeavour to enhance the visual appearance of the parklands and integrate them into the planning design of the respective council area; and

(g) the Crown should be subject to the same development constraints and comply with the same obligations as councils,

and that this view be conveyed to all councils in the State.

The Hon. DIANA LAIDLAW: I move:

That the resolution be agreed to.

This message received from the other place relates to the management and development of parklands in council areas of South Australia. The motion in the other place was moved by the member for Light and received unanimous support. From my experience in this Chamber, it is a very rare occurrence to find all members of the other place supporting anything with such a united show of strength. Such a show of strength is entirely appropriate for an issue such as the management and development of our parklands in South Australia.

Within the city of Adelaide in particular the parklands are a very unique asset to both the city and the State and constitute one of the key elements of the original Colonel Light plan. In other parts of the State the parks also constitute an equally important role and, together with the parklands in the City of Adelaide area, contribute to our reputation of providing a quality of life and environment in which we are very proud to live. I appreciate that this motion was prompted by a private member's Bill introduced in this Chamber earlier by the Hon. Mr Gilfillan. That Bill sought to limit development of the parklands to the area within the city of Adelaide and to ensure that all further development required the approval of both Houses of Parliament. The mover of that Bill indicated that he was prepared to accept amendments to his Bill and was quite flexible in that regard. True to that statement, he has subsequently introduced a set of amendments that are even longer than the original Bill. Such amendments at first glance would be an improvement to the Bill. However, they would not overcome the basic objection by local councils and the Adelaide City Council in particular, and of some members in this place, that it would be taking away powers from local government.

Councils, and the Adelaide City Council in particular, are rather hot under the collar about other intrusions into their powers and responsibilities at the State Government level, whether it be in respect to minimum rates, planning matters or the transfer of other responsibilities, for example, libraries and the like, without a corresponding increase in financial resources. They are not happy with the Government at present. Their response in part to this Bill has been prompted by their reaction to a variety of other measures also.

They certainly resent what they see as an extra intrusion into their affairs and a reflection on their capacity to manage what is currently their responsibility in terms of parkland management and development. For my part, notwithstanding those matters, my concern with the Bill introduced by the Hon. Ian Gilfillan relates to the definition of 'development' which the member sought to relate to the definition of 'development' in the Planning Act. I saw that that was far too broad and unworkable in relation to what he saw to be the role of the Parliament.

I see that he has sought to address that matter in his amendments. The other matter that concerns me is the binding of the Crown, because without doubt the Crown, or the Government, both Federal and State have been the chief villains in relation to development and abuse of parkland management in this State, particularly in the city of Adelaide area. That is not just this Government: I hark back to the Playford days and the Adelaide High School and the Tonkin Government in what I see as the tourist development of the swimming pool in the North Adelaide parklands. One decision, about which I crossed the floor in this place and which continues to give me some heart about the independence that members on this side of the House have, relates to the ASER development Bill when a number of my colleagues and I crossed the floor to vote against the powers which would have allowed the ASER development to be exempt from control of the Adelaide City Council.

The Hon. J.C. Irwin: Did the Democrats cross the floor?

The Hon. DIANA LAIDLAW: Yes, they did. In more recent times there has been considerable concern in the North Adelaide Society about moves by the State Transport Authority to redevelop the North Adelaide railway station. I have received a letter, as have other members of Parliament, from Mr David W. Fox regarding that development. He expresses considerable alarm saying that if the North Adelaide railway station is developed and the traffic flow increases in that area beyond the present level that will involve the alienation of further parklands.

I emphasise these points because Governments, both Federal and State, are without question the villains in the alienation of and damage to our parklands to date. I add that the persuasiveness or power of Governments at this level to insist upon what they want is very hard to resist as the Adelaide City Council found in respect of the ASER development and as the Sydney City Council has found in the past week in its relations with the New South Wales Government, which has dismissed that council principally over the State Government being upset at five or six developments being held up (as I understand from my contacts in the Sydney City Council) over concerns about car parking, noise and height, matters which a local council,whether in Adelaide or Sydney, has a legitimate responsibility to be concerned about.

I believe that, if we are to involve the Crown and hold it responsible to the same constraints that we require of and impose on local government, then the Crown should be bound not only in regard to the City of Adelaide area but also to councils across the State. I have briefly outlined some of my concerns and frustrations with the Bill which has prompted debate of the measure from another place. I have done so because I do not deny that from time to time I and many other members in this place have been particularly frustrated with the damage that has occurred to our parklands.

I think there is a real danger in translating and extending those frustrations to the degree where we now wish to express them in terms of the authority of local government. That is my concern with the Bill that has been introduced by the Hon. Ian Gilfillan. The motion from another place affirms a number of the very important principles which the Hon. Ian Gilfillan outlines in his Bill. In relation to the motion from another place, the most important principle is that we give support to the primacy of local government in the pursuit of environmental objectives within its area.

The motion also asserts that local government has a responsibility to ensure that the parklands and open spaces, which over a period have been bequeathed to those councils and held in trust by them, are the responsibility of local government and must be respected; and in addition that councils have responsibility to maintain these legacies and to provide a variety of passive and active recreational areas within the parklands.

The motion also outlines the principles that should govern the maintenance, management and development of the parklands, all of which are highly important. As I mentioned earlier, I note that they are based on the principles in the Hon. Ian Gilfillan's Bill. However, they are expressed in more positive terms, in that they are less qualified and less general.

The Hon. Peter Dunn: They are identical.

The Hon. DIANA LAIDLAW: No, they are not identical; they are similar. I indicate that they are less general in their expression, less qualified and as such more positive expressions of the intent of another place and, I hope, of this place, also. I emphasise that I believe it is not warranted at this time to express frustration in relation to what has happened to the alienation of our parklands; nor is it warranted that that frustration should be expressed against the Adelaide City Council. As a keen—

The Hon. T.G. Roberts: Jogger.

The Hon. DIANA LAIDLAW: No, no longer a jogger—a keen walker. If I did not smoke so much, I would probably jog a little more. If I did not become so frustrated in this place, perhaps I would smoke less—so it goes around in circles. As a resident of North Adelaide, I take a very keen interest in the activities of the Adelaide City Council, in environmental matters in general and in conservation matters. From time to time I have been particularly intent on impressing on my own councillors, aldermen and other council members the importance of the parklands.

I am pleased to note that the proposed City of Adelaide Development Plan incorporates the city parklands and will reinforce what I believe is the excellent role played by the council in relation to the development of the parklands in the past. That plan will ultimately come before the Parliament for endorsement.

From material forwarded to me by Mr Andrew Taylor, the Director of Parks and Recreation with the Adelaide City Council, I note that the plan identifies some 18 particular areas in the parklands, and for each of those areas a set of principles and objectives are established under which each of these 18 areas will be managed.

Those objectives and principles are comprehensive and concern the activities, buildings, environment, building design, siting and the use that ought to take place on each of those areas. There is also reference to special landscape character heritage items, car parking, access to parklands, the undergrounding of telegraph and telephone wires adjacent to parklands, which is of keen interest to me, and activities that are desirable to take place on the parklands.

All these matters have been looked at in relation to general sentiment among members of the council and its staff, which is to conserve and enhance the parklands as a publicly accessible landscape place of a generally open character that is available for a diverse range of leisure and recreation activities to serve the city's residents (such as me and a number of Government members in this place and in the other place), workers and visitors to the city.

In moving and speaking to this motion from the other place, I note that it has been suggested to me by some inside and outside this place that a motion such as this will have very little effect. It is my very firm belief that the influence of a motion such as this should not be underestimated. I acknowledge that the motion, which has been endorsed by at least one House and which hopefully will be endorsed by this Chamber, is not like an Act of Parliament; therefore it is not legally binding on anyone.

However, I understand that there has never been an instance in which a motion passed by both Houses of Parliament has subsequently been violated by any Government authority or by anyone answerable to the Parliament. In relation to the immediate and lasting effect of such motions, I refer to one that was passed in 1973 and, because it also dealt with an environmental matter, it is worth highlighting. That motion, relating to the wetlands swamp areas of South Australia, was moved by the Hon. Peter Arnold in the other place on 12 September 1973. It subsequently passed that place unanimously and also passed this place. The motion read:

> That in the opinion of this House all remaining available wetlands in South Australia should be preserved for the conservation of wildlife, and where possible former wetlands should be rehabilitated.

Concern was expressed at the time the motion was moved regarding the diminishing area of wetlands in South Australia, particularly along the Murray River, and the consequential threat to water birds in that area.

Much of the damage and activity threatening both the wetlands and the birdlife along the Murray River ceased immediately on the passage of the measure through this place and the other place. I believe that the moral weight of such a motion carries considerable influence and that it will be observed. However, if it is not observed, I will certainly be amongst the first to damn those people who violate such a motion passed by this place, and I would certainly be one of the first people to clamour for a Bill that would provide more accountability.

However, because of opposition that has been expressed by local government, because I believe that local governments particularly the Adelaide City Council, are trying extremely hard to effectively manage the parklands, and because I believe that Governments at Federal and State level are by far the worst offenders, causing our frustration both within Parliament and outside, I find that I cannot support the City of Adelaide (Development of Parklands) Bill moved by the Hon. Ian Gilfillan. I strongly support this motion before us, which was moved and passed unanimously in the House of Assembly and which I hope most sincerely will receive the concurrence of the Legislative Council.

The Hon. J.C. IRWIN: This motion has a fairly direct relationship to the City of Adelaide (Development of Parklands) Bill, introduced by the Hon. Ian Gilfillan. I concur in what my colleague, the Hon. Diana Laidlaw, has already said in relation to this matter. This motion had as its origins the City of Adelaide (Development of Parklands) Bill, introduced here on 18 February 1987. The motion before us was moved and passed in the House of Assembly on 19 March 1987. The motion embraces in a not dissimilar form the provisions in subclauses *(a)* to *(f)* of clause 4 of the City of Adelaide (Development of Parklands) Bill.

I support the motion, although I indicate that I would not support the City of Adelaide (Development of Parklands) Bill as it stands. I indicate that I have not had time to look at or consider in any great depth the amendments that have been placed before us today from the Hon. Mr Gilfillan. Therefore, at this stage I will speak in support of the motion and indicate that generally the same remarks could be applied to the Bill. I am somewhat reluctant to follow this course, as I would have preferred to show some

respect to the mover of the Bill and the Bill itself, as it had its origins in this place. The motion arose from the Bill and, while it is true that somewhat different comments could be made in relation to both these approaches, I will bear in mind what the Hon. Ian Gilfillan said in the second reading explanation of his Bill and keep my remarks relevant to the motion.

In his second reading explanation, the Hon. Ian Gilfillan set out to justify why he and others believed that such a Bill was a necessity. The nub of the Bill of course is that the State Government and not the Adelaide City Council should have ultimate control of the Adelaide parklands. The motion from the House of Assembly does not agree with that concept, although we note of course that the motion has already been agreed to by the Government and the Opposition in the Assembly. The motion does not support the Adelaide City Council's relinquishing control over the parklands. Rather, the motion specifies seven points containing a number of commendable objectives, the spirit of the motion being that it is left to the City of Adelaide to ensure that every effort is made to abide by the stipulations outlined. I will discuss the second of those seven points later. The motion expands on the scope addressed by the Bill and expresses a point of view on the management and development of parklands in council areas across South Australia.

If local government cannot or will not look after its own destiny in its own area of responsibility, heaven help us, because there is no guarantee that the State Government, or Federal Government for that matter, will do any better. I wish to make some general comments about the City of Adelaide parklands. For a start, I cannot find any official definition of 'parklands' in any Act, so I shall rely on the dictionary. The *Concise Oxford Dictionary* defines 'park' as 'a large enclosed piece of ground with woodlands and pasture . . . an enclosure in town ornamentally laid out for public recreation; sportsground; large tract of land kept in natural state for public benefit'. 'Parkland' is defined as 'open grassland with tree clumps', etc.

I cite this dictionary definition because it gives a wide interpretation of 'park' and 'parkland' and does not define 'parklands' merely as bushlands. From what I heard today in a question asked by the Hon. Mr Elliott, I gained the impression that, in the view of the Democrats—or that particular Democrat—perhaps we should be returning the parklands to a bushland or to a natural untouched state.

The dictionary definition traverses from an 'enclosed piece of ground with woodlands and pasture' to 'open grasslands', from 'ornamentally laid out' to 'kept in a natural state for the public benefit'. The common thread is that the parklands are for public recreation and benefit. I would hope that no-one would disagree with that dictionary and generally accepted definition. There should be no argument that parklands use can and does now include a number of areas set aside for sporting use by the public, by sporting clubs and by schools.

Indeed, there can be argument about how much of these areas should be allowed for the exclusive use by schools and clubs, but the central argument should not be who should or should not use them: rather, that they remain essentially open areas as 'lungs' for the city. No-one should how argue about the alienation of the areas north of North Terrace, and I refer to Government House, the Museum, the State Library, the Art Gallery and the University of Adelaide; nor should we have any real complaints about the Parliament buildings, including Old Parliament House, or the casino and the railway station development area.

I am sure that the railway tracks in the western part of that area will eventually be beautified for the benefit of everyone. The South Australian Government has been given due credit for returning the old train and bus depot to parklands, and that use will be enhanced by the addition of a tropical glasshouse, as a contribution towards the bicentenary next year. Adelaide Festival Centre is built on what was property partly controlled by the then Commissioner of Railways, and a former Liberal Premier (Steele Hall) forced the railways to disgorge the land it held so that Adelaide Festival Centre could be built.

Prior to that, Carclew had been purchased as a site for the then proposed Adelaide Festival Centre. Certainly, the Parade Ground should not be given up by the Commonwealth, to which it passed at Federation. The Army at the Parade Ground has a visible sign and deserves and needs a presence in this city, despite the howls from academics and others who have taken no part in any of the defences of this country.

The Hon. Mr Gilfillan read into *Hansard* in his second reading speech on the development of parklands Bill a long list showing considerable alienation from the original parklands area. I have already mentioned some of these but nearly all result from actions of Governments and not actions initiated long ago by the City Council. This is basically why I reject, and why Parliament should reject, giving any Government control of parklands. In his list the Hon. Mr Gilfillan included the Botanic Garden. That use can hardly be described as 'alienation', because it represents parklands at their best and is of world acclaim.

A lot of hysterical nonsense is raised when people refer to parks being used for the enjoyment of people and objection is taken to a few tennis courts and playing fields being located in open parklands. To this list could be added the Adelaide Oval, the Memorial Drive tennis complex, Victoria Park and three golf courses.

Admittedly, there are some exclusive uses, but really, what harm do they do? Despite some building as part of their use, they do nevertheless essentially preserve the openness of large areas surrounding the city proper. The parklands have not come off second best in the hands of the City of Adelaide and I put it to this Council that it is in fact quite the reverse. It is ironic that the City council receives ill-informed criticism because it insists that small buildings necessary for changing rooms and toilets, etc. (and permitted for these purposes) may not be used as offices or for administration. Apparently, there is some romantic view that people want to stroll around the parklands in lighthearted groups and they must not be required to skirt around playing fields. Again, I put it to the Council that this is nonsense. How many people engage in such activity now in such delightful places as Brougham Place, Palmer Place, or even Wellington Square? I would say literally very few. I have known, observed and lived near these areas for the whole of my life.

In Question Time today the Hon. Mr Gilfillan again raised this romantic notion relating to the grounds of Government House. The 10 acres of the Government House grounds are open space and they are part of the lungs of the city. They will still perform that function whether or not people walk over them or whether or not there is a wall around them. People are not allowed to wander all over this Chamber, or indeed the House of Assembly or any other Chamber of Parliament. Why do the Hon. Mr Gilfillan and others of the same view want people to be able to wander over the Government House site? There are parks, gardens and squares all over the city, so why does that one have to be singled out to be suddenly trampled over by so-

called hordes of people? It is still parklands and, in one sense of the word, it is still open space. As I have said previously, these open spaces are the lungs of the city and most of them are available for people to stroll through, to sit in and play in. They should be aesthetically pleasing, as in most cases they are, thanks to the Adelaide City Council and its ratepayers.

I am not sure who carries the burden of the cost of parkland maintenance and improvements which benefit the whole of the State, but my guess is that the cost is borne to a very large extent by the ratepayers of the City of Adelaide. In the late 1970s about 11 per cent of revenue went on parks and gardens and this amounted to something like $500 000. This amount rose to $5 million in 1985 and obviously it would be more for 1987. Does the Bill proposed by Mr Gilfillan provide that the Government should pick up any of the tab of the $5 million-plus that is spent on parkland improvement and maintenance? I think not!

There are examples of indefensible alienation of parklands and they have been mentioned by Mr Gilfillan in his list and in the second reading explanation. I mention the E&WS Department depot on the east and west parks. It is to the credit of the Government the area bounded by North Terrace and Hackney Road has been returned. In spite of many promises over the years the Postal Institute enclosure on West Terrace still remains closed and that site passed to the Postal Institute on Federation. The Police Barracks and the Adelaide Gaol are other examples. What was called the Adelaide Boys High School was mentioned by the Hon. Ms Laidlaw. The Adelaide City Council was asked to approve this development, but it refused, so Parliament passed its own Act to approve it and at the same location the old Weather Bureau, although I do not know its history, has now been returned to parklands.

The Adelaide Bowling Club opposite Prince Alfred College was formerly located at the north end of what is now Kintore Avenue, which at that stage, was a dead end road. When the City Council wanted to open up the avenue to Victoria Drive, as it is now, the Government would not approve unless the council located the club in the parklands, where it is now. A few years ago the Royal Adelaide Hospital encroached into the Botanic Gardens.

I put to the Council that these examples do not show up the Government in a very good light, and have not shown up Governments in a very good light since 1838. In other words, Governments are and could be worse custodians of the parklands than ever the City Council has been or would be. I am informed that a body called the Parklands Preservation League, with a motto 'Hands off the parklands', fostered by Sir Lavington Bonython, a son of Langdon Bonython (whose portait, as you would know Ms President, hangs outside the door of this Chamber), fizzled out because the City Council had exactly the same policy.

What is being suggested to me now is that a new committee should be formed, its motto being 'Hands off the Adelaide City Council'. Perhaps the fate that befell the old Parklands Preservation League may befall the Hon. Ian Gilfillan's committee of Friends of the Parklands. If it does, it should turn its attention to supporting the Adelaide City Council. This, in turn, will help better preserve the parklands.

I will go further with this line of argument because the Adelaide City Council's control over the city and its destiny has been systematically, quite dramatically and seriously eroded over the years, including control over the parklands. It will soon end up merely running garbage collection services and the like. Let me give some recent examples: the removal of control of taxis to the Taxi Board; every change in road patterns and lights must be approved by what used to be called the Road Traffic Board—

The Hon. C.J. Sumner: Why wouldn't it?

The Hon. J.C. IRWIN: It is the City of Adelaide. They can look after themselves.

The Hon. C.J. Sumner: If there is one rule for the City of Adelaide, and when you get to King William Road it changes, that is ludicrous. Of course you want the same rules applying right through—

The Hon. J.C. IRWIN: Let the City of Adelaide set its plans. It probably would—

The Hon. C.J. Sumner: And all the separate councils all around the place?

The Hon. J.C. IRWIN: I am talking only about the capital city of Adelaide, which would most likely follow the laws that have been laid down for other areas. Let them control their destiny. The council has no real say about planning and building approvals, which have to go to the State Planning Authority and/or the City of Adelaide Planning Commission, and the latter, I put it to members, can be dominated by academic theorists. This commission, like other boards, has Adelaide City Council representation, but outside interference is constant. There is constant interference, too, by the Government in Adelaide City Council matters, for example, the Rundle Mall, which was taken over by the Dunstan Government, by Mr Dunstan himself as Premier—

The Hon. C.J. Sumner: It would still be a road if you had left it to the council.

The Hon. J.C. IRWIN: I will stick to my guns, that the City of Adelaide knows best how to do it. It eventually would have come to the same conclusion—

The Hon. C.J. Sumner: People outside the City of Adelaide use it and don't live with it—

The Hon. J.C. IRWIN: How much do they contribute to the running of it? There is a strange hysteria about developers and with some sections of the media it becomes a dirty word. The city wants and needs development and developers, for without them this and every other city will die. Development brings a city from an immature state to completeness, and that completeness is probably never really achieved, and should not ever really be achieved, because this city, like any city, will go on developing and evolving. The city has developed now to a state of maturity which we all profess to be proud of. I ask all members of this Chamber and this Parliament to wonder how it ever got to the stage of which we are so proud.

If there had been no developers or development, my great-grandfather's thatched cottage, which was on the corner of North Terrace and King William Street, would still be there. It is a stone's throw away from here. If I had not played cricket the other day I could probably still throw a stone that far. The City of Adelaide plan must define the sort of development needed to enhance the city and encourage people willing to risk their resources and talents to do the work. The developers want to know the guidelines, then let them do it. Having said that, with direct reference to the parklands and the general planning, I return to the motion before us.

I have no problem with most of the objectives laid down by the motion. However, I have some problems with paragraph *(b)*—that the public should have free and unrestricted access. While that provision may enunciate an ideal position, there is little hope that it will ever be achieved. I realise that this motion is a statement and not an Act to enforce anything: as it stands, it is pretty meaningless. If we leave out any discussion on paid access to racecourses, tennis courts, golf courses and so on, we must consider

paragraph *(b)* as relating only to what is left of truly open parklands.

I can cite two examples where open parklands will be fenced off so that entry charges can be made. The area used for the Grand Prix and the proposal to enclose an area of Elder Park for the bicentennial concert next year are examples. If the provision under paragraph *(b)* is included in the motion, we will be supporting something that we know will be broken in spirit and in fact.

The Hon. C.M. Hill: What about Adelaide Oval?

The Hon. J.C. IRWIN: I covered that. I am talking about other areas of so-called open parkland that are not enclosed. We already know that the Parliament helps to break the spirit of paragraph *(b)* by passing certain laws that support the Grand Prix event, for which parklands are closed off, not giving free and unrestricted access. The Hon. Mr Gilfillan's Bill is better in this respect, because it makes allowance for these temporary enclosures.

With this one exception, I am happy to support the motion before us. The people own the parklands, the people pay for their upkeep and it is up to the people to be alert to what may happen to the parklands. If there is any undesirable activity in the planning stage, a number of measures can be employed to make a council accountable for its actions. Finally, if the people do not like the decisions of the council, they can get rid of the members every two years.

The Hon. C.J. Sumner: Which people?

The Hon. J.C. IRWIN: The people of the City of Adelaide. If the people do not like the Government, they must wait for four years to get rid of it. I support the motion.

The Hon. I. GILFILLAN: The motion before us is really an example of a fatuous, pious and ineffective sop to the people who are concerned about the parklands by those who are not prepared to do something constructive about it, as I have attempted to do through a Bill that I introduced in this place. The principles embodied in the motion are taken virtually verbatim from the Bill and to pretend that they should be applied to councils across South Australia is quite ridiculous. Obviously, those principles have been copied and this motion is a sort of coverall as an introduction.

The only modification to paragraph *(a)* is that the parklands should generally be available for use, and that is in keeping with the criticism of the Hon. Jamie Irwin. It is a sensible use of the word 'generally': it makes it more realistic.

As the honourable member pointed out, the same thing applied to paragraph *(b)* in relation to practicable qualification, and paragraph *(e)* applies directly to the City of Adelaide. Paragraph *(d)* refers to returning areas that have been taken from general use. That applies quite specifically to the City of Adelaide parklands, and rightly so, because that is the issue that has caused concern. I believe that enough members care about the parklands to ensure that this question is dealt with free from Party political jostling so that there is effective legislation to protect the parklands.

Members interjecting:

The Hon. I. GILFILLAN: Paragraph *(g)* is actually clause 5 (5) of the Bill. The inane comment that a pious resolution will have any effect is quite ridiculous. It involves no penalties, obligations or instructions and no-one has a responsibility to take any notice of this motion.

If they do not, what effect will it have on local councils or the city council which does not observe it? The point is, instead of carping about little pedantic remarks as to whether the power should rest with the council, the Government or the Parliament, there has been nothing in place yet to protect the parklands. I have entered into this effort with a Bill which I have been fully prepared to amend, and a lot of the amendments that are now before the Council result from conversations and discussions with people from different political persuasions and a wide area of experience in the parklands, including some people involved with the Adelaide City Council.

Perhaps I can be a little more constructive than I believe the debate on the resolution will be by indicating to members the significance of the amendments that are now on file. I realise members have not had a chance to look at them. I recognise that, with the city council and the City of Adelaide Development Control Act, we have constructive and effective means for approving of development. Something approved by that process should be allowed to go ahead. There is no need to clutter up Parliament in dealing with those matters.

However, if there is cause for concern that a development has gone through that process and is not satisfactory, in my proposed amendment a member of Parliament can introduce a motion that that development would need a resolution of both Houses of Parliament before it could go ahead. There is then a safeguard. A process of ratification is available to the Parliament and to the people of South Australia if they feel that a certain development project requires that measure.

The second part of the Bill which is very important and complies with the wish of paragraph *(g)* in the resolution is that the Crown should be bound. Both the original Bill I introduced and an even stronger amendment state categorically that the Act binds the Crown and the council. The Adelaide City Council claims that the current City of Adelaide Development Control Act in fact binds the Crown. The only thing that it binds it to is listening to the Planning Commission's comments about a Government proposal. There is no obligation on the Government to comply with the comments, criticism or direction, and it specifically says that the Minister is only obliged to take note of the report of the commission. So, in no way is the Crown bound by that, except perhaps to spend five minutes reading some report from the commission.

So, Ms President, the Bill will do several things, if it is ever accepted by the Parliament, that would offer much more substantial advantages than this resolution. The principal aim of the Bill is the inclusion in legislation of principles to which any development and any future planning for parklands must refer. That is why it is with some satisfaction that I note the points in this resolution reflect almost exactly the same aims that are in the Bill. But, how much better would it be to have those aims enshrined in an Act and, in that same Act, to bind the Crown to refer to those principles before any development can be approved? So, there would be a positive and ongoing restraint on the Crown or any development to comply with the principles with which all of us agree. Nobody would object to the principles outlined for the development of the parklands. Although it sets out just what we want, this resolution can do nothing to enforce those principles, whereas the proposed Bill can make it an obligation on the Crown and the council to observe them for any development.

I will briefly refer to some of the comments that were made by the Hon. Diana Laidlaw and the Hon. Jamie Irwin in all sincerity relating to caring for the parklands. The question of the unanimous vote for such a resolution, as I would point out again, may very well indicate unanimous support for it, but it gives no teeth, no implementation muscle at all. It is purely a platitude which we can all feel very self-satisfied about having said. The Democrat Bill

with the amendment which I am proposing still leaves the majority of the decision making with the Adelaide City Council. It recognises that the current procedure for managing the parklands should continue, so the Adelaide City Council will continue to exercise very substantial power if our Bill were passed in its amended form.

The definition of 'development' with which the Hon. Diana Laidlaw expressed dissatisfaction in the original Bill referring to the Planning Act 1982 has been amended so that it is broader and more specific, and does not deal with quite so many generalities.

The Hon. Diana Laidlaw: Are you prepared to support the resolution?

The Hon. I. GILFILLAN: The resolution is hardly worth opposing: it does not do a thing. It is like saying that the weather is nice in here. Who will disagree with that?

The Hon. J.R. Cornwall interjecting:

The Hon. I. GILFILLAN: I am trying to make a very good point. The people who are speaking to this resolution spent a lot of time referring to my Bill. I insist that I am entitled to make comments in response to that. Just because people will opt out of their responsibilities in dealing with the Bill by some sort of passage of this resolution obliges me to make sure that people understand what they are missing. When the City Council and the City of Adelaide Development Control Act and the plan are admired so much, honourable members must remember that that revolves every five years.

There is no permanence in that. In fact, it is so impermanent that BOMA has forced them to change already, and they have, as far as I can judge, contravened the intention of the precinct with the Wilderness sports ground already. They snuck it in before these controls came in. I do not think that honourable members or the public of South Australia can rest assured that their interests in the parklands will be protected other than by a Bill which gives the Parliament this power to actually ratify and have the ultimate veto.

The Hon. Jamie Irwin questioned whether the aim of the resolution and the Bill were at variance. I make the point that, quite obviously, the resolution intends that the parklands will be managed properly and directed towards a set of principles to which we all agree. So Parliament, through this resolution, is attempting to impose its will on the Adelaide City Council, anyway. It is doing it in a virtually innocuous way but, nonetheless, it is doing it. The only body on which it can have any influence is the Adelaide City Council. It is saying to the Adelaide City Council, 'Here are the principles. Comply with them.' It does not say, 'If you don't comply with them we will do something about it.' The fact is that the Hon. Jamie Irwin's argument is a good argument for looking much more intently at the Bill before this place to make sure that Parliament can, in due course, ensure that these principles will be complied with.

So, perhaps after some time to deliberate on this resolution, the Bill and the amendments, I hope that the Bill will eventually come into effect and be law, but in the meantime I regard the resolution as an interesting and stimulating ground for discussion, but as a measure to control the parklands it is ineffective.

The Hon. J.R. CORNWALL (Minister of Health): I am instructed by my colleague in another place, the Deputy Premier and Minister of Environment and Planning, amongst other portfolios, that the Government is very pleased to support this motion. There has been quite enough said both here and in another place, and I do not need to add to it. I was impressed by the fact that it was the member for Adelaide himself who made the major contribution for the Government ranks in another place and, as I said, I think it has all been recorded. I simply indicate that it is our pleasure to support the motion.

Motion carried.

LOCAL AND DISTRICT CRIMINAL COURTS ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Local and District Criminal Courts Act 1926; and to make a related amendment to the Justices Act 1921. Read a first time.

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

That this Bill be now read a second time.

This Bill makes legislative provision for the positions of Master of the District Court, and Registrars of the district and magistrates courts. These positions have been created as part of administrative and organisational changes to separate the functioning of the district courts and local courts. The Master of the district courts has a primary responsibility to supervise pre-trial conferences. The Registrars of the district and magistrates courts have responsibility to ensure that the administrative operation of their respective courts is efficient and effective. The position of Registrar, Subordinate Jurisdictions is redundant and is removed by these amendments. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides for the commencement of the measure. Clause 3 provides for the insertion of new definitions of 'Master' and 'Registrar'. Clause 4 provides for a new Part CI of the principal Act. New section 5m provides for the appointment of a District Court Master and Deputy District Court Masters. A person is not elibile for appointment unless he or she is a magistrate or eligible for appointment as a magistrate. New section 5n provides that a Master will have administrative functions assigned to a Master under the rules of court or by the Senior Judge. New section 5o will enable a Master to exercise so much of the jurisdiction of the District Court as is conferred by the rules of court. An appeal will lie from a decision of a Master in the exercise of this jurisdiction to a District Court Judge.

New section 5p provides for the appointment of a District Court Registrar and Deputy District Court Registrars. New section 5q provides for the appointment of a Registrar of Magistrates' Courts and Deputy Registrars. Clause 5 makes a consequential amendment to the Justices Act 1921.

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

BAIL ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Bail Act 1985. Read a first time.

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

That this Bill be now read a second time.

This Bill seeks to amend the Bail Act 1985 in order to effect a number of improvements in its administration and application. The Bail Act 1985 came into operation on 7 July 1985. Since then a number of procedural and substantive problems have been identified by various authorities. Moreover, in July 1986 the Office of Crime Statistics of the Attorney-General's Department published a research bulletin 'Bail Reform in South Australia'. In its summary the bulletin notes:

> . . . the [Bail] Act also aimed to provide clear guidelines which would reduce discrimination against defendants who were poor or lacked social resources, while still providing ample scope to protect the public. Despite the new provisions, early indications are that the Bail Act has not achieved its full range of objectives. South Australia continues to have a higher rate of prisoners remanded in custody than many other parts of Australia—indeed, since the new Act was introduced the number of unsentenced prisoners in South Australia has on occasions reached record levels. Moreover, there is reason to believe that the bail system continues to prejudice the interests of the socially or economically disadvantaged.

The bulletin substantiates these observations by noting that immediately after the Act came into operation there was a significant decrease in the number and rate of unsentenced prisoners. This continued throughout the following two months, and by September 1985 the South Australian rate was the same as for the nation as a whole—only the second time this had occurred in almost eight years. After this point, however, numbers of remandees began to increase, and by March 1986 they had reached record levels.

At 13.4 per 1 000 adult population, the rate of unsentenced prisoners in this State during April 1986 was the third highest in Australia. The bulletin made a number of specific recommendations, the most relevant being:

1. Bail agreement forms used by police, criminal courts of summary jurisdiction and in the higher criminal courts should be redesigned to give greater emphasis to non-financial conditions, and to make it clear that breach of bail is a serious offence.
2. Courts should be made more aware of the option of granting bail subject to the supervision of a probation officer, and of the circumstances under which supervised bail can be used. Administrative procedures should be established to notify district parole offices of a bailee who has a condition requiring supervision.
3. Police standing orders on bail should be revised, to make it clear that financial conditions should only be used as a last resort.
4. Relevant authorities should be encouraged to prosecute breaches of bail, rather then relying on forfeiture of cash or recognisance.
5. The bail pamphlet (as contemplated by section 13 (1) *(b)* (i) of the Act) should be revised.
6. The Correctional Services Department, legal aid organisations and the Courts Services Department should take immediate steps to ensure that appropriate authorities are informed as seen as a defendant is remanded in custody because of failure to satisfy a financial condition, and that the case is returned to court for a review.

As a result the working party that originally supervised implementation of the Act was reconvened to concentrate on improving the efficiency and effectiveness of the Act. It comprised representatives from the Attorney-General's, Correctional Services, Court Services and Police Departments as well as from the Law Society, Legal Services Commission and the Aboriginal Legal Rights Movement. This Bill is the product of their labours coupled with invaluable input from all levels of the judiciary.

The following major proposed reforms should be especially noted. A person will not be eligible for bail until any period of detention that is operative after arrest (by virtue of the Summary Offences Act 1953) has come to its conclusion. The classes of functionaries or persons before whom a person may enter a bail agreement or a guarantee are expanded for the greater convenience of the people affected. The actual procedural aspects of seeking bail are to be dealt with by regulations promulgated under the Act. This will enable any future changes to procedures to be made more expeditiously if any further problems surface in that regard. I stress that the regulations will deal only with the procedures, forms and information that are attendant on bail applications. They will not deal with the substantive rules—they remain well and truly enshrined in the Act. In the words of the research bulletin:

> From research both in Australia and overseas, there can be no doubt that the key to an efficient yet equitable system lies in ensuring that bail authorities are quickly provided with comprehensive and accurate information on an applicant's background and circumstances.

As an alternative to institutionalised custody, bail authorities will be able to consider home detention. The provisions to this effect echo the sorts of powers Parliament has already deliberated on in the Correctional Services Act Amendment Act 1986 (Act No. 98 of 1986).

The Bail Act presently provides that a person on bail cannot leave the State without the permission of the court before which he or she is bound to appear. Greater flexibility to these strictures is incorporated by the amendments sought in this Bill. Moreover, where a person is committed to a higher court for trial or sentences, he or she can seek to apply for bail from the committing court until such trial or sentence. The present rule, that the court to which the person is so committed is the requisite bail authority, is conducive to delay and inconvenience.

This Bill also proposes that where a person is released on conditional bail and the person remains in custody because the condition is not fulfilled he or she is to be automatically brought back for a complete review of the unfulfilled condition not more than five working days after it was originally imposed. This is expected to have a salutary impact on the still prevalent practice of bail authorities imposing unrealistic financial conditions that have no reasonable expectation of being met.

The Bill also provides for a further review of a magistrate's review of a bail authority by (and only with the leave of) the Supreme Court. Existing section 16 is to be amended to enable a notice of discontinuance to be filed by the Crown which will have the effect, among other things, of reviving the original decision in favour of bail. Presently, the mechanism is uncertain and not sufficiently spelt out.

The proposed new section 17a articulates a guarantor's obligations. The criminal sanction attached to it should provide an incentive for guarantors to ensure a bailed person complies with his or her obligations and a disincentive for bail authorities to impose difficult, unrealistic or inconvenient financial conditions on a guarantor. To this extent it will reinforce the potential criminal liability of a bailed person who does not comply with the bail agreement—an offence that already attracts the same penalties as are prescribed for the principal offence (but so as not to allow an award of imprisonment of more than three years).

The Bill also provides that any applications made or consents given by the Crown may be given by a member of the Police Force. This should obviate delays for police officers (especially in remote parts of the State) presently occasioned by seeking precise instructions from the Crown.

Because of the new emphasis on potential criminal liability of guarantors, as well as the existing criminal liability of bailed persons, the ordinary limitation period of six months is to be extended to one year. This should ensure more vigilant enforcement of the Act while de-emphasising the forfeiture and estreatment aspects attendant on it.

It is the Government's fervent hope that this Bill—and the regulations that will be promulgated under it—will overcome the problems identified by the Office of Crime Statistics and the working party and lead to a more efficient bail system and one that does not prejudice (as appears to be the case at present) the interests of the socially or economically disadvantaged. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides for the commencement of the measure. Clause 3 amends the definition of 'victim'. It is appropriate that this definition affect the fact that the person has only allegedly suffered from an offence.

Clause 4 amends section 4 of the principal Act in two respects. First, in order to avoid any argument that a person who appears before a court in answer to a summons or for allegedly breaching a term of a recognisance is not eligible for bail, these categories are to be specifically included under section 4. Secondly, it is appropriate to provide in the legislation that a person who is being detained under the Summary Offences Act 1953, for the purposes of an investigation is not eligible for bail until the end of that detention.

Clause 5 amends section 5 of the principal Act. The amendments to paragraphs *(c)* and *(d)* of subsection (1) ensure that bail can continue where a person has been committed for trial or sentence for an indictable offence but has not yet appeared before the appropriate court.

Clause 6 revises part of section 6 of the principal Act. Experience has shown that procedures could be streamlined if a bail agreement could be entered into before other authorities. It is therefore proposed to provide that bail agreements can be entered into before any justice, certain members of the Police Force, a person in charge of a prison or any other person specified by the bail authority.

Clause 7 provides for the amendment of section 7 of the principal Act. In a fashion similar to the amendments to section 6, a guarantee of bail will be able to be entered into before any justice, certain members of the Police Force, a person in charge of a prison or other specified persons. A guarantor of bail is to be of or above the age of 18 years.

Clause 8 proposes amendments to section 8 of the principal Act. It is intended that applications for bail be in a prescribed form and be completed in a manner prescribed by the regulations. However, formal applications will not be necessary in certain prescribed situations.

Clause 9 amends section 11 of the principal Act in several respects. An amendment to subsection (2) will allow a bail authority to order that a person on bail reside at a specified address and remain there while on bail. Subsection (6) is to be revised so that a person on bail will be able to leave the State if he or she has obtained the permission of a judge or justice, a member of the Police Force or a person who may be supervising him or her. Furthermore, it is proposed that a person who cannot be released on bail because he or she cannot arrange for the conditions of bail to be fulfilled should be brought back before a bail authority within five days so that the matter can be reviewed.

Clause 10 provides for a new section 15a, which will allow a decision of a magistrate on a review to be subject to a further review by the Supreme Court. However, an application to the Supreme Court must be made with leave to the Supreme Court, and that leave will be granted only if it appears that there has been an error of law or fact.

Clause 11 will substitute a new section 16. This section allows a stay of release on application of the Crown pending an application for review. The new section will allow the person to be released before a period of 72 hours elapses if the Crown indicates that it does not desire to proceed with the review.

Clause 12 amends section 17 of the principal Act so that, as a general rule, proceedings for an offence in which it is alleged that a person on bail failed to comply with a term or condition of bail will be heard and determined after the proceedings for the principal offence have been determined.

Clause 13 provides for a new section 17a of the principal Act. It is proposed that a guarantor of bail be required to inform a member of the Police Force if he or she knows or believes that a term or condition of the bail agreement has been breached by the person who is on bail.

Clause 14 amends section 18 of the principal Act to direct that a person who is arrested for allegedly contravening or failing to comply with a bail agreement must be brought as soon as practicable before the court or justice before which the person is bound to appear or a court of summary jurisdiction.

Clause 15 amends section 19 of the principal Act so as to allow a court to order that an order for pecuniary forfeiture need not be carried into effect immediately. A court will be able to allow a person time to pay a pecuniary forfeiture order.

Clause 16 provides for a new section 20 of the principal Act. The section will provide for the termination of a bail agreement when the person is sentenced or discharged without sentence. (If before that time a bail authority considers that the person should no longer be on bail, the authority will be able to revoke bail under other provisions of the Act.)

Clause 17 provides for a new section 21a, which will confirm who may make applications under the Act on behalf of the Crown.

Clause 18 amends section 23 of the principal Act to provide that proceedings for an offence against the Act may be commenced within 12 months after the date on which it is alleged to have been committed.

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

EXPIATION OF OFFENCES BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to provide for the expiation of minor offences. Read a first time.

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

That this Bill be now read a second time.

This is a Bill to enact a scheme which will enable alleged offenders to expiate certain offences, prescribed by regulation, by payment of prescribed expiation fees. In many respects this Bill closely echoes the provisions that already exist in section 64 of the Summary Offences Act 1953 dealing with the Traffic Infringement Notice Scheme. This Bill envisages that regulations will be promulgated that refer to various summary offences in the statute book and provide for their expiation by payment of the appropriate fee. There are many such provisions scattered throughout the primary and subordinate legislation of this State. The def-

inition of 'offence' is such that certain summary offences punishable by a fine only will be capable of inclusion.

This Bill will not affect or override existing statutory schemes that provide for expiation (e.g. the TINS system itself, the STA Transit Infringement Notice Scheme, the parking by-laws and associated expiation scheme administered by the Adelaide City Council, etc.) Only children above the age of 16 years will be capable of receiving an appropriate expiation notice.

The Bill will be capable of being invoked by the Minister (or the Minister's delegate) responsible for the administration of the relevant legislation whose provisions have been transgressed. This will ensure that the day-to-day operation of the Bill will be localised in the responsible department, authority or agency. However, the Act will itself be committed, formally, to the administration of the Attorney-General, ensuring its oversight is at all times coordinated and the forms and procedures under it are consistent and uniform.

Where an expiation notice covers several offences some may be admitted by the alleged offender and some may not. The Bill allows the alleged offender, upon receipt of the notice, to forward fees for those of the prescribed offences he or she admits. Those he or she does not admit will be dealt with in the normal way.

Expiation of offences is important, if not integral, to the Government's strategy for streamlining offence-related procedures and reducing the waiting lists of courts of summary jurisdiction. It is also a method that enables an alleged offender (who admits the offence) fairly and relatively inexpensively to expiate his or her transgression, thereby obviating unwanted delays, costs and inconvenience that are attendant upon the rigours of a full prosecution. A system of expiation has the additional advantage of 'freeing up' resources (both staffing and cost) that are better spent on more positive aspects of public administration.

Finally, it should be noted that, at all times, the rights of an accused person are fully respected and are in no way derogated from; the most important, or course, being the alleged offender's right to an impartial hearing and determination by a duly constituted court of this State. Clearly the detailed regulations that are contemplated will be subject to parliamentary scrutiny in the ordinary manner. I commend the Bill to the Council.

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

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides for the commencement of the measure. Clause 3 sets out the definitions required for the purposes of the Act. The Act is to operate in relation to 'prescribed offences', being offences designated by the regulations for the purposes of this Act. Only summary offences that are not punishable by imprisonment will be able to be designated as prescribed offences. Differential expiation fees will be able to be set.

Clause 4 provides for the issuing of expiation notices. An expiation will be in a form approved by the Minister, must not relate to more than three offences and must not be given to a child (being a person under the age of 16 years). An expiation notice will only be issued by a member of the Police Force or a responsible statutory authority (being either the Minister responsible for the administration of the Act that is alleged to have been breached or a person or body to whom the Minister has delegated the power to issue notices). Clause 5 sets out the effect of expiration. The expiration of an offence will result in the person not being liable for prosecution for the offence. The payment of an expiation fee will not be regarded as an admission of guilt or of any civil liability.

Clause 6 will allow the appropriate authority to withdraw an expiation notice in certain circumstances. If a notice is withdrawn, a prosecution for the offence may be commenced (but the fact that the defendant paid the expiation fee will not be admissible in the proceedings for the offence). Clause 7 provides that money received as fees under the Act will be dealt with in the same way as fines. Clause 8 provides that this Act does not affect the operation of any other expiation scheme. Clause 9 is a regulation making provision.

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

CORONERS ACT AMENDMENT BILL (No. 1) (1987)

The Hon. C.J. SUMNER (Attorney-General): obtained leave and introduced a Bill for an Act to amend the Coroners Act 1975. Read a first time.

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

That this Bill be now read a second time.

It seeks to enlarge and enhance the rights of persons who may be adversely affected by any unwarranted or unreasonable finding made at a coronial inquest. As far as powers to review inquests are concerned, there do not appear to be available the common law remedies of traverse of inquisition or the Supreme Court's common law powers to quash an inquisition. This would be as a result of section 5 of the Act which provides (in so far as material):

> . . . any rules of practice or procedure with respect to an inquest arising at common law or by statute of the Imperial Parliament are hereby excluded.

Whether this language extends to review of an inquest is questionable. Courts would probably be loath to infer such. But a view may be that the common law remedies for review are excluded. All other States and Territories have provisions similar to the one that this Bill seeks to include. A provision such as the one proposed should provide a valuable check on excessive coronial zeal. Unreasonable or unsupported findings should not be allowed to go unchallenged as they have the potential to cause as much hardship and other adverse consequences to a person affected by them as any finding or conclusive determination of an ordinary court. But at least in the latter case litigants can have recourse by law to appellate proceedings. This Bill will overcome that deficiency and restore some symmetry by meeting the legitimate expectations of people. One could readily imagine people in a trade or profession whose reputation or livelihood are threatened or impugned unnecessarily by a coronial finding and without recourse to the courts. This measure will overcome such potential for unfairness.

Clause 1 is formal. Clause 2 provides for new sections 28 and 28a. New section 28 revamps the provision under which a coroner may reopen an inquest. The coroner will be required to reopen an inquest at the direction of the Attorney-General. Where an inquest is reopened, the coroner may confirm any previous finding, set aside a previous finding or make a fresh finding. New section 28a will allow an application to be made to the Supreme Court to have a finding set aside. The application will be able to be made by the Attorney-General or someone who can show a sufficient interest in the finding because it affects a pecuniary interest, reflects adversely on the person's competence in

his or her occupation or profession or it affects some other interest sufficient to justify an application being made. The Supreme Court will be able to set aside a finding if it is against the evidence or the weight of the evidence or if an irregularity has occurred in the proceedings, insufficient inquiry has been made or new facts or evidence have come to light. The court will be able to direct that the inquest be reopened or that a fresh inquest be held and will be able to substitute any finding that appears justified.

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

CROWN PROCEEDINGS ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Crown Proceedings Act 1972. Read a first time.

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

That this Bill be now read a second time.

This short Bill seeks to amend the Crown Proceedings Act 1972 to enable service on Ministers of the Crown of subpoenas and other process, issued by courts and like bodies, to be effected by the Crown Solicitor. In civil proceedings that directly involve the Crown (that is, where the Crown is either plaintiff or defendant) service of process, that is required to be served upon the Crown, is effected by service on the Crown Solicitor (section 6 (3) of the principal Act). In many cases that are litigated between private persons, evidence may need to be obtained from the Crown and in particular a Minister. This is especially so where relevant documentary evidence is sought by one (or both) of the parties pursuant to a subpoena.

The present law requires that such service be actually effected on the person of the Minister. This has its disadvantages. Ministers are busy people and, from the point of view of a private litigant it is sometimes very difficult and time consuming to arrange prompt service. Indeed, some litigants seek to effect service at a Minister's personal address which can be a nuisance for all concerned. This is only conducive to costs and delays to the parties, especially when a Minister's official duties require his or her prolonged absence from Adelaide or the State itself.

This Bill will reduce cost and delay to litigants and ensure that the Minister's attention is brought to the relevant process in a more orderly fashion. Moreover, it will ensure that the court or like body is kept apprised, in a timely and effective manner, of any reasons for delay in bringing the Minister's attention to the process and serving his or her attendance at the proceedings. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clauses 3, 4 and 5 make consequential changes.

Clauses 6 inserts new section 7a. The new section requires that a subpoena directed to a Minister be transmitted to the Crown Solicitor for service by the Crown Solicitor on the Minister. If the Crown Solicitor fails to serve the subpoena within a reasonable time the court or other authority may direct alternative service.

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

FAIR TRADING BILL

Returned from the House of Assembly with amendments.

STATUTES AMENDMENT (FAIR TRADING) BILL

Returned from the House of Assembly with amendments.

CRIMINAL INJURIES COMPENSATION 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 of the Bill inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill provides for an increase in the maximum criminal injuries compensation award from $10 000 to $20 000. It also provides for money to be paid into the Criminal Injuries Compensation Fund from a levy to be collected from all persons expiating or found guilty of offences.

The maximum amount payable to a victim of crime under the Criminal Injuries Compensation Act 1977 is $10 000. When the $10 000 amount was fixed in 1977 it was the highest amount payable to victims of crime in Australia.

Since 1977 the maximum amount payable to victims of crime has been increased in all other States and Territories in Australia and it is appropriate that it be increased in South Australia.

The Bill increases the maximum amount payable to victims of crime to the $20 000 which is payable in the majority of other jurisdictions in Australia.

In 1985-86 there were 282 payments made under the Act totalling $1 231 966. Of that amount $86 596 was recovered from offenders. The full amount of Criminal Injuries Compensation Awards (apart from the amounts recovered) has always been paid for by the general revenue.

To increase the maximum amount payable to $20 000 will, if the courts double existing awards, require something in the order of $1 200 000 to be found.

Although it is not likely that all awards will be simply doubled as some would be less than the maximum which currently exists, it is important that the Criminal Injuries Compensation Fund be built up over time so that the compensation payable to victims of crime can be increased.

In the USA a variety of approaches have been used to collect funds for criminal injuries compensation schemes through fines and penalties. A majority of schemes in the USA are funded solely or in part from revenue from fines and penalties.

Fine and penalty assessments come in a variety of forms. One approach is to assess convicted offenders with fixed penalties. In Connecticut, for example, a $15 contribution for the criminal injuries compensation fund is assessed for certain motor vehicle and drunk driving convictions, and a $20 contribution is assessed for all felony convictions. In Indiana, a $15 contribution is assessed on more serious misdemeanours and all felonies but not on traffic violations. On the other hand, traffic fine revenues are the major source of funds in a number of States.

A second approach used in the USA is to assess a proportional surcharge upon fines imposed. For example, in Delaware, a 10 per cent surcharge is applied to all fines, penalties and forfeitures. Florida combines the fixed penalty approach, by assessing $10 additional court costs on offenders, with the proportional charge approach, by also assessing a 5 per cent surcharge on all criminal penalties.

The imposition of an additional monetary penalty is considered a fitting way for offenders to pay back part of their debt for violating society's laws and is a means of providing additional funding for criminal injuries compensation and thus allowing the maximum amount of compensation payable to be increased.

This Bill provides for the imposition of a $5 levy on persons expiating offences; a $20 levy on persons found guilty of a summary offence, and a $30 levy on persons found guilty of indictable offences. For children the levy will be $5 for expiated offences and $10 for all other offences.

For the present it is intended to exempt from the levy certain offences such as those under local government and university by-laws.

The opportunity has been taken to extend the time for making a claim to three years in keeping with the limitation period applying for tortious claims.

In addition the ambit of the Criminal Injuries Compensation Fund has been widened to allow for other payments for the benefit of victims of crime to be made. This will enable payments to be made for instance to organisations assisting victims and to provide increased resources to enable victim impact statements to be prepared in conjunction with pre-sentence reports on offenders as provided for in section 301 of the Criminal Law Consolidation Act.

The Act provides that the Attorney-General may decline to satisfy an order for compensation or reduce the payment where the claimant has received or is likely to receive payment otherwise than under the Act. It has been the usual policy for the Crown Solicitor to advise against the making of any payment under the Criminal Injuries Compensation Act when the claimant has received an amount equivalent to the criminal injuries award from another source such as from workers compensation payments. The rationale behind this advice is the Criminal Injuries Compensation Act is an Act of last resort and provided the claimant has received some compensation for injuries then additional compensation from the Criminal Injuries Fund should not be approved.

This policy can produce anomalies, as was evidenced last year in the case of Constable Burnett, a police officer injured in the course of his duties. Constable Burnett received more than $10 000 in workers compensation payments and an award of $10 000 under the Criminal Injuries Compensation Act. Acting on advice from the Crown Solicitor and consistent with the usual policy the Attorney-General declined to pay the $10 000 criminal injuries award. The particular problem highlighted in the Burnett case was that the workers compensation payments (which were for loss of wages and medical expenses) exceeded the amount of entitlement under the Criminal Injuries Compensation Act. This meant that Constable Burnett in effect received nothing for non-economic loss. A person less seriously injured whose workers compensation (loss of wages and medical expenses) did not exceed $10 000 would normally have received something for non-economic loss.

Provision is made by this Bill for the Attorney-General to have regard to the nature of compensation received apart from the Criminal Injuries Compensation Act, and where that compensation does not represent adequate compensation for the victim's pain and suffering or other non-economic loss provision is made for the Attorney-General to reduce the payment under the Criminal Injuries Compensation Act but such reduction will not be below the amount which would compensate for the pain and suffering or $5 000, whichever is the lesser. In other words, a claimant who has been compensated from other sources to the extent of the criminal injuries compensation award but who has not in the Attorney-General's opinion received adequate payment for pain and suffering will still at the Attorney-General's discretion receive some compensation from the Criminal Injuries Compensation Fund up to a $5 000 limit.

The factors to which the Attorney-General should have regard are set out in the new section 11 (2a).

It is hoped that the new provisions relating to these payments will overcome some of the anomalies that have hitherto existed in the payment of criminal injuries compensation.

Because criminal injuries compensation has an artificial limit placed on it, there will always be some anomalous situations. However, the limit is necessary because the amount of money available from the taxpayer is itself limited because criminal injuries compensation is not covered by insurance. The proposals in this Bill will overcome the most glaring anomaly and over time with the levy proposed there should be more money available for criminal injuries compensation and other assistance to victims of crime.

Clause 1 is formal.

Clause 2 provides for commencement on one or more proclaimed days.

Clause 3 amends section 4 of the principal Act which is the interpretation provision. 'Conviction' is defined to include a formal finding of guilt and 'to convict' is given a corresponding meaning. 'Juvenile offender' is defined to mean a person who was under the age of 18 years at the date of commission of an offence.

Clause 4 amends section 7 of the principal Act which is the section dealing with claims for compensation. First, it increases the limitation period within which claims may be brought from 12 months to three years. Second, it increases the maximum amount payable to victims of crime by the courts from $10 000 to $20 000.

Clause 5 amends section 11 of the principal Act by providing in subsections (2) and (2a) that the Attorney-General may decline to satisfy an order for compensation or reduce the payment where the claimant has received or is likely to receive payments apart from this Act.

In the exercise of this discretion the Attorney-General should have regard to the extent which the other compensation represents adequate compensation for the injury or loss suffered by the claimant. In appropriate cases the extent to which the other compensation compensates for pain and suffering and other non-economic loss is to be considered.

Where compensation under other law is adequate as regards non-economic loss, the Attorney-General is empowered to reduce the amount payable under this Act, but not below $5 000. Where the Attorney-General is of the view that compensation under other law does not adequately compensate for non-economic loss, a payment of compensation under this Act will be reduced but not below what is necessary to make up the deficiency.

Section 11 is also amended to include a provision (subsection (4)) to enable the Attorney-General to make payments, other than payments of compensation, to advance the interests of victims of crime.

Clause 6 repeals sections 12, 13 and 14 of the principal Act and substitutes new provisions.

Section 12 provides for the continuance of the Criminal Injuries Compensation Fund.

Section 13 creates an additional source of revenue for the fund by imposing a levy on persons convicted of offences and on persons who expiate offences in pursuance of expiation notices. Section 13 also gives the courts the same powers in relation to the levy as it has in relation to a fine. Where a person is in prison, amounts can be deducted from prison earnings to recover the amount of the levy.

Section 14 preserves rights to damages or compensation under other laws. It provides for the amount of compensation awarded under this Act to be taken into account in the assessment of damages or compensation for the same injury or loss in proceedings taken under other laws. Finally, section 14 ensures that where a person receives awards of compensation both under the law relating to workers compensation and under this Act, payment of compensation under this Act does not give rise to a right of recovery under workers compensation law.

Clause 7 makes various amendments to the principal Act as preparation to Statute Law Revision reprint of the Act.

The schedule amends the language of the Act to ensure that it is, at all appropriate places, 'gender neutral' in accordance with Government policy on good drafting principles. Various sections are deleted to remove old and unnecessary provisions and spent commencement and transitional provisions.

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

UNCLAIMED GOODS BILL

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

WATERWORKS ACT AMENDMENT BILL

The House of Assembly intimated that it had disagreed to the amendment made by the Legislative Council but had made an alternative amendment to which it desired the concurrence of the Legislative Council.

SEWERAGE ACT AMENDMENT BILL

The House of Assembly intimated that it had disagreed to the amendment made by the Legislative Council but had made an alternative amendment to which it desired the concurrence of the Legislative Council.

IN VITRO FERTILISATION (RESTRICTION) BILL

Returned from the House of Assembly without amendment.

OCCUPATIONAL THERAPISTS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

REGISTRATION OF DEEDS 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 of the Bill inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

The purpose of the Bill is threefold. First, to provide for plans deposited in the General Registry Office to be corrected or varied in a manner similar to provisions of the Real Property Act that enables the correction or amendment of plans deposited or filed in the Lands Titles Office. Secondly, to provide a definition of the term 'duplicate original' used in the Act and which appears to be ambiguous as presently interpreted. Thirdly, to change the present method of promulgation of regulations to a more modern and convenient manner.

The Registration of Deeds Act at present does not provide the Registrar-General of Deeds with the power to correct or otherwise amend plans deposited in the General Registry Office. The need for alterations to plans may arise through the necessity to rectify an error or omission, the need of a registered proprietor to vary boundaries within the plan or a requirement of the Registrar-General of Deeds to amend abuttals or to correct data as the result of resurvey of the land. Plans that are incomplete as regards current information are a hindrance to the searching public and complaints from organisations representing the survey industry have been received. The Act is inconsistent with the Real Property Act and other statutes which provide for similar amendments to be made to plans deposited or filed in the Lands Titles Office.

Most plans presently lodged for deposit in the General Registry Office are plans for lease purposes. A need often arises whereby a plan is required to be amended because, although the plans have been prepared with good intent, the requirements of a prospective lessee may differ from those provided by the plan. The present recourse is to prepare a new plan, for deposit in the General Registry Office, designated as superseding the previous one. This incurs added expense to the proprietor and places a strain on the available filing space within the General Registry Office itself. It is intended that amendments to plans be made only at the discretion of the Registrar-General of Deeds as there are instances where such an amendment may be undesirable, e.g. where a parcel is already the subject of a lease, the plan must remain unchanged.

At the time of enactment of the Registration of Deeds Act 1935, the legislators would not have contemplated the advent of such automated means of duplicating documents or plans as photocopying devices.

The custom of the day, where deposit of a duplicate instrument in the General Registry Office was anticipated, was to prepare a hand written or typed copy which was executed by the parties thereto at the time of execution of the original instrument. The term 'duplicate original' is used in sections 31 and 34 of the Registration of Deeds Act to describe (*inter alia*) an instrument capable of deposit in the General Registry Office.

The Registrar-General of Deeds is in receipt of a Crown opinion that concludes that a 'duplicate original' does not include within its meaning a copy of an instrument made by photocopy applications.

It is proposed, therefore, that a definition of 'duplicate original' be incorporated into the Act that broadens the meaning of the term to include photocopies or copies made by other technological means that may be available from time to time.

Section 40 of the Act, due to its nature, enables the promulgation of regulations, but only in a manner that is out of date, inconvenient and time consuming. It is proposed that section 40 be amended to provide authority for the Governor to make general regulations under the Act in a manner more appropriate to modern times.

Clause 1 is formal.

Clause 2 amends section 5 of the principal Act—'Interpretation'. A new definition of 'duplicate original' is inserted, meaning a copy of an instrument signed by the parties to the instrument.

Clause 3 repeals section 40 of the principal Act and substitutes a new section providing for amendment of errors. Subsection (1) provides that if the Registrar considers that a description of land in an instrument is erroneous or inadequate, he may amend the instrument to correct the error or inadequacy. A note of the amendment and of the date on which it was made must be made on the instrument. A reference to a description of land includes a delineation of land by map or plan.

Clause 4 inserts new section 45 which empowers the Governor to make regulations under the principal Act.

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

VALUATION OF LAND 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 now be 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

This Bill will allow for changes in the method used for the determination of site and unimproved values of individual units contained in a deposited strata plan. The changes will ensure more equitable valuations of the individual units and consequently provide for a more equitable apportionment of rates and taxes. To effect these changes it is necessary to amend the Valuation of Land Act 1971-1985 by:

—removing from the definitions of site and unimproved values those sections which define that these values shall be determined by apportioning the site and unimproved value of the whole site in accordance with the unit entitlement of each unit as defined in the deposited strata plan;

—by defining in the Act that the site and unimproved values of individual units shall be determined by apportioning the total site and unimproved value of the whole site in accordance with the relativity between the current market or capital value of the unit and the current market or capital value of all the units in the strata plan.

At present, site and unimproved values for individual units are determined by, first, determining the value of the whole site and then apportioning that total value to each unit in accordance with its unit entitlement.

Unit entitlements are calculated prior to the lodgment and registration of strata plans by the Registrar-General, Department of Lands, and are based on the relativity between the valuation of each individual unit and the valuation of all units within the complex at that time. The relativity may subsequently change due to the following circumstances:

1. Flunctuations in the real estate market.
2. Additions and alterations have been made to one or more of the units.
3. Changes in the use of one or more of the units.
4. One or more of the units are included on the State Heritage Register.

However, unit entitlements as originally determined, are not often amended to reflect these changes due to the inability of the individual owners to reach agreement. Consequently an anomalous situation arises in the determination of these values.

This Bill will correct that situation by providing for the determination of site and unimproved values by the apportionment of the total site or unimproved value, as the case may be, in accordance with the relationship that exists between the current market or capital value of each unit and the current market or capital value of all the units in the deposited strata plan.

Clauses 1 and 2 are formal.

Clause 3 amends section 5 of the principal Act which deals with interpretation of expressions employed in the principal Act. The effect of the amendment is to provide that the unimproved value or site value of land defined on a deposited strata plan is defined as follows:

(a) the capital value of all units defined on the plan must be assessed;

(b) the unimproved value or site value of the parcel must be assessed;

(c) the unimproved value or site value of the unit will be the value that bears to the unimproved value or site value of the parcel the same proportion as the capital value bears to the aggregate capital value of all the units on the plan.

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

REAL PROPERTY 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.

In view of the lateness of the hour, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

The purpose of the Bill is twofold: first, to provide relief to a mortgagor in a situation where a mortgagee refuses to execute a discharge of a mortgage without giving sufficient reason for so refusing; secondly, to transfer responsibility for the administration of sections 23a and 146 of the Real Property Act from the Treasurer to the Minister of Lands. Section 146 currently provides that where a mortgagee (the lender) is dead, cannot be found or is incapable of executing a discharge of the mortgage, a mortgagor upon either giving proof of payment of all of the moneys secured by the

mortgage or upon payment of the balance of the moneys secured to the Treasurer, may request the Treasurer to execute a discharge of the mortgage.

A circumstance has arisen whereby a mortgagor, who made final payment of the moneys secured by a mortgage registered in the Lands Titles Office, was unable to gain a discharge of that mortgage because of the mortgagee had moved overseas and has since forth declined to respond to all requests made to him for a discharge of the mortgage. The mortgagee is known to be alive and his address overseas is known and correspondence to him has been made by registered mail, none of which has been returned to the sender. The Under Treasurer is in receipt of an opinion of the Crown Solicitor to the effect that the provisions of section 146 do not enable the Treasurer to give the aggrieved mortgagor a discharge of the mortgage. Consequently, the mortgagor has been unable to use any administrative provisions of the Real Property Act to secure a discharge of his mortgage or negotiate a sale of his property, since making final payment of the moneys due on 2 February 1977. The proposed amendment is made to provide relief to mortgagors in a similar situation to that explained here.

Mortgages and discharges of mortgages are registered on Certificates of Title maintained by the Lands Titles Office. Discussions between officers of the Treasury Department and the Department of Lands have determined that it would be sensible for the administration of section 146 to be transferred to the Minister of Lands as it would rationalise the discharge procedures within one Government Department and in an area familar with all facets of the discharge of mortgages. Section 23a of the Real Property Act provides authority for the payment of mortgage moneys paid to the Treasurer by a mortgagor to a claimant mortgagee or other person. The proposed amendment to this section is consequential to the proposed amendment to section 146 in as much that the responsibilities of the Treasurer pursuant to this section should also be transferred to the Minister of Lands.

Clause 1 is formal.

Clause 2 changes the administration of money held pursuant to section 23a of the principal Act from the Treasurer to the Minister administering the principal Act.

Clause 3 amends section 146 of the principal Act. New subsection (1) includes power in the Minister to discharge a mortgage where the mortgagee unreasonably refuses to do so. Paragraph *(b)* makes an administrative change and paragraph *(c)* will enable the Minister to receive money on behalf of a mortgagee where he has unreasonably refused to accept payment.

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

BILLS OF SALE 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

The purpose of the Bill is twofold: first, to provide relief to a grantor in a situation where a grantee refuses to execute a discharge of a bill of sale without giving sufficient reason for so refusing; secondly, to transfer responsibility for the administration of section 38b of the Bills of Sale Act from the Treasurer to the Minister of Lands. Section 38b currently provides that where a grantee (the lender) is dead, cannot be found or is incapable of executing a discharge of the bill of sale, a grantor (the borrower), upon either giving proof of payment of all the moneys secured by the bill of sale or upon payment of any outstanding balance to the Treasurer, may request the Treasurer to execute a discharge of the bill of sale.

A similar provision exists in section 146 of the Real Property Act as regards mortgages. A situation has arisen whereby a mortgagor, who upon producing evidence that the final payment of the moneys secured by a mortgage has been paid, is unable to gain a discharge as the mortgagee has moved overseas. Although the mortgagee is known to be alive and his address overseas is known, he has refused to respond to requests by registered mail to execute an enclosed discharge of mortgage form. An opinion of the Crown Solicitor states that the provision of section 146 does not enable the Treasurer to give a discharge of mortgage in this case. The mortgagor has been unable to use the administrative provisions of the Real Property Act to secure a discharge of his mortgage or negotiate a sale of his property, since making final payment of the moneys due on 2 February 1977. As a potential exists for the problems similar to that experienced in the case above to arise as regards a bill of sale, the proposed amendment is made to provide relief to grantors in a similar situation.

Bills of sale and discharges of bills of sale are deposited in the General Registry Office of the Department of Lands. Discussions between officers of the Treasury Department and the Department of Lands have determined that it would be sensible for the administration of section 38b to be transferred to the Minister of Lands as it would rationalise the discharge procedures in one Government department and in an area familiar with all facets of the discharge of bills of sale. This proposal is consequential upon an amendment of a similar provision of the Real Property Act currently being enacted. This amendment simply aligns with the Bills of Sale Act, which deals with mortgages of personal property, with the Real Property Act which deals with mortgages of land.

Clause 1 is formal.

Clause 2 amends section 38b of the principal Act. Paragraph *(a)* replaces subsection (1) with a new subsection that includes the substance of the existing provision but enables the Minister to discharge a bill of sale where he is satisfied that the grantee has refused to do so without sufficient reason. Paragraph *(b)* transfers the administration from the Treasurer to the Minister administering the principal Act. Paragraph *(c)* provides that the Minister may receive payment under a bill of sale where the grantee has unreasonably refused to accept payment.

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

FISHERIES (GULF ST VINCENT PRAWN FISHERY RATIONALISATION) BILL

The House of Assembly intimated that it had disagreed to the Legislative Council's amendments.

Consideration in Committee.

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

That the Council do not insist on its amendment No. 1, but make the following alternative amendment in lieu thereof:

New clause:

Page 2, after line 20—Insert new clause as follows:

3a. (1) A licence is not transferable until 1 April 1990, but after that date may be transferred with the consent of the Director.

(2) The Director must consent to the transfer of a licence if—

(a) the criteria prescribed by the regulations are satisfied;

and

(b) an amount is paid to the Director representing, in the Director's opinion, the aggregate of the licensee's accrued and prospective liabilities by way of surcharge under this Act less any component of that aggregate liability referable to future interest and charges in respect of borrowing.

(3) Where the registration of a boat is endorsed on a licence that is or is to be transferred, that registration may also be transferred.

The Hon. M.B. CAMERON: The Opposition will support the changed amendment. It means that after a three year period, which is quite different from the original 10 year period under the previous proposal that came into this Chamber, the people who hold licences in this fishery will be able to transfer. The words very carefully used in new subclause (2) are that the Director must consent to the transfer of the licence. That was clearly put in for the purpose of ensuring that in three years time transferability will be brought back into the fishery. That compromise was reached between the fishermen and the Minister and, in view of the fishermen's acceptance of that position, I have no problem with it. In fact, if the Minister had not moved this amendment, I would certainly have been prepared to do so.

One area should be made clear, that is, what regulation is referred to in relation to new subclause 2 *(a)* which provides that the criteria prescribed by the regulations be satisfied. At present regulation 24 is suspended. It is my understanding that the Minister has agreed to give a commitment that that suspended regulation will, once the Bill is passed, be brought back into force. That regulation clearly spells out the various provisions that will have to be adhered to before a licence is transferred.

It involves the signing of forms, such as the signing of a statement specifying the price to be paid for the transfer of the licence; sending to the Director the form of application; completing and signing an application form; being satisfied that the transferee is a person who, in the case of a natural person, is at least 15 years of age, is nominated by the transferor and who, during the three years immediately preceding the date on which the application for transfer is made, has not been convicted by a court in a State or Territory of illegal fishing; that application forms have been correctly and accurately completed; that the proposed transfer will in no way be contrary to the regulations; that the licence being transferred has not been suspended; that no proceedings are pending against the holder of the licence alleging an offence under the Act; and in deciding whether or not to consent to the proposed transfer, the Director shall have regard to the policy of one person one licence. I seek leave to table the regulation so that members, at some future time, can look through it.

Leave granted.

The Hon. M.B. CAMERON: I assure members that the regulation will have my support and the support of the Opposition. At this stage I ask the Minister to indicate that the understanding is that the regulation as presently drawn up will be reinstated under the fisheries legislation.

The Hon. J.R. CORNWALL: I am able to give that undertaking on behalf of my colleague, the Minister of Fisheries.

Motion carried.

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

That the Legislative Council insist on its amendments Nos 2 to 5.

The Hon. M.B. CAMERON: The Opposition certainly supports the motion. I was somewhat surprised to find that these amendments were disagreed to by the House of Assembly as they were amendments moved by the Minister when the Bill was before this place. I assumed that the Government would want to reinstate those provisions. I had expected the House of Assembly to support those amendments, as I certainly do. There is nothing in these amendments that causes difficulty for the Opposition.

Motion carried.

DANGEROUS SUBSTANCES ACT AMENDMENT BILL

In Committee.

(Continued from 31 March. Page 3592.)

Clauses 2 to 4 passed.

Clause 5—'General duty to take proper precautions with respect to dangerous substances.'

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

Page 1, lines 25 to 30—Delete this clause and substitute:

5. Section 12 of the principal Act is amended—

(a) by striking out:

Penalty: One thousand dollars.

and substituting:

Penalty: *(a)* in the case of body corporate—$40 000;

(b) in any other case—$8 000 or imprisonment for two years or both;

and

(b) by inserting after its present contents as amended by this section (now to be designated as subsection (1)) the following subsection:

(2) A court may only impose a sentence of imprisonment for an offence against this section if satisfied that the offender—

(a) knew that the act or omission constituting the offence was likely to endanger seriously the health or safety of another;

or

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

During the second reading debate I indicated that the Opposition was of the view that where a period of imprisonment was to be imposed it ought to be imposed only where the offender knew that the act or omission constituting the offence was likely to endanger seriously the health or safety of another or was recklessly indifferent as to whether the health or safety of another was so endangered. The penalty is very stiff and we believe that there should be some basis upon which the ultimate penalty of imprisonment is kept for the most serious cases. This amendment deletes clause 5 and inserts a new clause 5. It is essentially the same as the present clause 5 with the addition of the new subsection (2) dealing with the circumstances in which the court may impose a penalty of imprisonment.

The Hon. C. J. SUMNER: I oppose the amendment. It seems to me in accordance with the usual principles of sentencing that the discretion with respect to the sentence in any particular case should be left to the court. The court is able to assess the nature of the offence, whether it is of a particularly grave nature or relatively minor nature, and the circumstances of the offender. With the court being able to take that into account, I am sure it would exercise its discretion to impose a sentence of imprisonment where it felt it was necessary, but would not do so otherwise. Impris-

onment may be appropriate for property damage or major environmental damage due to spillage or escape of dangerous substances, and I think the restriction that the honourable member has placed on the discretion of the court by this amendment is unwarranted as it means that imprisonment could not be handed down unless the court was satisfied that the offender knew that the act or omission was likely to endanger seriously the health or safety of another. In other words, it is confined to the effects on a person's health or safety.

Clearly, there may be major property damage or indeed, perhaps more importantly, major environmental damage due to spillage or escape of dangerous substances. One could take that to its extreme, I suppose, with the recent chemical spillages in, I think, the Rhine River in Switzerland which apparently polluted and killed many of the fish and therefore had an effect not just on the environment *simplicita* but had an effect on a resource that the environment nurtured. One could imagine similar situations here where there is a major resource—a fishery or something of that kind—which is wiped out or severely damaged as a result of a chemical spillage. It would not actually involve the health or safety of another, but it could have a very serious consequence as far as a resource for the State is concerned by way of environmental damage and thereby constitute a severe economic detriment to the community or the people who exploit the resource. On that ground, I oppose the amendment.

The Hon. M. J. ELLIOTT: I will not be supporting the amendment. I concur with the comments made by the Attorney-General and will perhaps add one other thought that too often the law is extremely light on what we might call the white collar criminal and white collar-type crimes. I believe that the sorts of sentences referred to in this Bill are reasonable in the circumstances.

Amendment negatived; clause passed.

Clause 6—'Offence with respect to the keeping of dangerous substances without a licence.'

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

Page 2, line 5—Strike out 'or imprisonment for one year'.

This clause increases the penalties in relation to keeping of dangerous substances without a licence, and in this context I do not believe that imprisonment for one year or up to one year is appropriate. I think that a monetary penalty is adequate. It is in quite a different catergory from the amendment we have just dealt with to clause 5. This amendment deals with licences. I would have thought that the failure to have a licence ought not to attract a penalty of imprisonment.

It is correct that the courts have a discretion which they will exercise, and may reserve imprisonment for the more serious cases but, notwithstanding that argument, I do not believe that failure to have a licence ought to attract a period of imprisonment, so I move that amendment which deletes that part of the clause.

The Hon. C.J. SUMNER: I think similar considerations apply here as in the previous situation I have addressed, although there is obviously a distinction between actual damage which occurs as a result of a spillage of a chemical or a dangerous substance and a situation where there is failure to have a licence for a dangerous substance. On the face of it, there may be that distinction. I think, when it is thought through, that the Council will see that the purpose of having a licence is to prevent the circumstances occurring subsequently where a major catastrophe with a chemical or dangerous substance occurs. So, the holding of a licence is an essential part in the preventative chain, and I therefore consider it appropriate that imprisonment is maintained as, at least, an option with respect to the failure to have a licence for the keeping of dangerous substances.

The Hon. M.J. ELLIOTT: I will not be supporting this amendment either.

The Hon. K.T. GRIFFIN: I did not indicate it on the previous amendment but, in the light of the indication by the Australian Democrats, I will not call for a division if I lose it on voices.

Amendment negatived; clause passed.

Clause 7—'Offence with respect to conveyance of dangerous substances without licence.'

The Hon. K.T. GRIFFIN: In the light of the failure of the amendment clause 6 I doubt whether there is any value with proceeding with my amendment on file.

Clause passed.

The Hon. K.T. GRIFFIN: I have on file a new clause 7a. That is superseded by the earlier amendment. After that was placed on file the advice was that it was more appropriate to do it in the form which we have already considered, and I agreed with that. So, the new clause 7a is no longer necessary.

Remaining clauses (8 and 9) and title passed.

Bill read a third time and passed.

STATE GOVERNMENT INSURANCE COMMISSION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 31 March. Page 3598.)

The Hon. C.J. SUMNER (Attorney-General): I state in response, that, when the Government introduced its Bill to set up a Workers Rehabilitation and Compensation Corporation, it was pointed out during the debates that the Act would not come into effective operation for at least 12 months because of the need to establish the new corporation, appoint staff, publicise the details of the new system, etc. As a result of the proposed involvement of SGIC on an agency basis, that transitional period can now be limited to nine months.

It is clearly highly desirable from the viewpoint of all parties that this transitional period be kept to an absolute minimum. If SGIC were not used on an agency basis, the introduction of the new system would be delayed well into 1988. A delay of this order is not acceptable. Employers are already complaining of escalating premiums and difficulties in obtaining insurance cover. In order to minimise these problems the Government took early action and sought SGIC's assistance in the establishment of the new scheme. As a result of the discussions held with SGIC it became apparent that an early operative date of 1 October 1987 was achievable. The Insurance Council of Australia has indicated that its member insurance companies will have no problems in accommodating this particular operation date.

Unfortunately, it only became apparent after some development work had been undertaken by SGIC that there could be some technical difficulty with the SGIC taking on certain of the corporation's delegated functions. The purpose of the Government's Bill now before the Council is to put beyond doubt SGIC's ability to exercise those delegated functions and powers. The amendment is therefore necessary if the SGIC is to continue with its work to establish the new system and for the operative date of 1 October 1987 to be achieved.

Placing limitations on SGIC's role as the Opposition is suggesting could seriously jeopardise the early commencement of the new scheme. A restriction on the term of SGIC's

agency to a period of two years as the Hon. Mr Griffin suggests is just not commercially viable. The establishment costs of the new system will run into millions of dollars. These costs cannot be recovered over a period as short as two years. The four years proposed by the Government is seen as a reasonable period over which the SGIC can recover its costs on a proper commercial basis. Over that four year period the corporation will be enabled to develop refinements to the system and in due course will be placed in a position to take over the full running of the system.

The Hon. Mr Griffin and the Hon. Mr Davis both called for the involvement of the private insurance industry as agents of the corporation. The Government rejects these proposals. The Government believes that the multi-insurance company agency system now operating in Victoria has certain inbuilt problems in terms of the effective control over the level of costs. This problem arises because of the difficulties in providing under a fixed fee scale system proper incentives to encourage agents to take all possible steps to verify claims before payments are made.

The proposal to use the SGIC as the sole agent will enable the benefits of the centralisation of control to be achieved. The use of SGIC as the sole agent will also enable the close policing by the corporation of SGIC's handling of claims. SGIC's agency is, however, to be seen as a transitional arrangement. It was never envisaged that this agency agreement would be continued forever and a day.

Once the corporation is established, if it is of the view that it should have more commercial flexibility, it is empowered as one of its functions to make recommendations to the Minister on any changes to the legislation that it considers desirable to achieve greater administrative efficiency. The corporation may consider that a continued agency system of some sort is desirable. If it does, it will no doubt in due course advise the Government of its views on this matter and at that time the matter of greater legislative flexibility in this area could be addressed in the light of the corporation's considered views.

Bill read a second time.

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

That it be an instruction to the Committee of the whole Council on the Bill that it have power to consider a new clause relating to agents for the Workers Rehabilitation and Compensation Corporation.

Motion carried.

The Hon. I. GILFILLAN: I move:

That it be an instruction to the Committee of the whole Council on the Bill that it have power to consider a new clause dealing with delegations by the Workers Rehabilitation and Compensation Corporation under the Workers Rehabilitation and Compensation Act 1986.

Motion carried

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

PUBLIC AND ENVIRONMENTAL HEALTH BILL

Adjourned debate on second reading.

(Continued from 31 March. Page 3609.)

The Hon. R.I. LUCAS: I rise to support the second reading of the Bill. Because of the lateness of the hour and the scarcity of time, I indicate that I will not attempt to cover all parts of this very important Bill during the second reading debate. I believe that the Bill will have a very long Committee stage and, in fact, we already have five or six sets of proposed amendments from five or six members. My view on different aspects of the Bill will be put during the Committee stage.

I believe that the submission that we received from the Local Government Association in the past 24 to 36 hours is most important, and I believe that members should seriously apply their minds to it. I understand that a number of amendments, as a result of the submission from the Local Government Association, will be moved by members in this Chamber. I think we need to give considerable weight to the suggestions that it has made in relation to this Bill.

I will confine my remarks (in some detail) to Part IV of the Bill dealing with notifiable diseases and prevention of infection. In commencing my remarks, I will trace a little bit of the history of this matter and canvass what I believe to be the hypocrisy of the Health Minister (Hon. Mr Cornwall) in relation to this issue and in particular to the infectious disease, AIDS.

I will quote two statements of the Minister, the first from the *Advertiser* of 11 December 1986. Under the heading 'AIDS isolation moves could "spread" disease', the article stated:

Any move to isolate AIDS carriers will only help spread the condition into the community, according to the Minister of Health, Dr Cornwall, and the coordinator of the South Australian Health Commission's AIDS program, Dr Michael Ross. Their comments follow statements yesterday by Parliamentary Leader of the National Party, Mr Blacker, who said AIDS carriers should be isolated and there should be compulsory screening for all practising homosexuals and drug users . . . Dr Cornwall yesterday called Mr Blacker's comments the latest move in an 'outrageous campaign of misinformation' by the Opposition.

'To isolate homosexuals and bury our heads in the sand over drug use is no solution to stopping the spread of AIDS in the South Australian community,' he said. 'Those measures propounded by Mr Blacker will only force the risk groups underground and make the spread of AIDS from risk groups into the general community more likely.' Dr Cornwall said it was essential that public health authorities establish communication with risk groups. That contact could help prevent the spread of the disease among the population. 'Mr Blacker's moralising is very dangerous because from a public health viewpoint, syringe availability to drug users and communication with the homosexual community are desirable in the interests of the entire public.'

The second statement that I wish to quote comes from *Hansard* of 17 February 1987, as follows:

We must be careful indeed not to get into some sort of AIDS hysteria that would see us founding AIDS colonies on Kangaroo Island. That is the sort of line that was pursued quite recently in this State by the National Party member, Mr Blacker. He wrote to me and publicly disseminated the 'etter to all members of the media, suggesting that all AIDS positives should somehow or other be incarcerated. The moment we start that, we will be in desperate trouble. Therefore, I appeal again for people to keep well away from AIDS hysteria which, in many ways, is more infectious than the disease itself. If we go down that track, unfortunately all the good work that has been done in the past two years or more can be brought undone.

There are a number of other quotations from the Hon. Dr Cornwall in *Hansard* and the daily press—*Advertiser* and *News*—that go down that particular line, but for the sake of brevity I will not read them. The Minister has pontificated and adopted a holier-than-thou attitude in his previous approach to the major problem of AIDS in our community. If on any occasion over the last two or three years anybody—member of Parliament or community group—has indicated a differing view to the previous view of the Minister of Health, he has been merciless in his damnation and his slamming of that contrary suggestion. He has branded such suggestions as outrageous, disgraceful and misinformation and has used a whole range of other extravagant language.

What is before the Council in this Bill? In effect, the Minister of Health has adopted a most dangerous posture: the back flip. He has started to play the hard ball with this

issue in the community. In part, he has done a Blacker and gone down that track with this Bill. It includes quite sweeping powers concerning notifiable diseases, including AIDS and the AIDS-related complex. In quite a sneaky fashion, the Minister has attempted to get these changes through the Parliament with the minimum of public discussion.

In the second reading explanation of the Bill there is only one mention of the question of AIDS. The Bill combines the old second schedule, entitled the Infectious Diseases Schedule, under the old Health Act, and the third schedule, the 'Notifiable Diseases Schedule' under the old Health Act, into one combined schedule under this legislation, namely, the first schedule, entitled the 'Notifiable Diseases Schedule'. We note that this new schedule of the Minister, which under some pressure he may well back away from, has included AIDS and the AIDS related complex but has not yet included that further category of the AB positive in the community. Information available suggests that there is no doubt that the Minister is seriously considering the question as to whether AB positives will be included in the notifiable diseases schedule by proclamation in the future.

The Hon. J.R. Cornwall interjecting:

The Hon. R.I. LUCAS: It is a question that we will need to debate. What I am saying at this stage is that we know that the Minister is considering the matter. We know that advice coming from certain sections of the Health Commission is contrary to the view that the Minister is toying with at the moment.

The Hon. J.R. Cornwall interjecting:

The Hon. R.I. LUCAS: The Minister is taking advice from a whole range of people.

The Hon. J.R. Cornwall interjecting:

The ACTING PRESIDENT (Hon. C.M. Hill): Order!

The Hon. R.I. LUCAS: Thank you for your protection, Mr Acting President.

The Hon. J.R. Cornwall: The oldest teenager—

The Hon. R.I. LUCAS: We will not have a very productive second reading debate if the Minister is going to interject in such a provocative fashion. We are all trying to be reasonable at this late hour in the Chamber. Whilst the Minister has not included the AB positive category in the schedule at the moment, obviously he is toying with that idea. We believe that two other States are looking at the idea—I suppose in concert with the Minister. However, as I have said, at least certain sections of the AIDS Advisory Council (and this applies to other professional advice from within South Australia, at least so far) have, I understand, advised against it. Whilst the Minister has sought to conceal the effects of this Bill in relation to the serious problem of AIDS in the community, there is no doubt that a prime reason for the legislation before us is in relation to the Minister's concerns in relation to the problem of AIDS and the spread of AIDS within the South Australian community.

The Hon. J.R. Cornwall interjecting:

The Hon. R.I. LUCAS: I am trying to ignore the provocative interjections. As I have said, there is no doubt that one of the reasons for this legislation is an attempt to combat the spread of the AIDS virus and disease within the South Australian community. The Minister attempted to conceal this reason from the Parliament and the community by the way in which he drafted his second reading explanation of this Bill.

The Hon. J.R. Cornwall interjecting:

The Hon. R.I. LUCAS: When the Minister was caught out by the work that was done in this Chamber and in the community by the shadow Minister of Health (Hon. M.B. Cameron) and also the *Sunday Mail*—

The Hon. J.R. Cornwall: The odd couple!

The Hon. R.I. LUCAS: No, the *Sunday Mail* I am talking about. When one looks at the combination of the work done by the shadow Minister—and I think the Chamber should be indebted for the work done by him in revealing to the community the true intentions of the Minister in relation to this provision—and the astuteness of the *Sunday Mail* in giving some prominence to this issue in two succeeding editions—

The Hon. J.R. Cornwall: The only journalist in town who got on to it: all the others are fools—

The Hon. R.I. LUCAS: No—

The ACTING PRESIDENT: Order! The Minister must give the speaker a fair go. The Minister can make his full reply at the end of the second reading debate.

The Hon. R.I. LUCAS: Thank you, Mr Acting President, for your protection. The shadow Minister, as I said, revealed the true extent of what was going on in relation to the Minister's intentions. That he happened to choose one particular newspaper—the *Sunday Mail*—rather than the *Advertiser* or the *News* is neither here nor there in having this issue debated widely in the community.

The matter needed to be debated and the ultimate test of the correctness or otherwise of what the shadow Minister has done is in relation to the passage of the amendments in this Chamber being moved by the shadow Minister and, I understand now, some other members in this Chamber.

The Minister may well chuckle, but his true intentions have been caught out and the true test will be in relation to whether the amendments to be moved by the shadow Minister will be accepted by this Council and ultimately by the Parliament. In relation to notifiable diseases and, in particular, the vexed disease of AIDS, there is no doubt that there needs to be a balance between the public health and safety of the community and the individual civil liberties of those people unfortunate enough to be suffering from this disease. There must be a balance in any public health legislation.

I am saying, and I will be arguing, that the Minister of Health has not given due weight to a proper balance between the public health factor, which is important, and the individual civil liberties of those people unfortunate enough to be suffering from AIDS. It is fine for some people in the community to point the fickle finger of blame at AIDS sufferers because in the past perhaps the major sufferers have been homosexuals and drug users. But, as the Minister should know and as the community should be aware, AIDS is spreading now to many groups in the community, way beyond those some of which the community might want to point the finger of blame.

There are many in the community who have suffered, who are suffering or who will suffer from AIDS through no fault of their own: children, people who might pick it up through blood transfusions, and members of the community who enjoy or who have indulged or who are indulging in casual heterosexual sex or who will do so in the future may pick it up through no fault of their own and suffer as a result of AIDS in the community. Whilst in the past it might have been easy for some people to point the finger of blame at homosexuals and drug users and say they they have brought part of this damnation down upon their own heads, at present and in the future to a greater degree that will not be possible.

Therefore, there must be a proper balance between the public health and safety of the community and the individual civil liberties of people suffering from AIDS in our community. I am arguing that the Minister and the Government have not got the balance right. They have gone way too far in one direction and have neglected the proper

and appropriate individual civil liberties of people who are suffering from AIDS or who might suffer from it at some future time.

In my view this Bill, prior to any amendment, has been a knee jerk and a dangerous response from the Minister of Health and the Government. If the Bill was to have passed in the form introduced and as originally intended by the Minister, it would certainly have done nothing to prevent the spread of AIDS in the community. In my view it would have only forced underground those groups who suffer from AIDS and it would alienate them from the community groups and Government agencies which can only but assist them.

In the discussions that I have had in the past 48 hours with those who have some intimate knowledge of AIDS counselling and the AIDS programs in South Australia, I have been advised that, if someone presents at the AIDS Clinic on North Terrace perhaps having the previous day or a day or two before exposed themselves to what they know to be a dangerous situation in relation to the possible transmission of AIDS, they are told, based on the professional advice of the AIDS clinic, international research and research available in Australia, that it is no use having an AIDS blood test done at that time. They are told that they must wait for three months and come back to the AIDS clinic and have the blood test done at that stage.

I have been informed that that advice is based on research available which indicates that, for the first three months after the AIDS virus may have entered the body and before it shows up as AB positive in any blood test, a period of up to three months might expire. Of course, the AIDS clinic does a very good job and I do not criticise it. I am told that it offers counselling, assistance, advice and whatever else can be offered to any person who is concerned that they may have contracted AIDS, but nevertheless that blood test should be delayed for a period of three months. I would be interested in obtaining from the Minister some reference to the research that has been done in Australia or internationally: that is, who has done the research, what agencies or people have done it and how much weight can be attached to this figure that is evidently being used by the AIDS clinic in Adelaide in relation to a three month period? Obviously, if that figure is correct (and I do not query it), it is an important figure. If it takes three months after one has been exposed to the AIDS virus before it can be diagnosed by a blood test to be AB positive, then if a person is donating blood or whatever in that three month period (if that is the right period), it raises important questions in relation to a whole range of other matters of a public health nature.

I seek a response from the Minister in the second reading debate or the Committee stage in relation to where this research has come from and upon what basis the counsellors at the AIDS clinic advise a delay of three months prior to a blood test being taken to diagnose AB positive for a person who suspects that they might be suffering from or have been exposed to the AIDS virus.

The specific clauses I wish to address start at clause 30. As I indicated, my basic premise was that the Minister and the Government had not got the proper balance between protection of the community, public health matters and individual civil liberties. The important matter that the shadow Minister identified both publicly (and so did the *Sunday Mail*) and in this Chamber is in relation to clause 30. The Government intended to get through this Chamber a clause which provided:

30. (1) Where the commission suspects that a person is or may be suffering from a notifiable disease, the commission may, by notice in writing addressed to the person, require the person to present himself or herself for examination by a medical practitioner at such time and place as is specified in the notice.

I raise the matter of the civil liberties of persons who will be involved with this provision. Other members have indicated that there must be some notion of reasonableness introduced into this clause. I note that a number of members—and I understand possibly even the Government now in a significant backdown—are prepared to accept the fact that the original drafting of clause 30 went too far. If that is the case, I welcome that change of heart from the Government and, in particular, from the Minister of Health. As drafted, it was not fair to persons who might be, in the Health Commission's view, suspected of suffering from a notifiable disease such as AIDS. In the previous legislation, in relation to tuberculosis and other provisions in the Venereal Diseases Act, for example, there always had to be a notion of reasonable suspicion rather than just the commission suspecting that something may be awry and that a person had to be subjected to an examination.

The Minister, in I understand a vitriolic response to the *Sunday Mail* through the previous week, argued that virtually all the powers in this Bill were mirrored in some way or another in existing legislation. At the second reading stage I will not take that argument apart, but we will certainly be addressing it when we get to the Committee stage of the Bill. There is no doubt, in relation to this clause and in relation to persons suspected of suffering from AIDS or the AIDS related complex, that there were no existing powers for the Minister or the Health Commission to force persons to undergo examinations. If there were, the Minister would have been dragging the prostitutes out of the brothels of Adelaide who were suspected of having AIDS and forcing them to be subjected to examinations under the existing legislation. The Minister knows only too well that he did not have that power. The powers that have been introduced by him in this Bill are new provisions; we will deal with those in greater detail at the Committee stage.

I am concerned that the civil liberties of persons now reasonably suspected of suffering from AIDS, for example, will still not be properly protected, even with the amendment that I have already talked about. This Bill provides that the commission, if it suspects, and now reasonably suspects that someone is suffering from AIDS, can say to that person by notice in writing that he will present himself for examination by Dr Bloggs at the Adelaide clinic tomorrow morning. The person suspected of suffering from AIDS can then do one of two things. He can comply with that particular order from the Health Commission or can say, 'You can go and get nicked. I am not going to do anything in relation to that order.' If the person rejects the order or does not comply with it, under clause 30 (2) a magistrate may issue a warrant for the apprehension and examination of that person.

Under clause 30 (3) reasonable force may be exercised in the execution of a warrant under subsection (2) and under subclause (4) a person apprehended in pursuance of a warrant may be detained for a period not exceeding 48 hours for the purpose of examination. The supposed protection of the civil liberties of a person who is suspected of suffering from AIDS is contained in clause 33, under which there is a right of appeal to the Supreme Court against a decision of a magistrate. The argument I put is that, if a magistrate issues a warrant for the apprehension and examination of a person, by the time a person who wishes to appeal against that order or warrant of a magistrate is able to initiate an appeal to the Supreme Court, it may well be too late. The examination might already have been conducted by the Health Commission doctor and the civil liberties of that suspected sufferer would have been invaded by the Health

Commission without their having the right to initiate an appeal to the Supreme Court.

I believe that a provision, not the same as but similar to that under the old Venereal Diseases Act, be inserted. I concede that that provision was too long. The commission had to give an order of seven days duration before it could be initiated. I concede that that period might be too long in relation to some notifiable diseases. It might have been appropriate for venereal diseases, but in this case it could be too long. I am having discussions with Parliamentary Counsel in the hope that we will come up with amendments which will protect to a greater degree the civil liberties of the person who objects strenuously to being subjected to what I see in some cases as a gross invasion of privacy, particularly if that person is not infected with a notifiable disease. We must ensure that there is a balance between the protection of public health and the civil liberties of a person who may wish to oppose an order of the commission or a warrant issued by a magistrate.

The provision I am considering involves some sort of appeal mechanism, perhaps to a magistrate, against the original order of the commission or some other time delay mechanism which, once again, does not jeopardise the public health of the community but allows supposed protection under clause 33, involving appeal to the Supreme Court, to prevent examination of a person who is suspected of suffering from a notifiable disease such as AIDS. I would consider that protection possibly in addition to other provisions. I am having discussions with Parliamentary Counsel in that regard.

Another matter that relates to the old Venereal Diseases Act is that, as I read clause 30 (and I will seek a response from the Minister), the Commissioner will nominate Dr Freda Bloggs as medical practitioner as well as the time and place of examination. I understand that under the old Venereal Diseases Act, while the commission could order that, the person being subjected to tests could arrange to have those tests done by a medical practitioner of his or her choice and, as long as that occurred within a specified period, and a medical certificate proclaiming a clean bill of health was provided to the Health Commission, the Health Commissionn was satisfied. Members should consider whether it is permissible, achievable and reasonable that a person who is compelled to undergo a test can go to their local GP or specialist, complying with the requirements of the Health Commission within the time constraints initiated by the Health Commission. I will be looking at an amendment possibly along those lines as well.

Once again under the old Venereal Diseases Act, section 17 was a privacy section. Not being a lawyer, I am not sure whether we still require this provision in this Bill, but as a non-lawyer, as a layman, it certainly has a note of comfort to me concerning the privacy aspects particularly in relation to notifiable diseases such as AIDS. That provision in the old Venereal Diseases Act stated:

> 17. (1) Every applicaton to a special magistrate under this Act shall be heard and determined in chambers.
>
> (2) No person other than the special magistrate, the chairman, the applicant, and other persons whose presence is required for the purpose of the inquiry shall be in the room where the inquiry is being held.
>
> (3) A person who in contravention of this section is present in a room where an inquiry is being held, shall be guilty of an offence and liable to a fine of not more than one hundred dollars!

I am advised that obviously magistrates and the Supreme Court have the power to order the clearing of a court for the protection of the privacy of someone who might be involved in what is a very delicate matter. I do not know whether that goes far enough. In my discussions, I am relying on the advice of colleagues such as the Hon. John Burdett and the Hon. Trevor Griffin as to whether it might not be a further protection for the privacy of those possibly only suspected of suffering from AIDS that their privacy is protected in any proceedings that might be initiated in front of a magistrate or in the Supreme Court in relation to appeal provisions. Suspected AIDS sufferers do not want their names, addresses, and occupations emblazoned across the afternoon newspaper or weekend newspaper.

As I said, it may well be that we do not need that protection and the proceedings existing within our judicial system protect the privacy of suspected AIDS sufferers, for example. However, if it does not, I am having discussions with Parliamentary Counsel and I will be asking members in this Chamber to consider seriously a privacy protection for those persons suspected of suffering from a notifiable disease such as AIDS and possibly, in the end, unfairly suspected of suffering from AIDS. They should not have their personal matters bandied about in public, in the courts system, and eventually in the press and media.

Clause 31 provides the power of the commission in the interests of public health to detain persons suffering from diseases—the quarantine provison. I will be interested to know from the Minister's response as to what preparations he and his advisers have made in relation to places for quarantining suspected AIDS sufferers, for example, in South Australia should these provisions be instituted. I think it is only fair that the Parliament and the public are aware of the places where AIDS sufferers or AIDS related complex sufferers might be quarantined in South Australia if the Minister decides to institute the powers in clause 31 and other clauses in this Bill.

In the discussions that I have had in the past 24 to 48 hours with persons intimately involved in our AIDS counselling programs in South Australia, I have been advised of a matter that I want to raise in this second reading debate and ask for a response from the Minister. Advice which has been provided to me is that a number of the people who present at the AIDS clinic on North Terrace are, after a passage of time, diagnosed as having AIDS category B (as I understand it, the AIDS related complex), and, as a result of that, have continuous surveillance or monitoring and come back for three monthly immune function tests. Having been diagnosed as having AIDS category B, a notifiable disease under this Bill, they slip in and out of AIDS category B and go back to what we know as the AB positive category, that is, AIDS category C.

In relation to this Bill, those persons, once diagnosed as having AIDS category B (that is, a notifiable disease under the Government's Bill) are, therefore, subject to all the provisions in this Bill. I am told that a number of those people lose all the symptoms, the swelling, etc. and, to all intents and purposes, are quite healthy, and are just AB positive or have AIDS category C. Therefore, under the Government Bill they do not have a notifiable disease.

I want a response from the Minister and his advisers as to the correctness or otherwise of that circumstance. I have been advised by people involved in our program that a number of people (or at least one) who presented for a period of six to nine months with AIDS category B last year and who, on subsequent immune function tests, no longer have AIDS category B are back to AIDS category C or the AB positive. Once again, the overall premise that I am trying to put in this contribution is the proper balance between the protection of public health and the protection of individual civil liberties of persons suspected of suffering from a notifiable disease.

If that advice with which I have been provided is correct, we have in the community people who will be slipping in

and out of what is, in effect, a notifiable disease category B back to something which is not notifiable. When one looks at the provision that the Government and the Minister have in clause 31, one sees that it becomes a most important matter. Under clause 31, the quarantine provision, where a medical practitioner certifies that a person is suffering from a notifiable disease (for example, AIDS category B) and the commission is of the opinion that, in the interests of public health, the person should be kept in a suitable place of quarantine, a magistrate can, on the application of the commission, issue a warrant for the detention of the person at a suitable place of quarantine.

So, we will possibly have a person diagnosed as having AIDS category B, whom the commission believes should be quarantined, and that person can be quarantined as a result of that certification from the medical practioner involved. In the context of a proper balance between the protection of the public health and the protection of the civil liberties of the person involved, if a person is quarantined as having AIDS category B as a result of a certification from a medical practitioner, and then a number of people slip back into what is, in effect, not a notifiable disease, but are just AB positive and have AIDS category C, under the Government legisation they should in no way be locked up or quarantined by the Health Commission.

If one looks at the protection involved in clause 31, one sees that there is no proper protection of the civil liberties of that person. Under clauses 31 and 33, one can appeal against the original decision of the magistrate who issues a warrant and puts one in quarantine. So, one can appeal at that stage.

At that stage one might have one's appeal quashed if one is suffering from a notifiable disease such as AIDS category B. Under the Venereal Diseases Act there were two separate protections for persons who were quarantined. One was that at a period of four to six weeks one should be retested to see whether the venereal disease had cleared up and, if it had, one was released from quarantine. The other was that the person quarantined could apply to a special magistrate under section 7 of the Venereal Diseases Act for two medical practitioners, one to be nominated by the Health Commission and one by the person in quarantine, to test or examine him or her. So, the person who was locked up had the option of appealing for further medical examinations, but the Bill that the Minister has introduced in this Council has no such protection for persons locked up or quarantined.

There are two provisions in the Venereal Diseases Act and neither are provided by the Minister or the Government as a protection of the civil liberties of a person quarantined as an AIDS sufferer. If the advice given to me by persons connected with the AIDS clinic is correct, that person having been diagnosed may well have had the symptoms clear up and gone back to a category or classification that was not a notifiable disease, that is, an AB positive sufferer in the community.

The Hon. Mr Elliott, I believe, will move an amendment to the old section 8 of the Venereal Diseases Act relating to a four week medical examination of persons who are quarantined. I have some concerns about that, as persons may well be quarantined who are not interested in a four weekly examination. They may be in AIDS category A at the terminal stage and not be interested in having four weekly examinations by a medical practitioner. They may want to have their remaining days on this planet made as easy as possible. The amendment to section 7 of the Venereal Diseases Act would allow someone locked up in quarantine to initiate an appeal for a further medical examination if they believed that they no longer have AIDS category B and that the symptoms had gone, leaving them no longer in that stage. This would apply to any other notifiable disease that one believed had cleared up and when one did not want to remain locked away for any longer than one had to be.

Whilst I have some concerns about clause 32, I can understand that some of the provisions might be required. Once again, in the second reading explanation the Minister has not been honest with us and explained the reasons for the powers in this clause. For example, clause 32 (2) *(d)* provides:

> A direction that the person refrain from performing specified work or any work other than specified work.

In my view that is clearly directed to prostitutes who might be working in brothels. This would give the Health Commission or Minister the power to require a prostitute who was working in a brothel to cease doing so if they had been certified as suffering from a notifiable disease. The Hon. Carolyn Pickles shakes her head, but I will be interested in her contribution during the second reading debate or in Committee. I confess that it is not just AIDS, but no doubt exists that it would give the Minister power in relation to that matter.

I am concerned about the all-encompassing provision of clause 32 (2) *(e)*, which states:

> *(e)* such other directions as to the person's conduct or supervision that the Commission considers should apply in order to prevent the spread of infection.

Once again, I can see the need for wide provisions in this legislation. I presume that in some circumstances an order made under this clause might prevent a person suffering from AIDS engaging in sex or, if they were to engage in sex, requiring them to wear a condom, for example. How one polices such an order would make for an interesting debate in this Chamber, but it is perhaps too late to be exploring such possibilities here.

There is no doubt that the Health Commission will have the power under this provision to prevent a person from engaging in, or direct a person not to engage in, sexual intercourse, or acts of sex, or if they were to engage in such acts to do so under certain specified conditions. Once again, there was no detailed explanation in the Minister's second reading explanation relating to the all encompassing powers contained in clause 32. I have already indicated my concerns about clause 33 and will not repeat them at this stage.

I have two final questions for the Minister to respond to during his reply to the second reading debate or during the Committtee stages of the Bill. I have read of a sexually transmitted disease (and I do not know whether this is the correct medical name) called chlamydia. Can the Minister say whether this disease is included in the notifiable diseases listed in the Bill under a *nom de plume* that I cannot recognise? If it is not there, is there any reason why it should not be included in the list of notifiable diseases included in the Bill and the draft amendment?

The final matter I raise with the Minister is again something that has surprised me when it was raised during discussions that I have had in the past 48 hours. I place no excessive weight on this matter, but it has been put to me that some persons who arrive at the AIDS category A stage (and I do not know whether this applies to all persons or only some persons) are not infectious. In my view that assertion defies comprehension and is contrary to my reading and understanding of the AIDS virus and the problems associated with AIDS. However, this was put to me by a person who is intimately involved with the AIDS program in South Australia and I seek from the Minister or his advisers information as to whether this is correct in relation

to some of the AIDS category A sufferers because, once again, if that is the case it is an important matter for members in this Chamber to consider when looking at the powers of quarantine and direction of the Health Commission in relation to the activities of persons suspected of suffering from AIDS.

I close my remarks by saying that I accept that there must be a balance between the proper protection of the health of the community and the civil liberties of persons involved in this area. I believe that the Government and the Minister have got it wrong and that thanks to the shadow Minister and others we now have an opportunity to correct some of the excesses of the Government's legislation. I hope that we will have a productive Committee stage in relation to this Bill and will be able to strike a proper balance between the two variables that appear in it. I support the second reading.

The Hon. R.J. RITSON: I support the second reading. This Bill is, in a sense, a Committee Bill, but there are some matters to which I will refer now, and I will discuss some of the general principles involved in it. Perhaps the Hon. Mr Lucas and I see a somewhat different emphasis and general thrust to this Bill.

To me it is not merely or largely the AIDS Bill; it is almost entirely about other things but, because AIDS is potentially one of the greatest threats to the human race for centuries, the part dealing with AIDS is rightly a matter of great interest and concern to all citizens. However, let us not overlook the fact that this Bill is a very substantial precise rewrite of what is a large and complicated piece of legislation—the Health Act—which has been around for many years and has given the Government powers over an enormous range of human activities and endeavours.

I will not canvass the whole range of matters dealt with by the Health Act and modified by this Bill, but I will deal with a few. First and foremost, the Bill modifies the administrative structures and the relationship between the central authority and local government bodies. Obviously the Government hopes and expects that this will give a smoother administrative machine in the implementing of various public health measures. Anxiety has been expressed by people involved in local government. It has been general anxiety born of perhaps a lack of knowledge as to how this will work, and an anxiety born of people's own doubts as to the capacity of their own little councils to handle some of the responsibilities.

I express my own concern that perhaps there has not been enough explanation and consultation with these people at local government level. However, I do note that the matters I have just mentioned are addressed in the Bill through the provision that the obligations of local councils can be yielded up (by agreement) to the Health Commission or in fact taken over by the Health Commission should a council fail or refuse to carry out its functions in regard to preventative health and public medicine. I do not know, but perhaps the anxieties of local government are ill founded. However, the fact that those anxieties exist indicates to me that the Government might have done a better job of explaining the implications to each council in advance of the debate on this Bill.

There are some areas in which the Bill appears to be deregulatory, where it yields powers from the health authorities to other bodies. The public health powers of present legislation to control aspects of buildings, lavatories, ventilation, and so on, are all-embracing and deal with virtually every building in the State. This Bill appears to yield up a lot of that power to local government authorities but not in those parts of the State which are out of hundreds. So, to that extent there is some deregulation.

I understand that in Committee my colleague the Hon. Mr Cameron will deal with a lot of the anxiety raised by local government and there are some formal legal matters which my colleague the Hon. John Burdett will query. I will centre most of my remarks on the general question of infectious and contagious diseases—not specifically AIDS but the global concept of controlling contagious diseases—and then complete my remarks with some comments on AIDS.

In Australia, the Commonwealth and the States have concurrent powers to make regulations relating to health matters and concurrently legislate on quarantine provisions. Section 143 of the old Health Act contains a rather quaint quarantine provision. Subject to a test of reasonableness, and having regard to the conditions in which a patient is living and the number of persons with whom the patient is living, if—

(a) proper isolation is otherwise impracticable; or

(b) the person is lodged in a room occupied by others of more than one family, or on board any ship or vessel, or in a common lodging-house, or in a boarding-house,

on the certificate of a medical officer, the patient can be compulsorily removed to a place of quarantine, hospital or some other station. That can occur without any hearing by a magistrate to test the reasonableness of that action. Until this Bill comes into effect, that is the law. The Bill provided that where a person is to be physically removed or have his freedom impinged upon, there must be a hearing before a magistrate. In that sense, a greater degree of regard is paid to civil liberties and human rights in this Bill than in the Act.

Provisions relating to physical detention referred specifically to instances of notifiable diseases when, in fact, the notifiable diseases schedule provided for a mixture of diseases, some of which were communicable and some which were not. That very regrettable error caused a great deal of public misunderstanding. If we are to be partisan about this, I suppose that we can start to accuse each other of beating it up and causing alarm, but I do not think that that was so. It was very reasonable for a variety of people to be concerned that the Bill was drafted in such a way that one may be arrested, theoretically at least, for having lead poisoning. It was not just members on this side of the Chamber who pointed that out. A very senior Queen's Counsel made a statement to the effect that he thought that that provision was a little bit ludicrous.

While I thoroughly support the proposal that the Government has wide powers to stop the spread of contagious disease, I am pleased that the reference to a hearing before a magistrate has replaced the old certified carrying off to a place of quarantine, but it is important that the Bill be amended to make it very clear in the first instance that it is only communicable diseases that should be subject to that provision. Some guidelines should be set down which indicate that the magistrate should have regard to epidemiological consequences if the person is not quarantined. To that effect, I have drafted an amendment which I will speak to later on in the passage of the Bill.

One of the solutions to this has been to draw up a secondary schedule of diseases, as if that would give some certainty, but, of course, a schedule is subject to alteration by proclamation, and so it should be, to be be flexible enough to be able to cope with a sudden threat to the community. Therefore, I do not believe that a second schedule of itself will provide any greater security than a statement requiring a magistrate to be satisfied as to the infectious nature and likelihood of spread of a disease.

The schedule that we have already is somewhat archaic. I have noted the terminology in which some of the diseases

were described: the names were not in my more modern pathology book and I had to go back to a bacteriology book, last reprinted in 1945, to find some of the names. So, doubtless, this is just a first step and the health authorities will review the nature of that schedule from time to time. I am happy to trust them to do that, without expecting that this Parliament is either appropriate or competent to start listing those diseases.

If someone in Melbourne, for example, goes to their doctor with a mystery disease, which is subsequently diagnosed as plague, and it is discovered that that person arrived in Melbourne on a jumbo jet that stopped in Adelaide, I think it is terribly important that the Government has the power and the facility to round up the passenger list and to deal with the matter on the spot. If a similar health threat arose in relation to a disease, which due to happenstance, was not on the schedule, I think it is very important that nevertheless the same action should occur and that the matter be made lawful either forthwith or in a validating way as soon as possible by proclamation. It is that sort of swift executive action that is necessary. I have a certain trust in the medical integrity of the professional officers who would be arguing the case to the magistrate and a certain trust in the training of magistrates to make an assessment of such evidence presented. We are talking about keeping out of our State—in conjunction with Federal regulations and laws—diseases which have decimated other countries, diseases which in some cases are not known in Australia.

The Hon. J.R. Cornwall: Would you be happy to do that by proclamation?

The Hon. R.J. RITSON: Oh yes—the Minister must not have heard, as I have just explained the great need for it to be done by proclamation and not by regulation.

The Hon. J.R. Cornwall: I prefer regulation.

The Hon. R.J. RITSON: I prefer regulation in a lot of law, but if we are to have a regulated list of diseases, which list has to be approved by Parliament, there is a case for proclamation in some instances. I think it is a great pity that in the first instance the distinction between communicable diseases and non-communicable diseases was not all that evident in the Bill. I want to draw the Minister's attention to the part of the Bill dealing with the requirement for a medical practitioner to inform the new authority of notifiable diseases. Clause 29 provides:

(1) Where a medical practitioner becomes aware that a person is suffering from a notifiable disease or has died—

And then it deals with the obligation to notify 'unless he has reason to believe' that some other practitioner has notified. This raises the question of laborotory reporting because, in some instances, the first person to know the diagnosis and the patient's identity will be the laboratory pathologist.

I ask the Minister whether his interpretation of the Bill as drafted means that, where the pathologist does know the diagnosis and where he knows that he is the first person to know it, he is the person with the primary obligation to make that report. If that is so, what we would have here is perhaps an unforeseen creation of statutory laboratory reporting. If it is so, it would be a little haphazard because there would be some circumstances in which the laboratory will know but it will not be a medical practitioner because it will be a type of automated test.

The Hon. J.R. Cornwall: You can ask me in Committee.

The Hon. R.J. RITSON: Okay, but I draw it to your attention now because it is a matter with some ramifications. Madam President, the question of AIDS to my mind has to be discussed alongside the question of the general control of communicable diseases. It is opportune that it was included. One of the things of concern is the particular behaviour of a few individuals. I do not believe that, when people become infirm, ill and are perhaps hospitalised with AIDS and are under medical care, they will as a general group be a risk of any magnitude to the community.

The real problem arises with a few individuals, perhaps individuals who have always been anti-social and who may have spent a long time in prison, with their personalities being destroyed by drug addiction. There are a few individuals who will threaten people with physical attack and intermingling of blood and who will for anti-social reasons and perhaps in their own grief attempt to spread the disease for revenge. We have had reports of a minority of sufferers doing that, and I think we need some powers to prevent that.

This Bill gives the authorities power to prevent that in the same way as it gives the authorities power to prevent a typhoid carrier from running a restaurant. Of course, in the former case the disease is potentially more serious, the consequences to society are more serious and the whole milieu more emotional.

The question whether people who are merely AIDS antibody positive ought to be subject to the same controls is a terribly vexed question to which I honestly do not know the answer. In general terms, if one is talking about any infective disease, the presence of antibodies can mean that a person once had a subclinical attack and got better and is not infective. It can mean that they had a subclinical attack, they are still infective, but are not going to get sick, or that it is early in the course of the disease in a case that is going to get sick. With most diseases in the early stages all one can say about this is that one does not know. Of course, with most diseases, with shorter incubation times and shorter latency periods for the antibody response, the question can be answered with experience and hindsight, but this is a new disease.

I do not know whether everybody who is AIDS antibody positive will get sick and die; I do not know whether half of them are non-infective and I do not know of anybody who can tell me that. I do not know what the Government can do in relation to that matter and I will not pontificate on it, but in due course I would be interested to hear the Minister's comments as to what he thinks we should do.

I now turn to a matter which bitterly disappoints me. The amendments that I have on file essentially make a distinction between communicable and non-communicable diseases and lay down some guidelines to a magistrate, without attempting to fiddle with the schedule, and not creating a new schedule of diseases which this Parliament thinks ought to be the schedule and which the Government can change tomorrow by proclamation, anyway. I believe that at least a simple majority of members of this Parliament think that is the best approach to tidy up that area of anxiety. I also believe that the Democrats will not support it and that, as a result of their threats of withdrawal of support on other matters unless they get their preferred but less ideal amendment passed, I suspect that it will not be worthwhile moving my amendments. That is a disappointment to me, because I feel quite confident that a simple majority of members in this Chamber believe that the amendment which I have circulated is the proper approach. In a democratic system the result is always less than perfect; it is only perfect in a benign dictatorship. I commend the second reading of this Bill to the Council in the hope that the Committee stage can be conducted in an intellectual rather than an emotional fashion.

The Hon. J.R. CORNWALL (Minister of Health): I was reading the editorial in the *Advertiser*, and I commend it to members. I do not intend to take up a great deal of time of the Council in this reply. I had prepared quite copious notes in response to the various contributions, but I take the Hon. Bob Ritson's point: at this stage, it is essentially a Committee Bill. Many amendments have been placed on file in an attempt to improve the legislation that will leave this Chamber. It has been done in a very different spirit and, it seems to me, with a very different intent from the extraordinary and destructive public rhetoric that has accompanied this Bill. I will have more to say about that in a moment.

Many of the numerous amendments are rather trivial. That is not to say that they should not be on file. I am quite happy to indicate that we will accept amendment which clarify 'local council' vis-a-vis the Public and Environmental Health Council, but they do not change the spirit and intent of the legislation. Some amendments are quite important. I am particularly attracted to the amendments placed on file by Dr Ritson. It will be a great pity if that is not the preferred way in which the Legislative Council goes. I also have some amendments on file in the same area. The amendments that I have on file and the amendments that the Hon. Mr Elliott has on file actually split the schedule. However, I think the way that the Hon. Dr Ritson has chosen to go with his amendments is a more elegant way and at this stage I indicate that we will support Dr Ritson's amendments for that reason.

With regard to the many amendments, the overwhelming majority are acceptable to the Government. They do not in any significant way detract from the spirit and intent of the legislation. That ought to be clearly on the record. Despite the public grandstanding and posturing, at the end of the day we have sensible amendments which, peripherally at least, improve the legislation but do not significantly change in any way the spirit or intent of it.

I have to respond to the farrago of extraordinary stupidity that we have heard tonight from the Hon. Mr Lucas. Regrettably, it seems to me that in recent weeks the bipartisan spirit, which was notable for some time, has now disappeared. The Opposition, for very base and reprehensible political reasons it seems, has been engaged, in recent weeks, in a campaign of quite reckless irresponsibility.

We had a prime example yesterday when the Hon. Dr Eastick, who with his biological training should know better, drummed up a story that somehow or other the AIDS Council of South Australia was about to launch a campaign in the Elizabeth Shopping Centre concerning explicit sex, homosexuality and condoms. That was completely false. The material that the Hon. Dr Eastick produced in the other place had, in fact, been in very limited circulation for a period of about five months. It had been used by gay counsellors quite specifically to get a message across to a relatively very small group of gay men.

The material was handed out principally in gay haunts and gay bars around the city, and it was particularly targeted to the third (or thereabouts) of the sexually active gay community who our recent surveys have shown were not taking precautions in their sexual activity, and were therefore putting themselves at very high risk. That was the target group—the specific area in which that campaign was directed and had been directed for about five months. Indeed, of the 3 000 or so promotional packs that had been produced (a minority of which carried the very explicit and basic sexual message which was complained about) the majority had been distributed, and because they were distributed in that specific area there had been no public complaint.

The idea that they were to be promoted among women and school children in the shopping centre was quite wrong. Everyone knew it to be quite wrong. Despite that, the Hon. Mr Cameron tried to go on with it again this morning. Frankly, that is recklessly irresponsible. It is something which does no good to anyone. The same sort of thing has been evident in the distortions—what I have described as the monstrous distortions—that have been run in the *Sunday Mail* for the past two weeks.

The Hon. R.J. Ritson: It is genuine concern about the anomalies.

The Hon. J.R. CORNWALL: It is not genuine concern about the anomalies at all; it is a deliberate attempt to misrepresent the position. The Hon. Mr Cameron, who is one of the better contortionists in the Opposition, was prepared to act as stooge to beat up a completely false story.

The Hon. R.J. Ritson interjecting:

The Hon. J.R. CORNWALL: I will come to that in a moment. The monstrous distortion was that this particular legislation was to be used as some sort of a vehicle to impose AIDS quarantine provisions.

Mr Lucas tried to get into the act again tonight by referring persistently and quite consistently to AIDS quarantine. We might have been able to forgive Mr Lucas on the grounds of ignorance in this matter, but I suspect it is more likely that, like some of his less responsible colleagues, he was simply trying to grossly misrepresent the position. There is not, there was not and there is not likely to be in the foreseeable future any proposal whatsoever to quarantine anyone who is suffering from category A, B or C AIDS—none whatsoever. There is no point in that. It has not been done anywhere else in the Western world that I am aware of and, really, it is monstrously irresponsible to suggest that there are any plans afoot by the public health authorities in this State to quarantine people who have AIDS, whether category A, B or C.

Significantly, that monstrous distortion, which did a very serious disservice to the AIDS control campaign that has been put in place so effectively by our public health authorities over the past three years, planted fear in the minds of many individuals who are in high risk groups as well as individuals in the wider community who might have been involved in sexual activity that would place them relatively at risk over the past five, six or seven years. It has been quite prejudicial in the most irresponsible way to the ongoing control measures, the ongoing education measures and, of course, the national AIDS campaign which is about to be launched and which specifically seeks the cooperation of the wider community—heterosexual men and women who believe that, for whatever reason, they might have placed themselves at risk over the past five, six or seven years.

What Mr Cameron and his colleagues have been involved in perpetrating is the total misrepresentation that somehow or other if someone is detected as being AIDS positive there is an intention to put them in some sort of quarantine situation. That is a montrous distortion. It is a falsehood of the very worst order and it is recklessly irresponsible. Mr Cameron and his colleagues opposite, the willing stooges, the contortionists, who will say whatever they believe is likely to get them a line, have been guilty, I believe, of the most heinous and reprehensible behaviour in this matter. I was anxious that that be on the record. And who did they get to back them up?

The Hon. R.J. Ritson: Genuine concern.

The Hon. J.R. CORNWALL: Dr Ritson has made the only really responsible and knowledgeable contribution to

this debate to date, in my view (apart from my second reading explanation), so he should not undo the good by talking about genuine concern. Who could members opposite get to pump up their story? Could they get the South Australian Law Society to pump it up? Could they get anyone from the Law Society to say, 'Yes, we share this genuine concern. This is draconian legislation, the likes of which we have never seen'? Could they get anyone to say that? Of course they could not, because it was a monstrous distortion. Could they get anyone from the AMA? Did the President of the AMA or any executive member of the AMA say, 'We are deeply concerned. We think this is a terrible departure from public health legislation that has existed for 100 years'?

We think that this really changes the rules of the game, and as a noble profession, we are terribly concerned. Of course they could not, because they were perpetrating and perpetuating falsehoods of the worst order. So, they could not get the Law Society; they could not get the AMA; and they could not get any major organisation in the whole of this State to back up the monstrous distortion.

The Hon. R.I. Lucas interjecting:

The Hon. J.R. CORNWALL: Young Mr Lucas, the oldest teenager in the State, sits there smirking. He thinks it is funny. He thinks that what they have conspired to do to help to destroy the excellent campaign for prevention—the preventive strategies that have been put in place by the public health authorities in this State—is funny. Be that upon Mr Lucas's head.

Let me give a little history lesson in public health legislation and the control of infectious and notifiable diseases. The great health advances in the history of mankind were of course made in the 19th century. The great improvement in life expectation occurred in the 19th century in Western civilization, just as the great advances in life expectation have occurred in places like the People's Republic of China in the past 30 years, because of two very simple things; clean water in and dirty sewage out. That has been the basis of public health legislation now for more than a century.

The original public health legislation was passed in this State in, from memory, 1873, and it was basically about drains and dunnies, as I said in my second reading explanation. There have always been powers which, by any other standards, would be considered draconian. There has been the power to quarantine; there has been the power to direct a treatment; and there has been the power to restrain individuals from working in particular occupations because they may be carriers of salmonella, for example. Those sorts of powers have always been there. In addition, in this State some quite draconian powers are withdrawn, taken away or removed by the proposed legislation. There was power to prohibit persons from borrowing library books if they were suspected of suffering from particular diseases. There was the responsibility on individuals to notify a bus driver upon boarding a bus if they were suffering from particular complaints. All those anomalous and foolish things have been removed.

This legislation consolidates a number of public health Acts, particularly the Health Act, the Venereal Diseases Act and the Noxious Trades Act. If we go back a decade, members will recall, I am sure, that the South Australian Health Commission Act was passed and proclaimed in 1977. Prior to the proclamation of the South Australian Health Commission Act, we had in this State a Hospitals Department and a Public Health Department. The latter was never really taken in under the Health Commission umbrella. There were some very good reasons for that, but the principal one was that, prior to the introduction of this legislation, nobody had ever been able satisfactorily to define the interrelationship and the new roles for local government vis-a-vis central or State Government.

That had a long and, I must say, tortuous and somewhat unhappy history. I know that my predecessor tried to negotiate with the Local Government Association and with local councils in this State to be able to produce legislation like this over the three years during which she was Minister of Health. I inherited a situation where, quite frankly, relations had deteriorated to a point where the flak and the shells were still flying. I waited for a period of about 12 months for that to settle down when I first became Minister in 1982 through to 1983.

We then established a working party and, with the excellent cooperation of some very good people—notably Des Ross, during the two years that he was President of the LGA, and Mrs Jennifer Strickland, the Mayor of Prospect and a health commissioner—were able to set up a working party to involve many people and many organisations in discussion, and eventually to arrive at a series of recommendations. We then established an implementation team, and the result of that is the legislation which is before the Council tonight.

That is the history. It was negotiated for most of that decade from 1977 to 1987. AIDS was not then known in this State, so to suddenly suggest that the whole thrust and emphasis of the new legislation is about AIDS and the quarantining of AIDS sufferers, whether category A, B or C, as I said and repeat, is a quite monstrous distortion. To the extent that if the Hon. Mr Cameron and his colleagues have got across to people at risk some sort of impression that if they presented and had a positive blood test they would somehow be compulsorily quarantined, I would repeat that they have done public health in this State a very grave disservice indeed.

Quite frankly, I do not think I would sleep too well tonight if I had that sitting on my conscience. But, then, it seems that one of the prerequisites to be a member of this irresponsible Opposition is not to have a conscience. It would be—

An honourable member interjecting:

The Hon. J.R. CORNWALL: The Hon. Mr Lucas sits and laughs still. He does not mind, it seems, that he and his colleagues have dealt potentially a quite serious blow to the AIDS control program which in this State has to date been very successful indeed. They have dealt that blow just at a time when we need cooperation more than we have ever needed it before. I might add, incidentally, that in terms of draconian legislation the Commonwealth quarantine legislation takes precedence over anything that we might have in this State, and under the Commonwealth quarantine legislation there are and always have been quite sweeping powers with regard to detention and quarantine of anyone suspected of introducing diseases into this country.

With regard to some of the more specific areas, the Hon. Mr Lucas in that strange contribution of his said that he understood that people at the AIDS clinic were being told that, even if they contracted the disease, they would not have a sero-positive, or blood-positive, reaction for a period of up to three months. That information is quite correct. To be sure that we are not producing false negatives, it is necessary for persons to wait a minimum period of three months before they can reasonably be classified as being sero-negative.

[*Midnight*]

With regard to blood donation, I hope that Mr Lucas does not want to start another furphy and destroy confidence in our very good blood transfusion service. Since

accurate blood testing became available in 1985, 150 000 blood samples have been tested through the Red Cross Blood Bank in this State and not one sero-positive has been detected. The people of South Australia can be assured that, with a degree of very clear certainty, if they have a blood transfusion in 1987 the chances of being infected or contaminated by the AIDS virus are literally infinitesimal.

With regard to the movement clinically of individuals between the categories of AIDS B and AIDS C, I am told that that does occur and is likely to increase in frequency with the use of AZT, which is a drug that has an ameliorating albeit not a curative effect on the treatment of AIDS. Notwithstanding that, if somebody has been notified as suffering from category B AIDS that would remain on the record. A number of other matters have been raised and we need to formally and responsibly put them on the record.

I have arranged later this week for a group of doctors, surgeons, representatives of the AMA, a senior microbiologist and at least one other person to meet with Dr Scott Cameron, the head of the Communicable Diseases Control Unit and the Chairman of the South Australian AIDS Advisory Committee. They want to discuss several matters, one being patients' records and confidentiality. They put to me that there is an ethical obligation on referring doctors who know their patients to be category C or sero-positive to notify that to the consultants to whom they refer the patient. It is a matter on which I wish to take advice, but on the face of it it would seem that a strong case is to be made out for that. They wish to discuss the desirability or otherwise of blood testing, and possibly compulsory blood testing of women early in pregnancy. It is well known that if they are sero-positive there is a high risk that the baby will be born an AIDS sufferer. We will have to take that matter on board.

There is also the question of the testing of prisoners and whether or not AIDS positives ought to be compulsorily segregated in the prisons. That is yet another difficult and serious matter that we will have to face. There is the question of the protocols for the protection of surgeons and others, including nurses, involved in operating theatres. That is a difficult and vexed question. Protocols were promulgated for surgeons as long ago as 1984. However, it would seem that a good case exists for such to be updated and for there to be sensible discussions and negotiations at senior levels between Dr Scott Cameron, our legal advisers and members of the medical profession. They are the sorts of things we will have to do in a most responsible way, and they are the sorts of things I would hope we can discuss and debate from time to time in this Chamber in a most constructive way.

The Hon. R.I. Lucas: What about the question of category A?

The Hon. J.R. CORNWALL: Ask it again in the Committee stages. Let me conclude as I started by saying that the sorts of monstrous distortions that have occurred in the last week or two can do absolutely nothing to advance the protective and preventive strategies we have in place for communicable diseases in this State.

They have tended to be quite destructive, to some degree at least, of the very good AIDS prevention strategies that have been put in place by our public health officers during the past three years. I can only hope that, in the event, they have been no more than an aberration, albeit a very serious one, on the part of the Opposition. I appeal to them—and I say this very seriously indeed—to get back to a bipartisan approach to the matter of AIDS control at the earliest possible opportunity.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Progress reported; Committee to sit again.

SOUTH AUSTRALIAN METROPOLITAN FIRE SERVICE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 31 March. Page 3602.)

The Hon. R.J. RITSON: The Opposition supports the Bill, which does two things. First, it provides that, whereas previously disciplinary matters within the service were dealt with by officers of the service, those matters are now dealt with by a body chaired by an independently appointed lawyer of seven years standing or more. We do not suggest that any conflict of interest has caused any trouble in the past, but this adds a nicety to the situation where justice is more obviously seen to be done. We commend the Government for that change.

Secondly, the Bill statutorily alters the name of the union or body which represents the professional firefighters. Members on this side see no reason to oppose that. The matter was dealt with briefly in a bipartisan fashion in another place, and the Opposition in this place has pleasure in commending the second reading of the Bill and co-operating in its expeditious passage through the remaining stages.

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

ADJOURNMENT

At 12.15 a.m. the Council adjourned until Thursday 2 April at 2.15 p.m.