LEGISLATIVE COUNCIL

Wednesday 14 November 1990

The PRESIDENT (Hon. G.L. Bruce) took the Chair at 2.15 p.m. and read prayers.

MINISTERIAL STATEMENT: KANGAROO ISLAND FERRY SERVICES

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a statement on the subject of Kangaroo Island ferry services.

Leave granted.

The Hon. C.J. SUMNER: Yesterday, in another place the Hon. Ted Chapman, member for Alexandra, asked a question of the Premier relating to Kangaroo Island ferry services. I have an answer which I would like to give by way of this statement.

I have been advised by the Commissioner for Corporate Affairs that this matter first came to the Corporate Affairs Commission's notice on about 5 November 1990 when Mrs S. Penley, a representative of the owners of the business name, telephoned the commission. Mrs Penley advised that a letter from the Australian Government Solicitor, requesting cessation of the business name 'Kangaroo Island Searoad', and other names containing the name 'Searoad' had been received.

Mrs Penley asked how it was possible to register a name prohibited by Federal legislation. The Assistant Commissioner (Services) advised Mrs Penley that the commission could not be aware of every Federal enactment which might impact upon names registration. The Assistant Commissioner advised Mrs Penley regarding the registration of an alternative business name and during the following days priority attention was given to processing of the new name 'Kangaroo Island Sealink'. Mrs Penley sent the commission a copy of the Australian Government Solicitor's letter which was based on the Australian National Line (Conversion to Public Company) Act of 1988. That Act seeks to prohibit the use of various names including 'Searoad' by persons and companies other than the Australian National Line.

The Act seeks to override State legislation dealing with the registration of names and does so on the basis of paragraph 51 (20) of the Constitution. Corporate Affairs Commission Office records do not record the Federal Government giving the commission any notice that the Act had been passed and the names prohibited. Inquiries of the Corporate Affairs Commissions in Victoria, Queensland, New South Wales, Western Australia, Tasmania and the Northern Territory have revealed that those commissions also were not advised. It should be noted that the formal agreement between the States and the Commonwealth for the regulation of companies and securities entered into in 1978 makes provision for a Ministerial Council to direct that certain names not be accepted as company names. The Ministerial Council has issued a prohibited names directive which all Corporate Affair Commissions adhere to.

With regard to business names, the Attorney-General has issued a prohibitive names direction under the Business Names Act which the South Australian Corporate Affairs Commission adheres to. That names directive incorporates all of the companies names directive. The Commonwealth Attorney-General is a member of the Ministerial Council and the Ministerial Council was at no time informed of the prohibition of the name 'Searoad'.

In recent years the South Australian Corporate Affairs Commission has received numerous advices of other commercial name proposals from Federal agencies but in relation to the Australian National Line legislation no contact was made. At the time of the registration of the business names for the *Philanderer III* company, the Australian Shipping Commission already held the proprietorship of the business name 'Searoad'. In accordance with established Corporate Affairs Commission practice, the commission allowed the generic word 'Searoad' to be included in other names containing additional distinguishing words. In fact the name 'Gulf Searoad Pty Ltd' has also been registered to a further party since passing of the Federal Act. It is understood now that 'Searoad' is also registered under the Federal Patents and Trademarks legislation. In this regard, the *pro forma* application to register a business name contains advice that applicants should consider searching of the trademarks register to ascertain if there is any potential conflict with the proposed business name.

A search of the current names registers of Queensland, New South Wales and Victoria shows that there are several names including the word 'Searoad' registered in each State since the passing of the Commonwealth legislation in question. They do not appear to be names connected with the Australian National Line, Interestingly, the ACT Corporate Affairs Commission has also recognised a name 'Searoad Properties Pty Ltd', which appears to have no connection with the Australian National Line.

Whilst the Commonwealth legislation certainly provides for a complete ban on the use of 'Searoad' in a business name, the Corporate Affairs Commission is of the opinion that the occurrence of confusion between the names used by the operators of the *Philanderer* and the operations of the Australian National Line should be non-existent and that in fairness the name should be able to stand. I have requested the Department of Marine and Harbors to take up this matter with their Commonwealth colleagues to see whether a satisfactory solution can be attained.

QUESTIONS

EDUCATION DEPARTMENT AREA OFFICES

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister of Local Government, representing the Minister of Education, a question on the subject of Education Department area offices.

Leave granted.

The Hon. R.I. LUCAS: The Minister of Education and senior officers of the Education Department have just received a report which was recommended to form the basis of the Education Department's response to the Blevins razor gang committee. The report was written by Ms Rosemary Gracanin, Director of the Southern Area of the Education Department, after she was brought into the central office on a special six-week project. Amongst other things, the report recommends that:

1. Two of the three metropolitan area offices of the Education Department be abolished, leaving only the one metropolitan area office and two country area offices.

2. The personnel function of the Education Department again be centralised rather than being duplicated in the five area offices. It is also believed that some consideration was urged in the report of a centralisation of the curriculum function of the Education Department again, rather than

the continued replication that exists at the moment in the five area offices.

If accepted, these recommendations would result in some reduction in the bloated Education Department bureaucracy. For example, the positions of two area directors and six assistant area directors, who all earn between $60 000 and $80 000 per annum, could be abolished. A number of other duplicated administrative positions could also be abolished.

Members with long memories could perhaps recall that there was much opposition in 1982 and 1983 when the Bannon Government decided to proceed with the decision to establish the five area offices throughout South Australia and that the original cost of the decision to move to five area offices had been calculated as in fact a saving of $1.5 million in salary costs to the Government and that, indeed, the result had been a blowout of some $7 million in the cost of the reorganisation to the Education Department. My questions to the Minister are:

1. Does the Government accept that, whilst teacher numbers have been cut by over 800 over the past four years, the number of GME Act employees in the Education Department bureaucracy has not been cut over that period?

2. Does the Minister accept that the abolition of two area offices is justified and will result in significant savings to the taxpayer?

3. Is it the Government's intention to centralise the personnel and curriculum functions of the Education Department?

The Hon. ANNE LEVY: I will refer those questions to my colleague in another place and bring back a reply.

NATIONAL CRIME AUTHORITY

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before directing a question to the Attorney-General on the subject of the NCA.

Leave granted.

The Hon. K.T. GRIFFIN: On ABC radio this afternoon, Mr Carl Mengler, formerly the NCA's chief investigator in South Australia from December 1988 to May 1990, said that, while the operational staff in South Australia were very gifted:

> Unfortunately, due to a lot of pressures, pressures from all sorts of sources that in my view were very inappropriate, their whole efforts were vandalised and effectively and additionally as a result I was defamed over the length and breadth of this nation.

Mr Mengler was an Assistant Commissioner of the Victorian Police Force prior to coming to South Australia and is now a Commander with the Queensland Criminal Justice Commission. In the ABC report, Mr Mengler went on to say:

> . . . it is high time the people of South Australia had some answers to some issues, not behind closed doors in secret inquiries or hearings. It's time they learned the truth of some matters and the issues they need answers to are not issues of operational secrecy; they are issues of management. The huge amount of dollars that have been spent in this State could well have been spent better, in my view, on more law enforcement or hospital beds or better roads. the people of the State need to know some answers now.

By way of background, $11.4 million has been allocated by the State Government towards the South Australian office of the National Crime Authority in the three years up to and including this year. My questions to the Attorney-General are:

1. Is the Attorney-General concerned about Mr Mengler's statements and about the possibility that $11.4 million may have been wasted in South Australia?

2. Has the intergovernmental committee, which has responsibility for the NCA, been made aware previously of concerns Mr Mengler may have had about NCA operations in South Australia?

3. What steps can the Attorney-General take to have these assertions by Mr Mengler explored and the operations of the NCA in South Australia explored in a form of public inquiry as sought by Mr Mengler?

The Hon. C.J. SUMNER: The answer to the second question relating to the intergovernmental committee is: 'Not to my knowledge'. As to whether the South Australian Government could conduct a public inquiry into the NCA, I suggest that it could not. The fact of the matter is that there is an intergovernmental committee, comprised of representatives of State and Federal Governments, which is responsible for giving references to the NCA and providing oversight to the NCA. A joint parliamentary committee is already conducting an inquiry into the National Crime Authority at the Federal level.

The Hon. K.T. Griffin: That's not in relation to its operations, is it?

The Hon. C.J. SUMNER: Of course it is. What are you talking about? It is an inquiry into the National Crime Authority. If Mr Mengler is concerned about the operations of the National Crime Authority in South Australia, presumably he can go to the joint parliamentary committee and make a submission.

I am concerned about Mr Mengler's statement. In so far as Mr Mengler refers to management difficulties in the NCA, I would have thought it would have been patently obvious even to the Hon. Mr Griffin that there had been management difficulties in the NCA in recent times. I have referred *ad nauseam* in this Council to the differences in approach between the Faris NCA and the Stewart NCA. That there was a difference of opinion between those two chairs of the National Crime Authority is patently obvious to anyone, and some management difficulties have flowed from that. In so far as Mr Mengler refers to management difficulties within the NCA, I do not think there is anything particularly new about that.

It is interesting to note, however, that Mr Mengler says that the money may have been better spent on law enforcement. He might well be right. It is worth remembering the context in which the South Australian Government invited the NCA to come to South Australia. At one stage members were very proud of the fact that they had in fact suggested that the NCA come to South Australia.

Senator Hill was at the very forefront earlier on in 1988 in suggesting that the NCA should establish an office in South Australia. The South Australian Government acceded to that suggestion and, of course, since it has been here, Senator Hill has done nothing but attempt to undermine the operations of the authority in South Australia. It is also worth noting that the NCA is here in South Australia at the invitation of the South Australian Government to investigate allegations made in this State in 1988, allegations which created an almost McCarthyist-type hysteria in this State in the allegations surrounding corruption.

There is no doubt that many of those allegations emanated from the Liberal Party and the Australian Democrats. They were using the issue of corruption for their own political purposes in 1988. They were suggesting that I had a corrupt relationship with Malvaso, and they know fully well that that was the situation. They raised the issue in Parliament. They put a question on notice accusing me of having connections with some alleged Mafia figure in New South Wales, that I had apparently visited and stayed at this Mafia figure's premises in Calabria in Italy at his expense. It was

patent nonsense, it was rubbish. It was one of the worst smear campaigns that has ever been perpetrated against a member of Parliament in this State, and they ought to be ashamed for using the issue of corruption for their political purposes in the manner in which they attempted to do in 1988.

As it turned out, it totally backfired. When Olsen was fronted with the question whether he had any evidence, he went totally to water. The Liberal Party went to water on the issue. Now it is complaining that the authority has been brought here to investigate allegations that were made in 1988 by the Hon. Mr Gilfillan, by the Liberal Party, by the channel 10 *Page One* story and by other people at that time. That is why the NCA is in South Australia, because an undermining of the South Australian Police Force occurred in 1988. There was a suggestion in the media—an atmosphere developed—which indicated that there was high level corruption in South Australia, including public and police corruption.

However, the Government's position has been and still is that there is no widespread institutionalised corruption in South Australia, either publicly or at the police level. That was our position in 1988. That is still our position, and we have not been given any information by the NCA so far to suggest otherwise. You cannot have the law enforcement agencies in this State being constantly and continually criticised and undermined by allegations of corruption because, if you do, there will be no faith in institutions, whether they be Ministers of the Crown, Police Commissioners or police officers. The matter had to be cleared up.

Had there been a little bit more commonsense at the time, it might well have been better to put the money into law enforcement, as Mr Mengler says. That option was not open to the South Australian Government. The South Australian Government had to have some kind of inquiry to put these matters to rest. That is what the NCA has been doing. If the NCA finds that there is no widespread institutionalised corruption at the public or police level in South Australia, it will have done an important service to this State. Members opposite cannot come in here now and complain about money having been spent on the NCA.

The Hon. K.T. Griffin: I'm not complaining about it.

The Hon. C.J. SUMNER: You mentioned $11.5 million.

The Hon. K.T. Griffin: What are you going to do about Mengler's statement—nothing?

The Hon. C.J. SUMNER: Members cannot come in here and complain about—

The Hon. K.T. Griffin: We are not complaining about it. We are asking you about it, that's all.

The Hon. C.J. SUMNER: You are not complaining about it? The Hon. Mr Griffin has interjected saying that he is not complaining about $11.5 million being spent on the—

The Hon. K.T. Griffin: I haven't made any observation on it at all.

The Hon. C.J. SUMNER: You just did by interjection.

The Hon. K.T. Griffin: I've just taken a phrase from Mengler's statement.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I am delighted to know that the Opposition is not complaining at all about $11.5 million having been spent on the NCA.

The Hon. K.T. Griffin interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The Hon. Mr Griffin made the interjection that he was not complaining about the $11.5 million being spent on the NCA, and that is fine. I am pleased that he has put on the record that he supports the NCA being in South Australia and that he supports the $11.5 million that has been spent on it.

The Hon. K.T. Griffin interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Sure, and I am giving you the answer.

The Hon. K.T. Griffin: It is not a satisfactory answer.

The Hon. C.J. SUMNER: It may not be as far as you are concerned; as far as I am concerned it is a very satisfactory answer, because honourable members cannot have it both ways. They were responsible, in part, along with the media and the Hon. Mr Gilfillan, for raising the issues of corruption in this State in 1988. The NCA—

Members interjecting:

The PRESIDENT: Order! There are too many interjections.

Members interjecting:

The PRESIDENT: Order! The honourable Attorney-General has the floor.

The Hon. C.J. SUMNER: They were responsible for raising the allegations. The NCA came to South Australia at the invitation of the South Australian Government to investigate those allegations, and they are doing that. When the authority produces its reports we will be able to assess the situation. At this time I am not concerned about Mr Mengler's statements. If he wants to make his statements to the joint parliamentary committee, he is perfectly entitled to do so. I am not worried about his allegations regarding management. It is pretty obvious that there have been problems in the NCA management in South Australia, in any event.

As to his views in relation to whether the money could have been better spent on other matters, that may well be a point of view with which the Government could have agreed. However, the Government was not in any position to spend the money on law enforcement in 1988 when there was, as I said, an orchestrated campaign in this State by the Opposition, by Mr Gilfillan and by certain sections of the media to create an atmosphere which tried to suggest that there was corruption in the Bannon Government and in the South Australian Police Force.

That is the fact and the reality is that those who remember the events of 1988—and I happen to remember them fairly well—will recall that there was an almost McCarthyist-type hysteria about this issue in this State at that time. It had to be cleared up. The vehicle for clearing it up has been the NCA. When it produces its final reports we can assess then whether or not we are satisfied with the result.

FLIGHTS INTO ADELAIDE

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Tourism a question about flights into Adelaide.

Leave granted.

The Hon. DIANA LAIDLAW: Qantas has estimated that its fuel bill this year will increase by about $318 million due to the rise in fuel prices as a consequence of the Iraqi crisis. Qantas announced last Friday that, as the airline is unable to increase fares to cover the anticipated increase in fuel costs it will be initiating a number of cost cutting measures, including a further reduction in flying hours above the 14 per cent cut experienced last year.

I understand that the increasing cost of fuel is also the principal reason why last week Thai International postponed, for the third time, its proposed flights to Adelaide commencing on 23 December. Certainly, that is the advice

that I was given from Thai International. Perhaps the Minister has been given different advice. My questions to the Minister are as follows:

1. Has the Minister sought and received advice from Qantas that proposed cuts in flying hours will not affect its normal 12 services through the Adelaide international terminal?

2. Has she sought and received advice about the impact of the fuel increases on the number of flights operated by both Ansett and Australian to and from Adelaide and the capacity of both airlines to continue to offer discounted fares?

3. Has she received advice from Thai International if and when it will direct flights through Adelaide? I received advice last Friday that at a board meeting in Bangkok on Thursday it was resolved that at that stage flights would not be conducted in the foreseeable future.

The Hon. BARBARA WIESE: I will take the last point first. I have been advised that Thai Airlines has not postponed its flight but has postponed the decision about the flight. Certainly, the airline board was due to meet in Bangkok last Thursday and, when it was drawn to my attention that one of the items on the agenda was consideration of the postponement of the flight to Adelaide, I took immediate action to contact officials of the airline in Bangkok to suggest to them that it would be a damaging move both for the airline and for the South Australian tourism industry if it were to postpone its flight to Adelaide yet again, because this is something that it has done at least two or three times previously.

The Hon. Diana Laidlaw: At this time it is not flying on—

The Hon. BARBARA WIESE: The reply that has come to me is that a decision about the future of the flight has been postponed as a result of the representations that were made both by me and by the Minister of Industry, Trade and Technology to Thai Airlines. So, we will have to wait and see what that brings.

As to Qantas, I have been assured by its South Australian office that no cuts are intended for South Australia, as will be occurring in other parts of Qantas services, because Adelaide is a profit centre for Qantas and it wishes to continue with the excellent level of service that is currently being provided to this State. It is significant that South Australia is one of the few places where it is not expected that cuts will be made because a lean and efficient operation is already taking place here and, as I said, it is a profit centre. Qantas wants to maintain the success that has been built up here.

As to Ansett and Australian, I have not been given any indication from those two companies that cuts in services are anticipated, and I would expect to be notified if such cuts were anticipated. Again, the reason for that would be that for those airlines Adelaide is a profit centre.

The Hon. Diana Laidlaw: Because they have such a lean number of flights that come in and out—

The Hon. BARBARA WIESE: No, I do not think it is that at all. In fact, the growth in flights by both airlines servicing Adelaide has exceeded the sorts of things that have been happening in other parts of Australia. In fact, we are well serviced. Both airlines view this route as a profitable one and, for that reason during the course of the year and particularly since the domestic pilots' dispute, there has been a considerable increase in the level of servicing of Adelaide. It is considered by the airlines to be a profitable route, and I would be surprised if they decided to take action to disturb that successful pattern of travel.

However, as I have said, I have not been contacted specifically by the two domestic airlines and, if they were anticipating any changes, I would expect to be notified, because that is an understanding that I have with the South Australian representatives of those two companies: that they will keep me informed if any changes, either positive or negative, are contemplated here.

WINE GRAPE INDUSTRY

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Agriculture, a question about the South Australian wine grape industry.

Leave granted.

The Hon. M.J. ELLIOTT: It has been reported in the media in recent days that SA Brewing is currently giving consideration to the purchase of the wine interests held by Adsteam, a fact which is causing much concern amongst South Australia's wine grapegrowers. If the deal goes ahead, SA Brewing will add Penfolds, Lindemans, Wynns, Seaview, Tollana, Kaiser Stuhl, Killawarra, Leo Buring, Matthew Lang, Rouge Homme and West Coast to its existing wine operations which include Seppelt, Great Western, Queen Adelaide, Hungerford Hill and Para Liqueur. Its share of the Australian market will increase to around 45 per cent—in fact, some estimates have suggested even higher—while its share of the South Australian market will be significantly higher than that figure.

The concerns of grapegrowers can be illustrated by looking at what happened last season just after Adsteam, through its group Penfolds, acquired Lindemans. That move was opposed at the time, before the Trade Practices Commission, because it was felt they were getting an unreasonable control in the market. Wine grapegrowers tell me that other buyers waited until the Penfolds/Lindemans combination set their wine grape price before setting theirs, and, of course, their prices were set at a commensurate level.

This left growers with no choice other than to take the price that was offered, in many cases barely enough to cover the costs of production. The power of the Penfolds/Linemans group in the marketplace prevented prices being influenced by the normal fluctuations of supply and demand. Smaller growers in the Barossa and Riverland have told me they are fearful of the power that a company which controls almost 50 per cent of the industry will have to set prices this season. By way of personal explanation, I make it clear that my questions are not a reflection on SA Brewing, a company which has been a good corporate citizen in South Australia for many years. My questions to the Minister are:

1. Does the Government accept that one company controlling more than 50 per cent of the wine industry in South Australia will be in a position to set wine grapegrower returns?

2. Is the Government willing to intervene to oppose in the Trade Practices Commission the possible development of a monopoly situation within the South Australian wine industry?

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The honourable Minister of Tourism.

Members interjecting:

The PRESIDENT: Order! There is too much cross-conversation. The honourable Minister of Tourism has the floor.

The Hon. M.J. Elliott interjecting:

The PRESIDENT: Order! The honourable Minister of Tourism.

The Hon. BARBARA WIESE: I will refer that question to my colleague in another place and bring back a reply, but I am certain that one of the attitudes that my colleague will have is that he will welcome the fact that a South Australian company is in a position to take over Penfolds and to keep a South Australian company in this State.

WILMINGTON-MELROSE RAILWAY

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Minister of Tourism a question on the subject of the Wilmington-Melrose rail link.

Leave granted.

The Hon. L.H. DAVIS: The prospective development of the Wilpena Station tourist resort will inevitably lead to a sharp increase in the number of visitors to that region. I understand that at least 90 per cent of the visitors are expected to access the region by car.

The Hon. T. Crothers interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: I will let that pass through to the keeper, Mr President. This in turn will benefit other visitor destinations to the south of the Flinders Ranges. One attractive option is through Melrose and Wilmington, taking in the scenic views and big gum country of Mount Remarkable and Alligator Gorge. There is a spectacular narrow gauge rail line which runs from Wilmington to Gladstone. The Wilmington-Melrose section is about 20 km in length. Unfortunately, Australian National indicated it would close the line in 1988 and in February 1989 the State Minister of Transport approved the closure.

I understand that Australian National has called tenders for the lifting of the track between Gladstone and Wilmington, and that a successful tenderer may already have been selected. However, I understand that, because of the danger of the cutting equipment causing bushfires, it may well be that the lifting of track will not commence for some months. Many train lovers and tourist operators believe that in the past not enough attention has been paid to the enormous tourism potential of old railways in scenic regions in South Australia.

The Pichi Richi railway, which operates from Quorn, just 40 km from Wilmington, through to Woolshed Flat, a distance of about 20 km, now carries more than 8 000 passengers a year. In 1989 for the first time more interstate tourists travelled on the trains than locals. In 1991, the Pichi Richi operators are planning a 50 per cent increase in train operating days and will be operating from March through to late November using diesels when necessary to beat the fire bans. Steamtown Peterborough to the north is also developing a good reputation carrying about 1 500 tourists per year. Many train buffs will travel the world in search of a new and exciting rail experience.

The success of the Pichi Richi railway, which is invariably fully booked, underlines the tourism potential of the narrow gauge historic rail link between Melrose and Wilmington. However, if the line is dismantled in the next few months, that opportunity will undoubtedly be lost forever. I find it distressing that Australian National is ripping up historic line for a scrap price of $6 a metre, which is absolute peanuts in AN terms, when new sleepers can cost $21 or more before delivery costs are even considered.

The Hon. Diana Laidlaw: I've heard that Steamranger is asking for more.

The Hon. L.H. DAVIS: I paid $25 to Steamranger for mine. My questions to the Minister are as follows:

1. Does the Minister accept the enormous potential for visitor attractions in the Lower Flinders Ranges once the Wilpena tourist resort development is up and running in 1992?

2. Does she agree that the Wilmington-Melrose narrow gauge rail link is well worth preserving to keep alive an exciting option for future use as a tourist attraction?

3. Will the Minister as a matter of urgency contact Australian National to see if the lifting of track between Wilmington and Melrose can be deferred pending an investigation of its tourist potential and the feasibility of reopening the line at some time in the future?

4. Finally, will she perhaps initiate discussions with interested parties, such as the Pichi Richi railway and rail enthusiasts in Wilmington and Melrose, to see if this Wilmington-Melrose rail link can be kept alive for future tourism use?

The Hon. BARBARA WIESE: The South Australian Government does recognise the value of tourist railways in this State and it has demonstrated that very clearly by the huge amounts of money that have been given to some of the historical railway societies that already exist in this State. Foremost among those have been the Pichi Richi Society and Steamranger, as well as the Historical Railway Society based at Peterborough, but there is a limit to the extent to which the taxpayer can be expected to subsidise the recreational interests of people in this State and, indeed, internationally.

If some of these railways are to succeed, and if it is to be possible for many of the rail lines to be kept open in South Australia, it will require a commitment by private enterprise to pick up the challenges that those opportunities may present. Some of these rail lines which are being closed around the State and which are mentioned from time to time would be taken up by the private sector if they believed there was a viable operation to pursue. Unfortunately, in most of those cases that is not so, and for that reason we are likely to see some of the rail lines in our State dismantled. I cannot see an alternative to that, short of precious Government funds being redistributed to keeping some of those lines open and subsidising rail companies or historical societies. Unfortunately, that is not an option that the State Government can pursue. In fact, I am sure the Hon. Mr Davis would be in the front line in criticising the Government—

The Hon L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —if precious resources were redirected away from some of the passenger lines which exist in the State and which people would like to see remain open around South Australia. Because this is a matter of considerable interest, some time ago, officers of Tourism South Australia undertook a review of rail lines around the State and graded them in terms of their tourism potential, and now we are in a much stronger position each time Australian National comes forward with a proposition to dismantle a line or to offer to hand over a line to the control of the South Australian Government in assessing its potential tourism merits. I do not recall what sort of assessment was made of the Melrose to Wilmington rail line, but I will certainly make sure that I resurrect that report and determine what tourism value was ascribed to it, and if there is a good argument for taking up the matter with Australian National I will take steps to do so.

SUNFROST

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Labour, a question on Sunfrost, a frozen food company.

Leave granted.

The Hon. T.G. ROBERTS: The Sunfrost food company has hit a difficult trading position; in fact, it has gone into receivership. The difficulty that the company faced was paying out its employees at the time. It discharged its responsibilities with difficulty and paid all the benefits required under the Act to those employees who were retrenched. The company was able to convince enough employees to stay on after the receiver had moved in to try to trade the company out of its difficult circumstances but, unfortunately, that has not been successful.

The problem the company faces now is that, while in the hands of the receivers and the second or final closure before the assets sales, the current employees have no guarantees about the full benefits they were expecting from their long service leave, annual leave and sick leave provisions, etc. My questions are:

1. Is the Minister aware that the South Australian frozen food company, Sunfrost, is currently in receivership?

2. Is the Minister aware that the workers employed by Sunfrost Foods Pty Ltd have been advised by their employer that no funds are available to pay their annual leave, long service leave and retrenchment entitlements?

3. Is the Minister aware that, when the business does finally close on 23 November 1990, a related company with identical shareholding called Sunfrost (SA) Pty Ltd does have sufficient funds to pay workers' entitlements but is denying liability to pay?

4. Does the Minister believe that such a situation is fair and just to the workers concerned and to the community standards generally?

5. Does the Minister believe that changes to the Companies Act are required to ensure that employee receive their due payments, or does the Companies Code already protect employees against unscrupulous companies?

The Hon. C.J. SUMNER: I will refer that question to my colleague in another place and bring back a reply.

ARSON REWARD SCHEME

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Emergency Services, a question relating to an arson reward scheme.

Leave granted.

The Hon. J.C. IRWIN: Nearly two years ago I read in an Insurance Council of Australia Bulletin about an arson reward scheme being devised in partnership with the South Australian Government. I talked then to Mr Noel Thompson, the council's regional manager, about what was holding up the implementation of what could be an excellent and effective scheme. A scheme is used with success in other States to reward persons for giving information about the deliberate lighting of fires in urban and rural areas. It has been operating in Victoria for three years, New South Wales for two years and Queensland has just started a scheme. In Victoria five offenders have been brought to justice.

The Insurance Council of Australia Bulletin of February 1990 talks about advanced discussions in Western Australia and Tasmania, but makes no mention of South Australia. Today in the *Advertiser* I read again about how the police and the Insurance Council are finalising a scheme that would see insurance pay-outs of up to $25 000, presumably contributed by the Government, as well as the Insurance Council, for information leading to the conviction of an arsonist.

The number of fires attributed to arson rose by between 20 per cent and 25 per cent in Adelaide and major South Australian towns last financial year. Cases of fires lit by incendiary devices had risen from 873 in 1988 to 1 067 last year. The number of suspicious fires rose from 406 to 601 in the same period.

In the past week it has been reported that fires at a tyre company, a school and a private house bombed with Molotov cocktails have caused about $2 million damage. We are talking about a national material damage bill of between $150 million and $180 million. We have to question if the Government is really serious about trying to curb the insidious life-threatening and property-threatening blot on our society—the arsonist, be it a deranged person or one who seeks personal gain. How much longer do the people of this State have to wait for the implementation of an arson reward scheme?

The Hon. C.J. SUMNER: I will refer that question to my colleague in another place and bring back a reply.

NATIONAL CRIME AUTHORITY

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General a question relating to Commander Mengler's accusations relating to the NCA.

Leave granted.

The Hon. I. GILFILLAN: It is important for the Legislative Council to recall that, in the debate building up to the call for an independent commission against crime and corruption in this State, I reported allegations which related, amongst other things, to abalone poaching on the West Coast, the result of which has been action and prosecution; to the sale of drugs to children at certain schools, on which there has been action and prosecution; and to a stolen car racket from Queensland, involving some police officers in South Australia, on which there has been action and prosecution. It is also interesting to note that, in the sentencing of the Alvaros this morning, I believe the sentence has included a reimbursement of $1 million to the NCA for the very expensive exercise involved in that activity. It is difficult to detach that allocation of $1 million from an inference that the Alvaros were at least investigated very substantially for drug-related offences. It is unlikely that the NCA would have been involved purely on the tax aspect of it.

I would like to remind the Council and the Attorney in particular that at no time have I ever been involved in any allegation against himself or any member of the Government. It is important that the Attorney's blasé indifference to Commander Mengler's criticism does not discount the importance of the criticism to this Parliament and to the people of South Australia. It was a very trenchant criticism of members of the authority and those who have been involved in the management of the NCA in Australia and has reinforced my profound concern over some time—more than 18 months. We are not just raking back over history. This Parliament needs to be assured that there was no improper or unethical behaviour by members of the authority.

It should not be a surprise to the Attorney to know that there have been very serious suspicions of collusion and improper activity in the decision making of previous members of the authority, and for him to discount a criticism

made by Mr Mengler as being irrelevant does not recognise how important it is for the Parliament and the people of this State and of Australia to know that the NCA has been properly conducted.

It is with that emphasis, not a raking over of history, not a raking over of allegations of a particular type, that the criticisms by Mr Mengler must be taken seriously. Bearing that in mind and the involvement of the Attorney-General in the intergovernmental committee—a very important and influential committee relating to the NCA—I ask the Attorney whether he will raise the issue of the criticism by Commander Mengler in the intergovernmental committee, and will he urge the intergovernmental committee to invite Commander Mengler to appear before it and give information?

The Hon. C.J. SUMNER: I do not think that would be appropriate. Mr Mengler has made a statement to a journalist. As far as I am aware, he has not been prepared to say anything more than he said to that journalist. If Mr Mengler wants to take the matter to the joint parliamentary committee, he is perfectly entitled to do so. He is talking about the NCA as it was in the past. What I said before is that if he is talking about management problems within the NCA, I can only repeat that it would have been obvious to anyone in this Council that there have been problems within the NCA in South Australia, in particular between the approach taken by Mr Justice Stewart and the approach taken by Mr Faris.

I repeat: they have retired; they have departed the scene; they are no longer with us as far as the NCA is concerned. There is a new chairman: Mr Justice Phillips, a Supreme Court Judge from Victoria, a former Director of Public Prosecutions, and a former noted criminal barrister in Victoria. He has now taken over the National Crime Authority as chair. I would have thought that he should be given the chance to overcome the difficulties—

The Hon. I. Gilfillan: That has nothing to do with the question at all.

The Hon. C.J. SUMNER: Of course it has. If you are not talking about raking over old coals, and you are talking about the future, let Mr Phillips get on with it. I will refer this document to Mr Justice Phillips. He can make his own inquiries and he can get in touch with Mr Mengler if he wants to and take whatever action he considers to be appropriate to sort out the problems which have existed in the NCA in South Australia, assuming, that is, that they still exist, because the contestants in the dispute relating to the role of the NCA, namely, Mr Justice Stewart and Mr Faris, QC, have left, gone, they are no longer with us.

The Hon. I. Gilfillan: Mr Dempsey is still there.

The Hon. C.J. SUMNER: Mr Dempsey is still there on sick leave. I do not know whether Mr Dempsey's position will be renewed when his term expires in February. However, the fact is that while Mr Dempsey is on sick leave another member of the authority is involved in the South Australian matter.

I do not know what more can be served, as the Hon. Mr Gilfillan said, by raking over old coals and old allegations. There is a new Chairman, Mr Justice Phillips. Mr Faris has gone, Mr Justice Stewart has gone, and I think Mr Phillips should be able to get on with the job he has been given. In addition, there is a joint parliamentary committee, an inquiry of the Federal Parliament, looking at the NCA at present. So, what more does the Hon. Mr Gilfillan want us to do?

The Hon. I. Gilfillan: What about the intergovernmental committee?

The Hon. C.J. SUMNER: The intergovernmental committee will also no doubt be looking at the future direction of the NCA, and there has been some press comment about that recently. I am happy to draw Mr Mengler's comments to the attention of Mr Justice Phillips, for whatever action he considers appropriate.

The Hon. I. GILFILLAN: As a supplementary question, do I take it that the Attorney is saying he will not raise the question of the allegations of Commander Mengler in the intergovernmental committee? Is that true or false?

The Hon. C.J. SUMNER: I certainly will not be suggesting that Commander Mengler be called before the intergovernmental committee. I have said that if he wants to elaborate on these matters he is perfectly entitled to do it to the joint parliamentary committee. I will raise the matters with Mr Justice Phillips and, if he thinks there is any case for more elaborate discussion on the matters in the intergovernmental committee, I will consider his comments in relation to that.

MENTALLY DISABLED

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Health, a question about integrating mentally disabled people into the community.

Leave granted.

The Hon. BERNICE PFITZNER: It has been brought to my attention that a certain boarding house in the Unley area has people who are mentally disabled as tenants—approximately 28 people—and that they are causing a disturbance, as they are possibly poorly supervised. It has also been reported that there are at least two other such lodgings in the area. I believe that these lodgings are for the purpose of integrating disabled people into the community.

Whilst I am aware of the push towards deinstitutionalisation of disabled people, the concept of which I support, I am also very aware that this strategy to integrate more disabled people into the community needs adequate skilled manpower. The whole aim of the exercise is to integrate into the community, but if it causes disruption in the surrounding community, then the aim will not be able to be achieved.

This local concern was raised with the Minister who lives in the area, the Hon. Mr Kym Mayes, about two months ago. I am not aware that anything has been done about the situation, or, if it has been done, it has not been fed back to the local community. The questions I ask are:

1. Has the Hon. Mr Kym Mayes communicated the concern to his colleague the Minister of Health?
2. How are these lodgings chosen and on what criteria?
3. What are the infrastructure and program in terms of professional expertise available to help the disabled integrate into the community successfully?

The Hon. BARBARA WIESE: I will refer the honourable member's question to my colleague in another place and bring back a reply.

The Hon. CAROLYN PICKLES: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

SMOKING BAN

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

That this Council:

1. endorses the decision of the Joint Parliamentary Service Committee to prohibit smoking in certain areas under its juris-

diction and calls on all members to abide by the terms and spirit of the decision;

2. declares its support for the long-term introduction of a smoke free environment throughout Parliament House; and

3. prohibits smoking in and about the lobbies, corridors and other common areas of Parliament House under its jurisdiction.

I do not think that I need to go into great detail on this subject. The Joint Parliamentary Service Committee made a decision to prohibit smoking in certain areas in the building. It is unfortunate that, despite that decision, it is breached all too regularly. I also note that the Government more generally and many private employers are making similar decisions about their workplaces, and one would expect that Parliament, of all places, should abide by decisions made in this place and by the sorts of decisions made generally in our society. Parliament should be a place to set examples. Unfortunately, from time to time the wrong example is set in this place.

It must be accepted by smokers that, although they have a right to smoke, that does not give them the right to inflict their smoking on other people. For some decades this century, non-smokers have had to be almost apologetic in the presence of smokers and have not been able to demand their right to clean air. The motion is self-explanatory, and I will not take things any further. I urge all members to support the motion.

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

MINTARO STATE HERITAGE AREA

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

That the minutes of evidence on the District Council of Clare-Mintaro State Heritage Area Supplementary Development Plan, tabled on 24 October 1990 and 7 November 1990, be noted.

This plan was initiated by the Minister under section 41 (2) *(d)* of the Planning Act, which applied because it is a State heritage area. The procedure under the Act as it now stands is that, when a plan is initiated under this section, it is not tabled in Parliament. It is sent to the Joint Committee on Subordinate Legislation and, if that committee disapproves the plan within 28 calendar days, it is tabled in both Houses of Parliament and may be disallowed by either House within six sitting days. That was part of an Act introduced as a result of a Bill brought in by the Liberal Government of which I was a member in 1982, and I was involved in the negotiations which brought about this quaint procedure.

At that time, a supplementary development plan could be initiated only by a council, except in certain circumstances. In 1985, under a Labor Government, the procedure was established whereby in heritage areas plans could be initiated by the Minister. This plan was introduced by the Minister against the expressed and continued opposition of the council and residents of the area. In evidence given to the committee (it is part of the evidence which I have sought to have noted) the Mayor of the District Council of Clare (Mr Phillips) stated on page 1:

Our main concern relates to the lack of consultation throughout the study by the study group appointed and by the department, not only from the point of view of the public—and I refer specifically to the public of Mintaro—but also the public of the Clare council area. The Clare council has not had access to any information that has been collected on this subject. As a matter of fact, we have not yet received a copy of the last print of the SDP.

This latter point became clear during the course of the evidence. The council had not seen the plan for approval, and the committee and the council were looking at different plans. I found that quite disgraceful. On page 3, the Chief Executive Officer of the council (Mr Burfitt) gave evidence that a petition signed by every resident of Mintaro—100 per cent of the population—sought further consultation before the plan was brought into operation. He said:

The petition was presented to the Chairperson and members of the Advisory Committee on Planning, on which council was invited to have a representative. The Chairperson of that committee advised the general public that a copy of the ACOP report to the Minister would be available to all persons lodging submissions. We have now been advised that a copy of that report will be made available after the formal adoption of the SDP.

What sort of consultation is that? At page 4 of the evidence, Mr Burfitt stated:

By way of advice from the local member of Parliament (Mr Ivan Venning), council received a copy of the amended SDP, which would appear to be the final draft, marked 'For Authorisation'. This draft proposes a considerable number of alterations to which council and the community of Mintaro are vigorously opposed. Therefore, council considers the plan unworkable and considers that it places enormous restrictions on development in Mintaro.

Mr Ivan Venning, the member for Custance, stated in the course of evidence to the committee:

I was annoyed that the Clare council had not seen the new SDP. It came to my office and I assumed that the council knew about it and was in favour of it. I happened to speak to the CEO on other matters, including this, and suddenly we could see a direct conflict. The case put to the committee this morning is quite subdued. The people are very annoyed that the wheels of Government have not included them. These people here today are very professional and very tourist minded. I stand by everything they have said as being representative of their area, and I stand behind this delegation 100 per cent.

The department also gave evidence and, after the evidence was tabled, copies were sent to each party, namely, the council and the department, asking each of them respectively to comment on what the other said on the subject of non-consultation and non-communication with the council and the residents.

Each party responded and the replies are included in the documents tabled in both Houses of Parliament. The department attempted to defend itself in its letter but, in my view, the story of non-consultation which I have outlined remains substantially correct.

I went to Mintaro to view the area again and to talk to the residents. There is no doubt that the residents are totally opposed to the plan and are very angry at what they see as grossly inadequate consultation. Most members will know that Mintaro is an absolute gem in the State's heritage, and it is essential that it not be spoilt by excessive and tasteless commercialism, as has happened to some of the State's historic towns.

The residents are extremely conscious of their heritage and of their need to preserve it in its unspoiled form. The heritage is part of the fabric of life of the residents. Tourism is, of course, vital to the existence and future of the town, but it is being pursued in a sensitive and responsible manner. There is no danger of that heritage being vandalised through commercialisation.

The residents do not see the need for the petty, detailed rules in the plan; they do not see the need for an SDP at all. Mintaro is a State heritage area and any development has to be dealt with according to existing procedures. I asked the Mayor (and this is in the minutes of evidence which I am seeking to have noted):

I understand that the interim development plan expires on 26 October. Supposing that this SDP were disapproved, that would then mean that there would be no SDP in force and that you would be back to the ordinary planning procedures and heritage procedures which Mr Burfitt outlined when he spoke, until a new SDP could be got up, and that would take some time. Do you believe there would be sufficient controls able to be put into

operation under the ordinary planning procedures and the heritage procedures in the interim before a new SDP could be got up?

Although my question was directed to the Mayor, the CEO replied, as follows:

If this SDP were disallowed it would revert to the District Council of Clare SDP, which included in it a specific Mintaro zone which has principles and objectives for Mintaro. Whether this SDP is in place or otherwise, a planning application still has to go through that procedure, whether this is in or otherwise.

He outlined that the procedure was an application to the District Council of Clare. It would go to the Heritage Branch and would come back to the District Council of Clare, which would propose a decision that would go to the department for approval.

I join with the council and the residents of Mintaro in considering that this SDP was unnecessary, a waste of taxpayers' money, carried out insensitively without anything like adequate consultation and was in fact bureaucracy at its dictatorial worst. The CEO gave some examples of the petty bureaucracy of the plan. Here are some of the examples. I will not give them all, and no single control seems so very bad in itself. It is the accumulation of the petty controls and the fact that the whole thing was unnecessary in the first place and that there was abysmal lack of consultation. Some examples given are: first, in general, effluent disposal is to be by aerobic disposal systems. This would add approximately $7 000 to the average residential building cost over normal septic tank installation. Secondly, the plan says that lot 40 on the corner of Young and Burra Streets should remain in agricultural use to retain views of the hills and the heritage buildings beyond. This block happens to be right in the designated town centre of Mintaro. This provision also exemplifies the petty nature of the plan picking out a particular allotment.

Thirdly, in a specified part of the town all signs must be of a size no more than .2 square metres—three times the size of an A4 sheet of paper. This is admittedly in a residential area, but I saw a number of 'for sale' signs in that area. Would any self-respecting land agent put up a for sale sign of that size: I was told that a number of people were moving out because of the plan. Fourthly, there is an unrealistic restriction of tourist accommodation.

Fifthly, sections 4, 5, 11 and 12 have been designated within the SDP as the area for a tourism development facility. Allotments 4 and 5 are owned by the owner of the Magpie and Stump Hotel, allotment 11 is owned by the District Council of Clare and allotment 12 is owned by Telecom. So, this plan appears to be totally unrealistic.

I have received a letter from interstate, dated 12 November 1990. As it is a long letter I will not read all of it. Headed 'Supplementary Development Plan for Mintaro State Heritage Area', the letter states:

Thank you for sending a copy of the most recently amended SDP for Mintaro. As you are aware, it contains several significant changes compared to the first draft which came into operation on an interim basis on 26 October 1989. That first version was, of course, the one on which public discussion and submissions were based, and, more importantly in our case, the version on which my wife and I based our decisions earlier this year to purchase certain properties at Mintaro in order to establish our retirement home and activities.

While we wholeheartedly support the stated objectives of the SDP, we now also agree with the residents of Mintaro, the Clare council and the many other concerned people like yourself that the unnecessarily detailed and restrictive regulation of land use to be imposed by the latest SDP is unwarranted when quite adequate development controls have been in place since 1984... At one stage we were interested in buying the Reilly's Cottage property opposite the Magpie and Stump Hotel, but withdrew after being advised of heritage prohibitions on building a second dwelling anywhere on lots 34 and 52... As far as we are concerned, the most significant and quite distressing change to the SDP, we were led to believe was in force from 26 October 1989, is the prohibition now placed on lot 27 Hill Street of any kind of building or structural development, except for miniature sheds with a floor area not exceeding 6 m^2, and the retention of this lot 'for viticulture or other rural activity'. (See principles of development control Nos 5 and 8 for the western entry zone on pages 7 and 8 of the latest SDP).

Principle No. 5 states that 'part lots 9 and 24 and lots 25, 26 and 27 should be retained for viticulture or other rural activity...'. The inaccuracy in relation to lot 27 is surprising in an official document. Lot 27 does not have, and to the best of my knowledge has never had, vines growing on it. It does, however, have a house and several farm sheds on it, all of which we intend to retain and continue using in the operation of the vineyard of which they constitute a part.

In making this very significant amendment, which has obviously been specifically designed to restrict our future use of these lots, the broadly stated principle No. 4 of the first SDP has been divided into two new principles, Nos 4 and 5 on page 7 of the latest SDP, with No. 5 relating specifically to our vineyard.

I was astounded to read Mr Freeman's comments in answer to your question at item 34 on page 21 of the joint committee minutes of 24 October 1990. He stated that:

> The changes are not of great magnitude compared to the changes made to the first draft plan, which changes were made after exhibition.

Was he suggesting that all amendments of any great consequence were based upon concerns aired in public submissions, discussions with residents and comments from the Clare council? But then, this would appear consistent with his highly suspect earlier waffle about the SDP he claims was sent to the Clare council on 26 June 1990. I believe there is now sufficient evidence, albeit circumstantial, to indicate that there has been some wilful bureaucratic deception followed by deliberate obfuscation.

Before buying the Hill Street vineyard in April this year, I had discussions with the then Manager of the State Heritage Branch, Mr John Womersley, who assured me that in further developing this property we would have the options of either:

(a) demolishing the existing house and building on the same site a new one in keeping with the character and style of Mintaro's historic buildings; or

(b) modifying the existing structure to make it compatible with the surrounding buildings.

Moreover, I was also advised that an annex with a floor area no greater than 50 per cent of the existing building would be possible for the purpose of residential home hosting. This advice was probably accurate at the time, but I contend that we have since been potentially disadvantaged by the new prohibitions on the use of lot 27... I believe that the house on lot 27 has been *in situ* since the 1950s, and while its style and condition are certainly an eyesore, I am sure it could be modified and refurbished to an acceptable standard, or demolished and replaced with a new structure meeting the stringent requirements of Heritage Branch.

My wife and I were prepared to undertake either of these methods of improvement, and therefore proceeded with the purchase on the understanding that this would be possible under the provisions of the interim SDP. Of course, our mistake was to rely on the Government's printed word of the time and also on the spoken assurances of a bureaucrat.

Soon after acquiring the vineyard the unexpected opportunity arose for us to buy the former Methodist manse, virtually on the opposite side of Young/Hill Streets. We proceeded with this purchase, but this time on the understanding that the SDP would permit us to restore and moderately extend this building for use in a residential home hosting role. This proposal was mentioned to Mr Womersley during our last meeting on 15 August 1990 and he assured me there would be no difficulty with this kind of development of the manse.

Thus, we were somewhat more than surprised to discover that the latest version of objective No. 1 for the western entry zone, which previously encouraged 'residential development, with provision for visitor accommodation in the form of residential home hosting on large allotments', has been tightened by substituting the phrase 'on allotments of approximately .4 hectares' for the more loosely interpreted phrase 'on large allotments'. We consider an allotment of .2 hectares (.5 acres) quite large enough for such development.

There is a great deal more in the letter, but I do not intend to read it all. As I indicated at the outset, the procedure introduced in 1982 was that supplementary development plans were not to come before Parliament automatically. Members will recall that prior to that there were planning regulations which were tabled in Parliament and which were

subject to disallowance by motion moved in either House, in the same way as other regulations.

There was an element of uncertainty concerning that procedure, in that a planning regulation could be made, a disallowance motion could be moved, say, in August but it might not come on until April the following year; in the meantime, the developer would not know whether or not it would be disallowed. So, we ended up with this procedure that the SDP is not tabled in Parliament. I might add that it disturbed some members of this Council when the Bill was introduced in 1982 that an SDP changes the law, so that we had here an action that changed the law without Parliament in any circumstance having any ability to look at it.

The procedure that was eventually adopted was that the plan went to the Subordinate Legislation Committee and, if the committee disapproved it—originally within 14 calendar days, but it ended up as 28 calendar days—it came before Parliament. The Subordinate Legislation Committee, like all standing committees in South Australia as opposed to some interstate jurisdictions, has a Government majority. In the case of this committee it is four to two: at the moment it is three Government members, one Independent member and two Opposition members. Therefore, it is not surprising that since 1982—we are now in 1990—there has never been a case where a plan has been disapproved. So there has never been a case where a plan has come before Parliament.

There is an ability referred to specifically in the Act that the committee may recommend to the Minister amendments which he does not have to accept. There have been a number of occasions where, early in the space of the 28 calendar days—so that there is still a possibility that we might still disapprove the plan—suggested amendments have been made to the Minister and the Minister has accepted them. So, the committee has been able to be effective on occasions in that way. This was a unique case where no specific amendments would have served.

The problem was that the whole plan was unnecessary in the first place, did not achieve anything and set out a lot of detailed small, petty rules that were not capable of being varied in individual cases. So, the only course of events in this case would have been to disapprove the plan. That did not happen, and I have outlined the background to that. What did happen—and I must commend my Government and Independent colleagues on the committee for their work in this regard—was that representations were made to the Minister and the minutes of the last meeting have been tabled in this Council and are public property.

They show that an amendment which is in effect a sunset clause has been accepted. That was not possible technically, but it comes to the same thing. In effect, there is a sunset clause on the SDP so that it has to be renegotiated with consultation in 12 months. That is an improvement. I thought that this history which I have outlined and which I will not go through again of non-consultation and of imposing a new detailed set of rules on a more flexible but effective set of rules already existing ought to be brought to the notice of the Parliament.

As I explained, I am not able to move that the plan be disallowed, but it is for this reason that I have moved the motion that the minutes of evidence be noted, because I felt that the matter ought to be raised publicly. I therefore commend the motion to the Council.

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

MANUAL HANDLING REGULATIONS

The Hon. J.F. STEFANI: I move:

That the regulations under the Occupational Health, Safety and Welfare Act 1986, concerning manual handling, made on 27 September 1990 and laid on the table of this Council on 10 October 1990, be disallowed.

In moving the disallowance of the regulations on manual handling, I express my great concerns at the Government's attitude on this matter. In my short experience in Parliament, this is not the first time the Government has changed its mind after reaching an agreement with various parties on certain issues. In this instance, employer and employee representatives had previously participated to fully develop the Code of Practice on Manual Handling and had reached an agreement with the Minister that the National Code of Practice, with only minor modifications, would be an appropriate model for South Australia.

In view of this agreement, it is totally improper for the Government to include additional provisions in the regulations, which require consultation with trade unions and which go beyond the requirement of the Act. At a time when employment opportunities are on the decline, the Government should not impose unnecessary burdens on the employer community.

The regulations presently before Parliament are typical of a bureaucracy gone mad, because they require that employers consult with health and safety representatives, safety committees, employees who are required to carry out the task and, where requested, trade unions, to develop procedures and practices on manual handling. The number of persons who must be consulted in this process, together with the loose definitions of 'consultation', will mean that hundreds of businesses will be adversely affected and to operate efficiently they will be in breach of the regulations because they will be unable to comply with these unreasonable provisions.

The Hon. T.G. Roberts: Employers are already doing it themselves in some cases.

The Hon. J.F. STEFANI: That is why we do not have to interfere and we do not want the unions to interfere. It is interesting to note that the Govenment has chosen to ignore the strenuous objections from employer organisations and, at the last minute, has forced through the regulations in the present form, and that is a fact. Obviously, by adopting this attitude and ignoring the concerns of the employers, the Government is clearly showing bias against the creators of jobs in our community.

The Government's action calls into question its real intentions which should be to improve manual handling procedures and practices in the workplace. One has to ask whether this Government is interested only in serving its political masters, by simply giving them more power. That question indeed raises the principle that employers have put to me: that issues such as this can be clearly defined and agreed to with the Government and the Minister and then the Minister does a deal with the unions behind their back.

The provisions of the Act clearly require consultation through safety representatives and safety committees. Therefore, the proposed regulations are inconsistent with the Act, and provide trade unions with an opportunity to unreasonably interfere with the workplace and in areas where they may have only limited expertise to make an informed contribution. Employers support the Code of Practice; they support consultation on manual handling and further support the objectives of reducing injuries from manual handling within the workplace. However, it is fair to say that they do not support the regulation in its present form.

The Government has a responsibility to ensure that appropriate consultative guidelines are developed within the workplace and in so doing it does not allow workers' health and safety issues to become a new industrial platform for union strike actions, which is already occurring in the building industry. I therefore seek the support of honourable members to disallow the regulations tabled in Parliament to which this motion refers.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

Mr D. SKINNER

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

That this Council expresses concern at the decision of the Commonwealth Development Bank to seize the stock and plant of Mr Deryck Skinner, proprietor of the Terowie general store, and calls upon the bank to apologise to Mr Skinner for its precipitate action and also to make full restitution to Mr Skinner for the loss and damage incurred as a result of this action.

(Continued from 10 October. Page 850.)

The Hon. L.H. DAVIS: I sought leave to conclude my remarks on this motion on 10 October 1990, just five weeks ago. I did so because I had hoped that some mediation in this dispute was possible. It is worth remembering that the Commonwealth Development Bank seized Mr Skinner's stock and plant on Saturday morning 18 November, almost 12 months ago to this very day. I am sorry to report, in all that time it has resisted every attempt at serious mediation. This refusal inevitably pushed Mr Skinner into a legal action last year, being the only way he had to protect his position.

On 10 October I said that I had hoped that the Commonwealth Development Bank would accept the offer of the General Manager of the Small Business Corporation, Mr Ron Flavel, to act as a mediator. In fact, that course of action had been mentioned by the Minister of Small Business, the Hon. Barbara Wiese, in her speech in support of this motion. I understood also quite clearly that Mr Flavel was more than willing to act as a mediator, regarded as he is by all as a very fair person.

So, it was in those circumstances that I sought leave to give the Commonwealth Development Bank a further week in which to consider its options, to ensure that commonsense could win, to give Mr Skinner a chance to rehabilitate his business at Terowie and, most importantly, to give Terowie a chance to survive as an important historic town. It was on 10 October that I drew attention to the plight of Terowie and its small businesses, which had already been blown away as a result of the closure of Mr Skinner's Terowie general store with its annual turnover of some $600 000, or $12 000 a week. Not surprisingly, following that closure, the same number of people did not come to the town and so, inevitably, small business in the town suffered. That occurred long before the current rural crisis set in.

I think it is appropriate for me to advise members as to what has happened in this sorry saga since 10 October. On 10 October I rang the General Manager of the Commonwealth Development Bank in Sydney, Mr Brian Wright. I advised him of what had transpired in the Chamber. I advised Mr Wright that I believed that mediation was still a serious possibility. I informed him that both the Minister of Small Business and I believed that Mr Flavel would be an appropriate mediator and indeed that mediation was the most satisfactory way to resolve this difficulty. I also made quite clear that I believed this mediation process could be tackled with some reference to the time that has elapsed, that obviously the longer the delay the worse would be the position for both the Terowie small businesses and Mr Skinner.

So, that position was made quite clear; indeed, no other construction could be put on the situation as it stood on 10 October. At that time, Mr Wright advised he was extremely busy and that one week would not be sufficient for him to address the matter, and he asked for a fortnight. I readily acceded to that request, but on 24 October, I still had heard nothing from the Commonwealth Development Bank; it was left to me to ring it to find out what was happening. I regarded that state of affairs as far from satisfactory. I found out that there had been some exchange of correspondence between solicitors and, indeed, I have been provided with that correspondence from solicitors acting on behalf of the Commonwealth Development Bank and the solicitor acting on behalf of Mr Skinner.

On 11 October, which was the day following the discussion of the motion in the Council where I sought leave to conclude my remarks, the solicitor for the Commonwealth Development Bank addressed a letter to the legal representative for Mr Skinner. The letter made no reference to following through on the procedure of mediation; it acknowledged the fact that I had proposed mediation, but the basis of the solicitor's letter was to see whether instructions were to continue with litigation before the Supreme Court, whether the solicitor had received any instructions to the contrary or whether he was aware of the matters raised by the Commonwealth Development Bank's solicitor.

I would have thought, with respect, that that was not the way to address the matter. Quite clearly, the legal option was always to remain with the parties and, if mediation failed, the legal remedy was alive; the mediation was taking place, in the legal jargon, 'without prejudice'. Yet, presumably on instructions from the Commonwealth Development Bank, the thrust of the letter from the Commonwealth Development Bank was to see whether Mr Skinner was still pursuing a legal remedy. Not surprisingly, Mr Skinner's solicitor, responding to this matter, made it quite clear that Mr Skinner would prefer a mediation. The solicitor for Mr Skinner said in his reply on 18 October to the Commonwealth Development Bank solicitor that:

> ... my client is willing to participate in a without prejudice conference, with Mr Flavel acting as a mediator, in an attempt to determine if there is any ground for conciliation between our respective clients. If your client is willing to look at this option, please let me know at your convenience.

Quite clearly, not only had this Council expressed support for the notion of mediation; that had been confirmed four weeks ago by Mr Skinner's solicitor, acting on Mr Skinner's instructions.

The last piece of correspondence, in what I describe as an absolutely remarkable affair, was a letter from the Commonwealth Development Bank solicitor dated 1 November 1990, addressed to Mr Skinner's solicitor, saying:

> I am currently preparing a reply to your letter dated 18 October 1990 and ... to advise you of the grounds on which my client is willing to participate in a without prejudice conference in an attempt to determine whether there are any grounds for conciliation between our respective clients.
>
> I do not consider it would be possible for my client or your client to agree on these grounds prior to 8 November 1990.

I feel at liberty to reveal the contents of those letters, because I think the Council is entitled to know what has transpired in the five weeks that have elapsed since we debated this matter. The best gloss that can be put on the response by the Commonwealth Development Bank to what I regard as a quite serious situation—a situation which has destroyed one man's livelihood and put in jeopardy the future of a township of 200 people—has been to say that, 'We are

prepared to enter into a conference to see whether we should have a conference.' That is the most charitable conclusion that one can place on the correspondence that I have just read into *Hansard.*

I find that totally distressing. I find it totally unacceptable. In fact, the Commonwealth Development Bank has treated this whole matter with some contempt. Its bizarre approach to this subject was highlighted last week because, after being told that they were not able to cater for what looked like a seemingly easy solution, namely, within two weeks. I would have thought it certainly would have been possible to resolve by last week, Wednesday 7 November. But on that day all members of the Legislative Council received a letter from the Commonwealth Development Bank advising them of their position. I received a covering letter, which I wish to read into *Hansard.* Dated 6 November 1990, and from Mr B.J. Wright, General Manager of the Commonwealth Development Bank, the letter states:

Dear Mr Davis,

I attach for your information a copy of a letter I have today forwarded to each member of the Legislative Council concerning the dispute between Mr Deryck Skinner and the Commonwealth Development Bank. While discussions between the solicitors for the parties concerning the question of a possible conciliation process have not been finalised—

remembering that is four weeks down the track—

I understand there is the likelihood that your motion concerning the bank might be brought forward for consideration in the Legislative Council. I have therefore considered it desirable to write to members at this juncture rather than await the outcome of the solicitors' discussions.

Then there is a letter addressed to all members of the Legislative Council, also dated 6 November 1990, which I wish to read into *Hansard,* as follows:

Dear Sir,

In the matter of the dispute between Mr Deryck Skinner of Terowie and the Commonwealath Development Bank, the bank has refrained from making any public comment as Mr Skinner has instigated legal proceedings against the bank and we consider it inappropriate to comment publicly on matters before the court.

Mr Skinner, some members of the media and some members of the South Australian Legislative Council have not adopted the same view. A campaign headed by Mr Legh Davis, MLC, Opposition spokesman for small business, has reached the point where the Legislative Council has before it a motion expressing concern at the bank's action in this matter and calling for the bank to apologise to Mr Skinner and to make full restitution for loss and damage.

The bank has agreed, without prejudice, to examine with Mr Skinner's legal representative whether there are any grounds for conciliation between the parties. While these discussions are yet to be concluded, in anticipation of the possibility that councillors will shortly be asked to vote on the motion I feel obliged to point out that statements made to the Legislative Council by Mr Davis do not present a complete picture of events. It is important to note the acknowledgment by Mr Ian Gilfillan, MLC, when speaking in support of the motion, that his understanding of the details of the case are based on a report in the *Advertiser.*

Examination of affidavits lodged in the Supreme Court which are a matter of public record, would lead members to conclude that there is at least some doubt that the matter is as clear cut as portrayed by Mr Davis or that it has been reported accurately by the media. In fact, after a detailed hearing of both parties' cases last December on a restraining order to prevent the bank from selling the seized stock, plant and equipment (when Mr Skinner was represented by Queen's Counsel), the Supreme Court ruled in favour of the bank.

The bank does not seek 'to hide behind the skirts of legal convenience' as recently suggested in the Legislative Council. Fair dealing has always been an integral part of our management, and we would expect the fairness of our actions in regard to Mr Skinner to be quite as open to examination as to their legality. However, having been required by Mr Skinner to justify our actions in the Supreme Court, we would expect the court, and not the media or other forum, to be the place where the merits of this matter will be judged.

In writing to you, I ask only that, in the event of the motion against the bank being raised again in the Legislative Council, you reflect on whether it is fair and appropriate for a vote to be taken in the knowledge that the bank's position has not been presented.

This letter has been sent on a personal basis to each member of the Legislative Council.

Yours sincerely

B. J. WRIGHT

General Manager

Commonwealth Development Bank of Australia.

Let me address my remarks to this letter and, in particular, the misrepresentations and the misinformation which is contained in this letter. First it states:

... I feel obliged to point out the statements made to the Legislative Council by Mr Davis do not present a complete picture of events.

Let me put into perspective the opportunities that the bank has had to present a complete picture of events. I moved this motion in the Legislative Council on 22 August 1990. The matters had been canvassed for some time in the media before that date. I had also given the Commonwealth Development Bank an opportunity to put all its cards on the table with me before I moved that motion. I believe I was fair at that time and I have consistently put all my cards on the table in dealing with the Commonwealth Development Bank. I have not been deceitful in any way in this matter.

The Commonwealth Development Bank claimed they put all their cards on the table in discussions with me. It made not one jot or tittle of different to my attitude that they acted in a disgraceful, high-handed and uncommercial fashion in the way that they blew Mr Skinner out of the water with their action on Saturday 18 November 1989. Mr Skinner had consulted fully with them; he had kept them in touch with everything that he was doing and had done; and most of the people to whom I spoke and with whom he had accounts and dealings regarded him as a model client. Sadly, his faith and his openness with the Commonwealth Development Bank was not returned. That, of course, is the nub of the debate.

So, that is the first point: this motion was moved in this Council on 22 August. Until 6 November the Commonwealth Development Bank had not bothered to put their side of the story to anyone, notwithstanding the criticism—justified criticism in my view—not only from myself but also from many other sections of the media that had also investigated that story, including Mr Malcolm Newell, who is a well respected journalist with the Adelaide *Advertiser,* as well as the national *Current Affair* television program.

Let me address my remarks to another absolute misrepresentation of the facts in this letter from Mr Wright, as follows:

In fact, after a detailed hearing of both parties' cases last December on a restraining order to prevent the bank from selling the seized stock, plant and equipment (when Mr Skinner was represented by Queen's Counsel), the Supreme Court ruled in favour of the bank.

Mr Wright is the senior executive of the Commonwealth Development Bank. I can only presume in Mr Wright's favour that he is getting bad advice from someone because that is a total misrepresentation of the facts as they occurred last November. I just want to refresh members' memories of what happened. After Mr Skinner's stock and plant was seized on that fateful day in November 1989, early one Saturday morning, with six vehicles and 15 people—this action probably made the *Guinness Book of Records* for overkill—Mr Skinner took legal advice. Not surprisingly, that advice was to seek a restraining order to give him time so that his stock and plant were not sold, so that his business was not sold down the drain forever. Acting on legal advice, he took an injunction. Mr Wright's letter suggests that the Supreme Court ruled in favour of the bank in lifting the restraining order. In other words, Mr Skinner was in the

wrong, he did not have the right to place that injunction, to put it into layman's terms. To use Mr Wright's words, the Supreme Court ruled in in favour of the bank.

Let me explain the situation as I understand it and as has been confirmed by Mr Skinner's solicitor and other people who have investigated this saga.

The hearing in December was based purely on whether the bank could be restrained from selling the goods it seized by way of an injunction. The hearing did not go into the legality of whether the bank's actions were right or wrong in the initial seizure, although various legal issues concerning that were raised at the hearing. The reason for the injunction being lifted was that it appeared to the Master that Mr Skinner's appropriate remedy was to sue the bank for damages rather than delay the sale of stock already in Adelaide.

Clearly, stock going out of date was losing value, and the Master was conscious of that. Mr Page continued:

> The ruling in favour of the bank was certainly not an indication that Mr Skinner's action against the bank for damages for breach of contract would not be successful.

In fact, as I understand it, the Master had some fairly harsh words to say about the Commonwealth Development Bank. Does Mr Wright know that or does he not know that? I cannot believe that he would put something in writing to members of Parliament which suggests a situation which is quite different from the facts.

The third point to which I draw attention in Mr Wright's extraordinary, bizarre letter to members of Parliament is his statement:

> The bank does not seek 'to hide behind the skirts of legal convenience' as recently suggested in the Legislative Council. Fair dealing has always been an integral part of our management and we would expect the fairness of our actions in regard to Mr Skinner to be quite as open to examination as their legality. However, having been required by Mr Skinner to justify our actions in the Supreme Court, we would expect the court, and not the media or other forum, to be the place where the merits of this matter will be judged.

That is a remarkable statement for two reasons. First, from the outset, the last thing that Mr Skinner as a small businessman wanted to do, was able to do or could afford to do, was to take on the Commonwealth Development Bank in the courts. A small business versus the big elephant, or a relative of the big elephant, makes for a very unequal contest.

Supporters of Mr Skinner rallied to his cause and suggested mediation in the very early stages. Mr Flavel, the General Manager of the Small Business Corporation, was available to act as a mediator in the very early weeks of the dispute.

However, the Commonwealth Development Bank refused point-blank to mediate. How dare Mr Wright and the Commonwealth Development Bank argue they acted fairly and that, because Mr Skinner has been pushed into the court, it is not in a position to say anything about the merits of the matter?

The second argument against this is that this letter is dated 6 November, four weeks after I sought leave to conclude debate on this motion to give the Commonwealth Development Bank the opportunity to mediate to reach a satisfactory conclusion.

Yet, the General Manager of the Commonwealth Development Bank ignored that imperative, which had been supported in a tripartisan fashion by the Australian Democrats, by the Minister of Small Business representing the Government in what was obviously a considered statement on behalf of the Government on this matter, and by all my colleagues. It was a unanimous, condemnatory view of the actions of the Commonwealth Development Bank. Yet, Mr Wright states that it is not fair, that the bank has not been given the chance to debate the legal merits.

Surely the position as of 10 October was to say, 'We are not worrying about the niceties of the legalities. We are worrying about the morality of the situation. Let us mediate. Let us try to recognise the human factor, that Mr Skinner has been blown away and that the town of Terowie is in some danger and is fighting for survival.' That was the argument put by the Minister and supported by the Hon. Ian Gilfillan, and that was the thrust of my motion. However, this remarkable letter, faxed to all members, tries to debate the legalities with no reference at all to conciliation.

This matter has been adjourned for five weeks. I have acted in good faith and, in every case, I have had to communicate with the Commonwealth Development Bank to see what was happening. There has been no movement at the station apart from the offer to have a conference to see whether there are grounds for conference. If the Commonwealth Development Bank was serious about this, if it was humane about this, it could have resolved the matter in five weeks. All of us have had enough experience of business, both big and small, to know that, if there is a problem or a crisis, it can be addressed pretty speedily. Most of all, we in this place know how possible it can be to reach a solution if it is in one's heart to do so. To me that was the sadness about the Commonwealth Development Bank, that it has failed totally to honour the spirit of the opportunity that was given to it when I sought leave to conclude my remarks.

How at odds is its stance in this case with its position as stated in the Commonwealth Bank Group annual report 1990, which is a document still fresh from the printers? From the section on the Development Bank, let me read some words of wisdom as to how the Commonwealth Development Bank approaches businesses in crisis and let us see whether members can reconcile those words with what has happened in this situation. The document states:

> At the same time, many existing borrowers found it difficult to cope with the high cost of finance and, in some industries, with declining sales income.
>
> In these circumstances the Development Bank has adopted an understanding approach, it endeavours to assit with advice on how to cope with business difficulties and to reschedule repayments where this is a feasible means of preserving business viability.

Did it do that in this situation? Not a bit! There was no consultation. The bank sent in 15 people and six vehicles in a dawn raid from Adelaide to Terowie. That is consultation Commonwealth Development Bank style.

I suggest that, if other banks are smart, the Terowie affair will go down as a mandatory lesson in all training manuals for juniors in banks.

It will be a model of how not to treat a client to be included in every training program. It was shabby treatment in November 1989 and, sadly for me and I suspect all other members who have taken an interest in this matter, the treatment of Mr Skinner has continued in a very shabby fashion up to this time. The Commonwealth Development Bank has totally ignored the offer of conciliation that was made. Certainly, as of this morning, there had been no telephone call whatsoever to Mr Ron Flavel.

It really does raise the need for, perhaps, all banks to examine the fact that there should be a code of behaviour for dealing with clients. I am sure there is such a code in some banks. I have had a discussion with a private bank which, in the difficult financial circumstances that we are now experiencing, has come to recognise that its communication and negotiation program is not what it could be and that it should be improved. It has moved to upgrade

its lines of communication between bank staff and customers.

So, quite clearly, the Commonwealth Development Bank is not particularly interested in dealing with this matter and in resolving this dispute. I should tell honourable members, and I have no reluctance at all in doing so, that senior people in the Commonwealth Development Bank have recognised that the bank handled this matter in an inappropriate fashion. There is no question that is the case, and I know that other members have also been told that. There is a recognition that this matter has been handled in an inappropriate fashion. If one were to be realistic, one would say 'in a disgraceful fashion.'

However, the Commonwealth Development Bank has not acted honourably in this matter. Over the past few weeks, when there has been an opportunity for mediation, it has not taken it up.

So, it is with somewhat of a heavy heart that I move this motion because I had really believed that when we sought leave to conclude on 10 October there was a possibility of a reconciliation between the two parties, given that it was much more than just cutting down one person who had worked for nine years without a day off to build a business from nothing to an annual turnover of $600 000.

It was much more than addressing the fact that the Commonwealth Development Bank had really made a net gain of only $10 000 in its position, even though it had ruined Mr Skinner and had disadvantaged him by at least $100 000. I ask members: is that a business-like decision? Does that show a considered judgment on the part of the Commonwealth Development Bank?

It also involves, as I have said, the township of Terowie. It involved not only savage economic consequences for Mr Skinner but also the social consequences that flowed from the actions of the Commonwealth Development Bank which have put the township of Terowie in jeopardy.

Where this matter goes from here I do not know. Quite clearly, I feel an obligation to have this motion passed, because I have kept my part of the bargain. Sadly, the Commonwealth Development Bank has not. I hope that the public approbrium that has been heaped on the Commonwealth Development Bank from many quarters—whether we are talking about union officials, company directors or people in the street who have written to me or rung me on this matter—will fill the bank with shame, and I hope that, although to date it has not acted, the bank may find a way of resolving this situation.

However, quite clearly, the legal remedy remains for Mr Deryck Skinner. There is some $5 300 in a legal fighting fund, which has been raised for that purpose. Mediation is, quite clearly, always a much more desirable option. Of course, another option is to look at ways of seeking public support for Mr Skinner and for the township of Terowie generally. I must say that in discussions with the Minister of Small Business (the Hon. Barbara Wiese) I was encouraged by her view when she reaffirmed her concern at the way in which the Commonwealth Development Bank addressed this issue. She believed that it was a most inappropriate way for the bank to have acted. Of course, that was underlined in the remarks she made when she supported the motion.

In moving this motion I recognise that it is a very unusual step for a House of Parliament to take to condemn an institution of this size.

The Hon. R.J. Ritson: It took very unusual action.

The Hon. L.H. DAVIS: As my colleague the Hon. Robert Ritson remarked, of course, the bank's action was very unusual. What I think is particularly disturbing is that the Commonwealth Development Bank derives its charter from an Act of Parliament. Its objective is to support small business, and its stated aim is not necessarily to give security the first priority. Obviously, in this situation, the bank acted without any regard to its charter or to the objective. It has been totally unable to justify its actions on moral grounds. Of course, the legal issue is a matter that I have not addressed. In conclusion, I would like to thank members for their support of this motion. I only hope that this sad affair eventually has a happy outcome.

Motion carried.

STOCK BILL

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

The Hon. BARBARA WIESE (Minister of Tourism): I move:

That this Bill be now read a second time.

Since its introduction in 1888, the stock diseases legislation has proved invaluable in the control and eradication of contagious and infectious diseases of livetock posing a threat to individual producers, the livestock industry or human health. Contagious pleuro pneumonia, brucellosis, tuberculosis and Johnes disease of cattle; lice, ked and footrot of sheep; tuberculosis, erysipelas, swine plague and dysentery of pigs; and tuberculosis, pullorum and ILT (infectious laryngo tracheitis) in poultry, all once endemic in the livestock population of South Australia, have through the control measures made possible under the Stock Diseases Act either been eradicated or are so well controlled as to no longer be of economic significance to the State.

Over the years numerous amendments have been made to this legislation to meet changes in disease control technology, livestock management and the needs of the industry. It became obvious during critical examination of the Stock Diseases Act under the Governmet's regulation review program that changes necessary to meet the current needs of the industry, the emerging chemical residue problem and to correct identified deficiencies in exotic disease control could not be made within the intent of the current legislation.

Following extensive consultation with industry to ensure that all concerns were addressed, a Bill incorporating the still necessary elements of the Stock Diseases Act, and correcting the existing deficiencies has been drafted. The major changes in the legislation are:

- the removal of compulsory dipping of clean sheep following shearing. This was seen as an unnecessary impost on the owners of clean sheep and an unnecessary use of chemicals which could lead to residues in the wool and meat of sheep.
- The highly desirable ability to combat residue problems at their source (growth promotants, feed additives, sprays, etc.) rather than waiting until animals or animal products become contaminated.
- In exotic disease control the power to control the movement of people as well as stock in infected areas, and to be able to destroy (with compensation) a limited number of animals to confirm freedom from disease as well as infection. This action is an essential step in providing disease freedom.
- The inclusion of chemical residues in the legislation to enable control measures to be implemented, not only to prevent contaminated products from getting into the local and export food chain but equally importantly to assist producers in managing through the problem on

their own property to cleanse contaminated stock or ground.

- In the artificial breeding area to have in place the minimum controls necessary to maintain the required standards for health and welfare of animals as well as achieving greater uniformity across the nation and ensuring that protocols are compatible with interstate and overseas trading countries. The use of new techniques such as embryo transfer have also been addressed.

This is a vitally important piece of legislation to the livestock industry of South Australia, as it will not only protect individual producers and the industry generally against endemic diseases amd provide for a well managed artificial breeding program and procedures but it will also ensure that effective controls can be implemented in the event of an outbreak of exotic disease and through controls over residues ensure that animal and animal products from South Australia are free from contamination and acceptable for local consumption and for export. 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.

Clause 3 repeals the Stock Diseases Act 1934.

Clause 4 is an interpretation provision. Stock is defined as any animal or bird that is kept or usually kept in a domestic or captive state and any bee of the genus *Apis* or *Megachile.*

Stock product is defined widely to include any part of an animal or bird or the carcass of an animal or bird.

Exotic diseases are distinguished from other diseases.

Clause 5 empowers the Governor to proclaim the diseases (including pests or parasites) to which the Act applies and to declare certain diseases to be exotic diseases for the purposes of the Act.

Clause 6 empowers the Governor to determine, by proclamation, the meaning of residue affected stock.

Part II (clauses 7 to 12) contains administrative provisions.

Clause 7 provides for the appointment of inspectors of stock by the Minister.

Clause 8 provides for the appointment of a Chief Inspector of Stock and a deputy by the Minister.

Clause 9 enables delegation by the Chief Inspector.

Clause 10 sets out machinery provisions relating to approvals of the Chief Inspector for the purposes of the measure.

Clause 11 sets out the general powers of inspectors. These include power to enter and search and, where reasonably necessary, to break into or open (in relation to residential premises, on the authority of a warrant), to seize evidence of the commission of an offence and to use reasonable force to prevent the commission of an offence. Where any stock or thing that has been dealt with in contravention of this Act is seized, the inspector may treat it or dispose of it.

A person must answer questions put by an inspector or produce information, including information stored by computer, required by an inspector. If the person objects in relation to answers or information that may tend to incriminate him or her of an offence, the answer or information is not admissible against the person in criminal proceedings.

Clause 12 provides inspectors exercising powers or functions under the Act with immunity from civil or criminal liability.

Part III (clauses 13 to 29) contains substantive provisions for the prevention or control of disease and residues in stock and stock products.

Division I (clauses 13 to 15) relates generally to the movement of stock and stock products.

Clause 13 prohibits the bringing into, or removal from, the State of infected or residue affected stock or stock products and of disease.

Clause 14 empowers the Governor, by proclamation, to prohibit or restrict entry into or removal from the State, or movement within the State, of specified stock, stock products or other goods, if satisfied that it is necessary to do so for the purposes of eradicating or preventing the spread of disease or preventing stock from becoming residue affected or further affected by residue.

Clause 15 requires certain documentation to accompany certain stock or stock products en route into the State.

Division II (clauses 16 to 18) relates to reporting and investigation.

Clause 16 requires certain persons who know of or have reason to suspect the presence of disease or residue in stock or stock products to report the matter to an inspector. The persons affected are owners and managers of stock or stock products, persons in whose possession, or on whose land stock or stock products are or have been and veterinary surgeons.

Clause 17 empowers inspectors to investigate whether stock or stock products are infected or residue affected, whether stock or stock product remain infected or residue affected, and any likely source of contamination. Certain powers are given to inspectors for the purposes of such an investigation including power to kill two out of every 100 stock kept together on the same holding or in the same group or transported together in the same vehicle, vessel or aircraft. The clause provides for compensation if stock so killed are not infected or residue affected.

Clause 18 enables the owner or occupier of land to detain and examine stock on that land for the purposes of determining whether they are infected.

Division III (clauses 19 to 24) sets out the measures that may be taken to control or prevent disease and residue in stock and stock products.

Clause 19 sets out the orders that can be given by an inspector to the owner or person in charge of stock known or suspected to be diseased or residue affected or stock products known or suspected to have come from such stock. The orders can direct detention, treatment, observation or destruction of the stock or stock products. Ancillary orders can also be made restricting the purposes for which such stock or stock products may be used or their sale. Stock that have been kept together with diseased or residue affected stock may also be subject to such orders.

Clause 20 provides inspectors with similar powers in relation to stock or stock products, the owner of which cannot be located and which are not in the apparent charge of a person.

Clause 21 gives inspectors additional powers to issue orders or take action to avert danger of stock becoming infected or residue affected. Various directions may be given or action taken, including directions or action for the purposes of prohibiting stock leaving or entering land; cleansing property; regulating the keeping of stock; erecting signs or fences; the destruction of property, and in the case of exotic disease, controlling the movement of persons or the cleansing of persons. For the destruction of property the consent of the owner or the authority of a warrant issued by a justice is required under clause 23.

Clause 22 is a machinery provision relating to orders generally. It requires them to be in writing and provides for their variation or revocation. It empowers an inspector to carry out the terms of an order if the person to whom it is given refuses or fails to do so. The Crown can recover costs or expenses of such action.

Clause 23 sets out the limitations referred to above in relation to destruction of property.

Clause 24 creates offences related to disobedience of orders of inspectors.

Division IV (clauses 25 and 26) contains special provisions relating to exotic diseases (foot-and-mouth, rabies and other proclaimed diseases).

Clause 25 empowers the Governor, by proclamation, to impose provisions in specified parts of the State for the purposes of eradicating or preventing the spread of exotic disease.

Specific provisions that the Governor may impose include prohibiting or restricting entry to an area, prohibiting or restricting stock sales and the like, requiring stock within an area to be treated or destroyed, requiring certain places within an area to be cleansed, and giving inspectors power to destroy and dispose of stock within an area that are not under the direct control of someone or in respect of which the provisions of the proclamation have apparently not been complied with.

The clause also empowers an inspector to take action to carry out the terms of a proclamation and for the Minister to recover the cost of that action.

Clause 26 stops a person taking court proceedings to prevent action being taken under the measure in relation to an outbreak or a suspected outbreak of exotic disease. It expressly provides that it does not prevent an action for damages.

Division V (clauses 27 to 29) contains miscellaneous provisions.

Clause 27 makes it an offence to sell or supply, without the approval of the Chief Inspector, infected or residue affected stock or stock products or stock or stock products subject to an order under the Part.

It also requires the owner of land in respect of which directions are in force to notify the Chief Inspector of any intended sale of the land.

Clause 28 makes it an offence to feed stock any stock product that has come from infected or residue affected stock, without the approval of the Chief Inspector.

Clause 29 provides that the Chief Inspector may cause native or feral animals or birds or insects to be treated or destroyed if satisfied that it is necessary to do so for the purposes of eradicating or preventing the spread of disease. The Minister for Environment and Planning must first be consulted in relation to native animals or birds except in urgent circumstances.

Part IV (clauses 30 to 39) contains miscellaneous provisions.

Clause 30 makes it an offence to hinder or obstruct an inspector or person assisting an inspector, to refuse to comply with a request of an inspector or to remove or interfere with any identification device or sign used or erected for the purposes of the measure.

Clause 31 makes it an offence to furnish false or misleading statements.

Clause 32 sets out the manner by which notices may be served, including by facsimile machine.

Clause 33 provides for vicarious liability.

Clause 34 is an evidentiary provision.

Clause 35 provides that offences against the measure are summary offences.

Clause 36 provides additional penalties for continuing offences.

Clause 37 provides a general defence to offences against the measure, namely, that the offence did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

Clause 38 provides for the incorporation of codes or standards in regulations, proclamations or notices under the measure.

Clause 39 provides regulation making power. Specific powers include power to prohibit or regulate the possession or use of stock vaccines, to prescribe or regulate treatment of stock, to register and regulate diagnostic laboratories and to regulate artificial breeding of stock, including by provision of a licensing system.

Schedule 1 contains transitional provisions.

Schedule 2 contains consequential amendments.

The Hon. PETER DUNN secured the adjournment of the debate.

BUILDING ACT AMENDMENT BILL

The Hon. ANNE LEVY (Minister of Local Government) obtained leave and introduced a Bill for an Act to amend the Building Act 1971. Read a first time.

The Hon. ANNE LEVY: I move:

That this Bill be now read a second time.

This is a Bill to amend various provisions of the Building Act 1971 to provide for improved administration of building control in this State at both the policy level (through the composition and functioning of the Building Advisory Committee) and the operating level, where councils ensure day-to-day observance of the Act.

A number of proposed changes are necessary to facilitate the making of regulations to enable the introduction of the Building Code of Australia into South Australia. The Act was amended in 1988 to provide for the incorporation, by reference, of the Building Code of Australia by regulation under the Act. In the process of drafting the proposed Building Regulations 1990 which call up the code and set out administrative procedures, Parliamentary Counsel has drawn attention to the need for certain further amendments to the Act.

The code and the proposed regulations will bring a much needed and long awaited consistency to controls which will apply across the nation. It is expected that this will bring important efficiencies to the tasks of designing, approving, and constructing buildings and structures, leading both to control of the costs of all phases of the building process, and to improved levels of service to property owners, consumers, financiers and all other parties involved in the construction industry and its associated professions.

The Government wishes to acknowledge the contribution of great many individuals and groups to the development of the code. At the national level, the Australian Uniform Building Regulations Coordinating Council and its working parties can now see the results of their years of work.

In this State, I acknowledge the work of the Building Advisory Committee and its subcommittees and working parties, and the many individuals and professional and industry groups who have given their time most willingly to the task of devising a truly national code.

Other proposals in the Bill arise from recommendations of the review of the administration of building control which was carried out by the Department of Local Government, with the support of scores of submissions from many sources. One of the areas of building control which is poorly

understood in the community concerns the provision of fire safety. Despite the efforts of responsible property owners, the fire services, professional bodies and the building fire safety committees constituted under the Building Act, there are estimated to be in the order of 2 000 buildings regularly frequented by the public in South Australia which need to be inspected to ensure that the occopants would not be at risk should fire occur.

It is gratifying that there have been no serious fires in public buildings involving multiple deaths since the People's Palace tragedy in 1975. However, recent fires interstate and overseas serve to remind us all that constant vigilance must be exercised and the highest standards maintained if disasters are to be avoided. The Bill empowers a Building Fire Safety Committee for an area to authorise suitable persons who, after receiving appropriate training, may undertake inspections of buildings and provide reports to committees. By this measure it is hoped to increase greatly the rate of inspections so that potentially hazardous situations are identified speedily and given priority.

The Bill also requires property owners who have been served with a notice requiring building work to be undertaken to ensure adequate fire safety to appeal against the requirements to referees within two months of receipt of the notice. This will prevent a small number of owners from waiting until just prior to the expiry of the time given in the notice for work to be completed before lodging an appeal in the knowledge that action can be further delayed pending a determination by the referees.

These amendments, which were recommended by the Review of Building Control, are simple steps which can be taken immediately to improve the effectiveness of the work of Building Fire Safety Committees. Over the coming months, in the context of the review of State Government/local government relationships, there will an opportunity to re-examine the whole system now established in the Act for requiring fire safety in buildings erected before 1974. In the public interest we must ensure that it is as efficient as possible.

There is no doubt that the public interest is also well served by voluntary compliance with the regulations by landowners, and I make a call to property owners to take positive steps to raise fire safety standards in their premises as a voluntary contribution to the community's well-being.

As recommended by the Review of Building Control, the objects of the Act are established for the first time by clause 3.

The Bill provides for revised membership of the Building Advisory Committee. Members will now be appointed on the basis of their skills and experience in facets of the building industry, its associated professions or the regulatory process. The discontinuance of the former practice of members being appointed as representatives of particular organisations, and the reduction in size of the committee is expected to bring broader perspectives and greater effectiveness to the committee's work.

The revised membership, which was a key recommendation of the Review of Building Control, nevertheless reflects the role of local government in the day-to-day administration of the Act and regulations by including a nominee of the Local Government Association.

The Bill also makes a number of amendments designed to facilitate the administration of building control by councils, by adding flexibility and powers to exercise discretion, and by clarifying existing requirements. On passage of the Bill councils will be able to refund, reduce or remit building fees, and waive the requirement that prescribed plans, etc., must be lodged with a building application, in appropriate cases.

A new system of annual revision of building fees will be introduced, based on a series of construction indices for various classes of building, reflecting the complexity of the building work, and the extent of checking to be undertaken by council. The changes will provide councils with a predictable funding base which rises in line with building industry costs, and will enable industry to plan for predictable changes in fees, drawn up on a rational and public basis.

Councils will be able to impose conditions when considering granting approval for construction or erection of a temporary building or structure, including conditions regarding the removal of the building. Such powers have not existed previously.

Council or the surveyor will be able to require a person who has lodged a building application which is deficient to remedy the deficiency, or to lodge further details, plans, drawings, etc., within the prescribed time. This provision will resolve problems caused by the existence of a number of complicated provisions relating to the time within which councils must deal with applications. The amendments also provide that councils shall act expeditiously in performing their duties in this area.

The Bill provides authority for the certification by qualified persons of certain aspects of building plans, specifications, etc., such as calculations made by structural engineers, in accordance with current practice. It also provides authority for a system of private certification of plans to be included in regulations at some time in the future.

Such a system now operates in Victoria. I make it clear, however, that the Government has no plans to implement private certification in the short term. Any such implementation will occur only after thorough consultation with councils and other interested parties. It is anticipated that these amendments will lay the ground for implementation by councils of improved administrative procedures for processing building applications, in the interests of all parties.

Provisions for access to buildings for people with disabilities were introduced in the South Australian Building Regulations in 1980, but are applicable to new buildings only. Clause 19 of the Bill will allow councils to require that adequate facilities for access to or within parts of a building or structure are provided for persons with disabilities, when granting approval for certain kinds of alterations to buildings or structures erected before 1980. 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 commencement of the measure on a day to be fixed by proclamation.

Clause 3 repeals section 2 of the principal Act (which provided for commencement of the principal Act and is now spent) and substitutes a provision which sets out the objects of the principal Act.

Clause 4 amends section 8 of the principal Act to empower councils, at the request of the owner, to waive a requirement that prescribed details, particulars, plans, drawings or specifications be lodged with an application for approval of building work, either unconditionally or on the condition that alternative details, particulars, plans, drawings or specifications be lodged.

Clause 5 amends section 9 of the principal Act:

(a) to empower councils and building surveyors to accept as complying with the Act or approve, without further examination or consideration, details, particulars, plans, drawings or specifications lodged with an application for approval of building work if they have been prepared and certified in accordance with the regulations;

(b) to empower councils and building surveyors to require an applicant for approval of building work to remedy any deficiencies in details, particulars, plans, drawings or specifications lodged, or to supply to the council further details, particulars, plans, drawings or specifications, within the prescribed time and to provide that applications for approval of building work lapse if these requirements are not met;

and

(c) to require councils to act as expeditiously as is possible in performing their duties under the section.

Clause 6 inserts new section 9a into the principal Act to clarify the powers of councils in relation to the approval of the construction or erection of temporary buildings and structures, to enable councils to require their removal and modify the provisions of the Act with respect to their construction or erection.

Clause 7 amends section 10 of the principal Act so that the defence to a charge of an offence of performing building work without council approval or not in accordance with the approval or the Act is not available unless the defendant shows that the building work did not adversely affect the safety of the building or structure, not just the fire safety.

Clause 8 amends section 11 of the principal Act to remove sexist language from subsection (1) and to replace the reference to 'clerk of the council' with 'chief executive officer of the council'.

Clause 9 repeals section 14 of the principal Act and substitutes a new provision to remove the requirement that a council appoint its building surveyor and building inspectors and to instead require that councils have on their staff or engage the services of such officers.

Clause 10 repeals section 32 of the principal Act and substitutes a new provision to make it clear that it is the appellant or applicant in a matter to be heard and determined by referees who must pay to the council the fees prescribed under that section.

Clause 11 repeals section 38 of the principal Act and substitutes a new provision which ensures that councils have the power to require the owner of land on which a building or structure that does not conform with the Act has been erected or constructed, or on which building work has been performed contrary to the provisions of the Act, to lodge with the council specified details, particulars, plans, drawings or specifications relating to the building or structure or building work.

Clause 12 amends section 39e of the principal Act to empower persons authorised by the Building Fire Safety Committee for an area to carry out inspections under that section.

Clause 13 makes a consequential amendment to section 39f of the principal Act.

Clause 14 amends section 39g of the principal Act to limit the time within which an application to referees for an order under that section can be made to within two months of receipt of the relevant notice.

Clause 15 repeals section 49 of the principal Act and substitutes a new provision to clarify in relation to which properties notice is to be given under that section.

Clause 16 amends section 59 of the principal Act to enable the period for which councils must retain documents preserved by them pursuant to that section to be prescribed by regulation if it is necessary that councils keep any documents for longer than the five years from the date of lodgment provided for in the section.

Clause 17 amends section 60 of the principal Act to empower councils to refund, reduce and remit fees payable under the Act and to allow fees to be set by regulation according to factors determined from time to time by the Minister.

Clause 18 amends section 62 of the principal Act to reduce the maximum membership of the Building Advisory Committee from 10 to six, to set out the qualifications for appointment to the committee and to ensure that at least one member of the committee is a woman and one is a man.

Clause 19 amends the schedule of transitional provisions to the principal Act to empower councils to impose, as conditions of approvals to make alterations of a prescribed kind to buildings or structures erected or constructed before 1980, such conditions requiring such building work or other measures to be carried out as may be reasonably necessary to ensure that the facilities for access for disabled persons will be adequate.

The schedule makes amendments to the principal Act to remove spent provisions, to render the language of the Act gender neutral and to bring the language of the Act into line with modern expression. The schedule does not seek to make any substantive changes to the law contained in the Act.

The Hon. PETER DUNN secured the adjournment of the debate.

WILPENA STATION TOURIST FACILITY BILL

In Committee.

(Continued from 13 November. Page 1730.)

Clause 3—'Construction, etc., of tourist facility.'

The CHAIRMAN: When the Committee last met, there were proposed amendments to this clause from both the Hon. Mr Elliott and the Hon. Mr Lucas, although neither was moved at that stage. There was some concern that part of the amendment of the Hon. Mr Elliott was not complete, but that has been rectified.

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

Page 3, lines 21 to 42—Leave out subclauses (4), (5) and (6) and insert the following subclause:

(4) The Minister may (at the request of the lessee) by notice in the *Gazette*, increase the capacity of the facility to accommodate not more than 3 631 overnight visitors in the following forms of accommodation:

- a hotel of not more than 220 bedrooms;
- not more than 120 separate bungalows;
- not more than 45 separate cabins;
- dormitories providing a total of not more than 60 single beds;
- not more than 100 powered caravan or camping sites;
- not more than 500 unpowered camping or caravan sites;
- powered sites for the accommodation of the passengers of not more than 20 buses.

I move this amendment in the light of the failure of a previous amendment to this clause. I will not proceed with other amendments that I have on file because they were consequential. This amendment is simply an attempt to take a bad Bill and make it a little better. My line of argument is somewhat similar to that which I used in relation to the previous amendment; that is, that stage 1 of

the resort may be built as authorised by this legislation, but it is not mandatory for the Minister to approve the expansion of stage 2. However, should the Minister determine to approve the expansion, then it needs to be brought back to both Houses of Parliament where a resolution would need to be passed approving that increase.

Further, the Minister would need to be satisfied that the lessee had complied with the requirements of the approved environmental maintenance plan, and also that the former lessees under the lease have complied with the essential terms of the lease. There I am referring to some consequential amendments, but they help make sense of what I am attempting to do with this amendment.

The aim is that all expansion beyond stage 1 would need to happen with the approval of Parliament and that important environmental considerations would need to be taken into account. It should also be noted that the mix of accommodation that I have used has gone back to the mix that was in the Bill as it was originally introduced into the House of Assembly. It is quite plain that the mix that is currently in the legislation as received from the House of Assembly is that which Ophix itself has asked for and I think it is worth noting that this mix significantly increases the amount of resort accommodation in terms of hotel rooms, bungalows and so on, and puts a very low ceiling on the number of camping sites. In fact, the ordinary South Australians who have come to think of Wilpena as their own and who have made pilgrimages there for many years will find it increasingly difficult to go there.

I note that the Hon. Mr Lucas made a claim that it did not make much difference what the mix was, in terms of impact on the environment. That is quite plainly false. A person in a hotel room will demand far more water than a person staying in a tent, and the environmental impact of that alone is significantly different. I would hope that members would reconsider; as I said, I have taken the mix back to that which was originally in the Bill as introduced into the House of Assembly, before it was amended there, and I am hoping that, ultimately, this Parliament would make the determination even to move to that size.

The point has already been made that many matters have not yet been properly resolved, and water availability is only one of those. If this Parliament is so foolish as to rubber-stamp any further expansion beyond stage 1 without being fully convinced that those questions have been resolved, I believe that future South Australians will look very dimly on the members of Parliament who supported that. I hope honourable members will support my amendment.

The Hon. BARBARA WIESE: The Government strongly opposes the amendment, the effect of which would be to destroy investor confidence and to ensure that this project does not proceed. I do not believe that that is the intention of the majority of members in this Council. In essence, the effect of this amendment is that any increase at all in the size of the development above that specified in clause 2 would require a resolution of both Houses. So, perhaps to take it to its most extreme, if the developers wanted to increase the number of camp sites from 300 to, for example, 301, the issue would have to come before both Houses of Parliament to be endorsed and resolved. That is clearly ridiculous. It is not reasonable to expect that that should occur and, as I said, it would destroy the level of confidence in the investing community, which confidence we are attempting to restore through the passage of this legislation.

The honourable member does not seem to appreciate that, in order to achieve commercial viability, this development must be of a particular size and, if there is an opportunity for it to be expanded, all sorts of up-front costs will have to be met by the developer in the provision of infrastructure, such as water, power, sewerage and so on. Those costs must be paid up front and the developer needs to have some idea of the outer limits of this development in order to satisfy himself and his financial backers that there will be a reasonable return on the investment once it is made. So, the amendment is totally unacceptable to the Government and I would urge the Committee to oppose it.

The Hon. R.I. LUCAS: I have just two comments in relation to the Hon. Mr Elliott's assertions about the effect of the accommodation mix on the question of water. First, I made the point in the second reading debate that, as a result of the change in the accommodation mix being suggested by the developer and the operator, that is, more persons in built accommodation and fewer persons in the camping area, the developers have reduced by some 25 per cent the size of the wood lot, in effect, for the campers in the Wilpena area. As a result of that, and I will not go through all the detail, it is estimated that there will be a reduction of up to 55 megalitres per year.

The Hon. M.J. Elliott: You are suggesting they will use only fresh water and not base water for that?

The Hon. R.I. LUCAS: It is a combination. If one looks at Dr Gordon Stanger's report one sees that it is a combination; an estimate was made by the developers that they will use 100 megalitres a year of recycled water and run-off, and Dr Gordon Stanger estimated that they will use 50 megalitres per year. That is the estimate the Government has chosen.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: The Government has agreed with that estimate of 55 megalitres. To answer the Hon. Mr Elliott's question, no, it will not all be recycled; it will be a combination. I will not go into all the detail that I went into in my second reading speech, but the simple fact is that his bald assertion that this change in the accommodation mix means that there will be a greater requirement for water is certainly arguable and many people would strongly disagree with it. In particular, some evidence has been given that there would be a change of some 55 megalitres per year, whereas the Hon. Mr Elliott has not been able to quantify his assertion at all.

The other point I would make in relation to that is that the Hon. Mr Elliott indicates the differing watering requirements of campers *vis-a-vis* those in built accommodation. That may well be correct, but again, Dr Gordon Stanger, the person whom most people accept as being the most independent of the spokespersons on the question of water, in his calculations in his paper of June/July 1989 uses a constant figure of 225 litres per person per day for all visitors. He makes no distinction in his calculations on the question of water supply and demand.

It may well be that Dr Gordon Stanger is wrong and that he should perhaps have made a distinction; that may be a point for debate. The simple point I make is that the Hon. Mr Elliott's assertion in relation to the effects of change in accommodation mix on the water question at Wilpena is not backed up by any solid evidence at all. Certainly, it is arguable and there is at least some evidence to the contrary, that the change in accommodation mix has resulted in a reduction of 25 per cent in the size of the wood lot and a potential reduction of 55 megalitres a year in the water requirement for the wood lot, which would substantially be used by campers at Wilpena for their campfires and assorted other such needs.

In addressing the Hon. Mr Elliott's package of amendments, I note that one aspect is that he seeks to leave out

subclause (10), and I am not sure why. Subclause (10) enables persons to do the calculations as to what are commonly accepted as the number of persons per hotel bedroom, the number of persons in a bungalow and the number of persons in a camping or caravan site.

I am advised that there is no similar formula in the lease and that these figures are, in effect, so I am told, internationally recognised figures which the Government, developers and everybody else have been using in all of our calculations. I am not sure why the Hon. Mr Elliott is seeking to move the deletion of that formula. Is it because he rejects the specific aspects of the formula? Does he believe there should be alternative formulae used by the developer and the Government and anyone else in calculating what the number of overnight visitors would be? If we do not have the formula in there, how will the Parliament, independent observers or the developer calculate the number of overnight visitors?

The Hon. M.J. ELLIOTT: First, subclause (10) should not have been deleted. As I think the Hon. Mr Lucas knows, I crawled out of a jet after travelling for 40 hours only two days ago, and a few things in the amendments caught me out. Putting that aside, I wish to return to the point, first, that the change in accommodation mix means that in fact the number of campers who can go camping in the vicinity of Wilpena Pound will be significantly affected. There will be a significant effect upon the people who go camping in the area of Wilpena Pound, and that has been something of a favourite camping spot for many South Australians for some years.

What is happening with this changing mix, which was provided for in the Lower House, is that a greater emphasis is being put on those people who can afford to stay in the hotel resort-type complex. The people who have historically camped in the vicinity for a long time may be hindered. There is no doubt there is a need for control of camping in the park generally, but if there is an overflow those people then go camping in the gorges and elsewhere, where we also have very serious problems of degradation, which have been neglected for far too long.

This area has been attractive for campers, many of whom will be denied access to this place. Essentially, a mix which increases the size of the hotel or bungalow part of the resort is a denial for those people.

The Hon. R.I. Lucas: Do you support the campers going in an unrestricted fashion, anywhere?

The Hon. M.J. ELLIOTT: No, I do not. In fact, I think the State Government has been very tardy in tackling the question of camping in parks. Some parks have too many campers in them. Perhaps we need to do what is done in Victoria, where people have to ballot to get into parks. However, it would worry me if we had a ballot system for campers, while we put in a resort where people can just buy their way in at the same time. That is one of the problems that arise when you start putting resorts inside national parks: one lot of people are able to buy their way in, while other people have to go through ballots to have an opportunity to go to a park. That is a plainly unfair byproduct of putting the resort into the park itself.

There are very serious problems in relation to camping and we need to restrict numbers and set up clear camp sites. Unless people are doing proper bush camping, which usually means that they are not having fires, they are carrying their own water and those sorts of things, there should be real limitations on people who go anywhere in a park. I say that as a person who is a very keen bush camper. Anyway, that is something of an aside, talking more generally about camping in parks.

The Hon. Diana Laidlaw: I need a shower at least every two days.

The Hon. M.J. ELLIOTT: In fact, that is one of the reasons why campers do use less water. Serious campers do not shower as frequently as the resort stayers. Once again, there are two types of campers in terms of fire use. The person who comes from the city and goes camping once a year tends to have a fire which is outrageously large. The serious camper these days has a very small fire. In fact, more recently we are seeing trends overseas where people have to carry gas into parks and they do not burn wood at all. Quite clearly wood lots should not be using fresh water. I certainly had not picked up that that was the case. It is a ludicrous notion to be using any fresh water for a wood lot, when there is some question whether or not there is enough for the eucalypts that are already growing along the creeks. My understanding was that it was only going to be waste water. If it is more than that, then it was a ludicrous notion from the very beginning.

The Hon. Diana Laidlaw: If they were having a golf course, there would have been plenty of waste water.

The Hon. M.J. ELLIOTT: I would have thought so. The Minister referred to investor confidence. The problem with investor confidence in South Australia is this lunatic Government that keeps coming up with lunatic schemes. It comes up with schemes like the chair lift up the side of Mount Lofty or the marina down at Glenelg.

The Hon. G. Weatherill interjecting:

The Hon. M.J. ELLIOTT: That is also a very stupid observation, if I might say so, by the Hon. Mr Weatherill. If the Government had done what it eventually did in relation to marinas, which was to have a full survey of the whole coast, determined what were the suitable sites from an environmental point of view and then said to investors, 'These sites look suitable,' we would not have had a problem. It did not do that until after a couple of proposals had fallen over. The Government saw the light too late in that case.

The problem is that it keeps cooking up schemes where a couple of people in Government departments come up with what they think is a good idea. Then they set about, come hell or high water, inflicting them upon the people of South Australia, most often using public land, which of course is very cheap and therefore attractive to private investors, and they also try to get around the laws of this land. At Mount Lofty, and again in this case the Government is trying to get around the laws of the land. In fact, it has now come to this Council and asked us to override the laws. It looks as though some members will agree, and that is an absolute outrage. This Government is causing a crisis with investor confidence.

There is nothing wrong with this amendment, where I am asking for Parliament to approve the final expansion. This Bill is all about giving approval for the whole scheme. Without getting into arguments about whether the development should be in a national park, there is certainly no evidence at this stage to suggest that we should go beyond stage one. In fact, there are many people who would question even that. There are very serious questions about water availability, etc., beyond stage one. If a rubber stamp is given to go beyond stage one, without having that evidence, then that is a very foolish thing to do. I thought this Parliament had a habit of not trying to hand over to a Government decisions when it did not have all the facts. But that is precisely what it would be doing if it did not accept this amendment, because I am saying that the facts do not exist at this stage to support an extension beyond stage one. In fact, I have said there are many who believe

that even stage one is highly questionable, and I am one of those. There is no question that there are very serious doubts beyond that stage.

I am also beginning to question the whole point of clause 3, where we go through stages. It is quite clear from comments the Minister made earlier that we will go ripping right through to the full scale amendment as envisaged in this amended form already. That is further reinforced by the comment of the Hon. Mr Lucas, who said:

> The Government's original Bill and the lease allowed the Minister unimpeded to approve what she might like in relation to the development, and in discussions with Ophix, as we understood it, she would have been approving Ophix phase 1 through to Ophix phase 3, because Ophix was arguing that that was the only viable size of development . . .

That is what the Hon. Mr Lucas has said, and there have been similar comments made by the Minister again today. Why have we got all these stages in this clause? It is an absolute nonsense. It is intended to go ripping through virtually to the final stage very quickly, because Ophix says that is all that is viable. This whole Bill is about doing favours for Ophix. It has nothing to do with national parks; it has nothing to do with conservation; it has nothing to do with investor confidence. It is all about self-interest of particular people in Government departments and within the Government.

The Hon. BARBARA WIESE: I deny the statements made by the Hon. Mr Elliott. This Government has a lease agreement with Ophix which sets the parameters of this development, but the Government takes very seriously its responsibilities for the protection of the environment in which this development will be located. There is absolutely no intention whatsoever of 'ripping through', as the honourable member suggests, and allowing any old development in any shape or form to take place on the Wilpena Station site.

I suggest that this development, more than any other development that has ever taken place in South Australia, has been subject to the most extraordinary scrutiny, and has already been modified to an inordinate degree. It is a wonder that the developer is still with us, in view of the difficulty that he has had to suffer in order to achieve this development. There has already been very, very careful study of the issues involved. The issues which require further study have been very clearly identified and will be pursued with vigour as soon as this Bill has passage through Parliament.

At the end of the day, we will have a tourism facility at Wilpena Station that will break new ground in Australia in environmental sensitivity and may very well become a model development in terms of the issues that have been addressed during the course of this process.

The Hon. R.I. LUCAS: In response to comments by my colleague and friend, the Hon. Mr Elliott, I was sorely tempted to recall stories of university days, university song books, alcohol and camp fires, but I will not digress and delay the debate unnecessarily.

The Hon. Peter Dunn: He wasn't seen stoking up the fire?

The Hon. R.I. LUCAS: No, I will not digress. The Hon. Mr Elliott sought to interpret from my statements in the second reading debate that, in effect, I was suggesting that there would be a movement straight through to 3 631 overnight visitors. The statement that he quoted was that the Government had had negotiations in relation to moving from Ophix phase 1 to Ophix phase 3. Again, the Hon. Mr Elliott fails to understand the difference between Ophix phase 1 and Ophix phase 3 and the 3 631 figure. The Ophix phase 3 level is 2 924, which is the amendment moved by the Liberal Party in another place in relation to clause 3 (4). It is not, as the Hon. Mr Elliott sought to interpret it, an agreement to rip right through to 3 631.

As the Liberal Party moved in another place and is supporting here, it is a suggestion that we should look at it in two stages. It would move straight through, under an assured set of criteria, to 2 924 and, if there were to be any movement above 2 924 to a maximum of 3 631, both Houses of Parliament must be involved. The Liberal Party's attitude to the amendment was clear in the other place and its attitude in this Chamber is clear, as well. Opposition members support a two-stage consideration of the increase in the scale of the development. A further amendment is on file, and it will be no surprise to the Hon. Mr Elliott that the Liberal Party will oppose the amendment he has moved. I seek your clarification, Mr Chairman, as to how to proceed.

The CHAIRMAN: It would be appropriate for the Hon. Mr Lucas to move his amendments now.

The Hon. R.I. LUCAS: I move:

Page 3—

Line 23—Leave out 'in the following forms of accommodation' and insert 'in the forms of accommodation determined by the Minister and specified in the notice'.

Lines 24 to 29—Leave out these lines and insert subclause as follows:

(4a) The notice must not specify a form of accommodation that does not appear in the fourth schedule to the lease.

Page 4, after line 21—Insert paragraph as follows:

(ba) three persons for a cabin;.

Parliamentary Counsel's advice is that those three amendments form a package of amendments. It is fair to say that, since the matter was debated in the other place, members of the Liberal Party have received many submissions in relation to the form of the amendment moved by the Party in another place to clause 3 (4). As the Hon. Mr Elliott indicated, there has been criticism that it specifically includes 280 bedrooms as opposed to schedule 4 of the lease which includes a figure of 220 bedrooms. The Liberal Party has received submissions on both sides of the argument. Some people argued very strongly that we should remove from the Bill the precise accommodation mix of the total number of 2 924, that is, leave the total number of overnight visitors as it is but remove the individual component parts of the Bill.

Divergent views have been expressed on that matter. The Australian Conservation Foundation has put a view to the Liberal Party that, given the two options, it would prefer to see the provision left in the Bill. As I said earlier, a range of other submissions has suggested that the provision should be removed. On balance, and after further consideration, the Liberal Party believes that it should seek to remove the specific nature of the accommodation mix during this debate. The Opposition believes that the protection implicit in subclauses (6) to (9)—that is, the requirement for parliamentary approval of any increase from 2 924 to 3 631—will be a warning signal for the Government and the lessee against abusing the discretions that they will have if this amendment to subclause (4) is successful.

For example, if the Government and the lessee chose to have 2 000 hotel bedrooms and not to allow campers in the Wilpena area, the Liberal Party believes that the protections under subclauses (6) to (9) would mean that there would be very little likelihood of Parliament's agreeing, in those circumstances, to an increase in the scale of the development. As I said, those subclauses provide protection against abuse by the Minister or the lessee.

The Liberal Party also believes on reflection that it, and perhaps Parliament, ought not to involve itself in the precise accommodation mix of the number of bedrooms as opposed

to the number of bungalows and caravan and camping sites, and that the critical question is really the number of overnight visitors in the area. For those reasons, the Liberal Party believes that it should pursue the amendments that I have moved. The amendment to insert new subclause (4a) makes clear the relationship of this clause to the lease and provides that any decision by the Minister could not include or specify a form of accommodation that does not already appear in the lease.

So, in the lease and in the Bill we talk about bungalows, hotel bedrooms, dormitories and camping sites, and we are therefore ensuring by way of further protection, that we do not introduce another specific form of accommodation not already envisaged in the lease and flowing through into the Bill.

Finally, in relation to the amendment to page 4, after line 21, I am advised by Parliamentary Counsel that it is necessary because the lease, under schedules 2 and 4, refers to cabins and, I think, in schedule 2, up to 45 cabins. However, the Bill makes no reference at all to cabins, and I presume that they are no longer part of the developer's proposals. Certainly, my understanding is that they are not part of the current development mix being suggested by the developer. Nevertheless, if we are referring to the lease in subclause (4)*(a)*, in the formula we should also refer to the number of persons who might be included in a cabin, if at any stage we were to move to cabins in the development.

The Hon. BARBARA WIESE: The Government supports all three of the amendments moved by the Hon. Mr Lucas.

The Hon. M.J. ELLIOTT: The Hon. Mr Lucas might like to explain his amendment a little further. The fact is that it leaves no numbers whatsoever for guidance. It has been suggested to me—unless there is a better explanation—that the Liberal Party, having embarrassed itself in the Lower House by putting up an amendment that increased the size of accommodation, particularly in the hotel part of the resort, is now trying to dig itself out by passing the buck back to the Minister. Can the honourable member explain a little more clearly what he thinks he is achieving by having within that clause no indication whatsoever of the numbers?

The Hon. R.I. LUCAS: I have already been through that argument. It is certainly not the case. As I said, the Liberal Party has received a number of submissions and, on balance, the Party in the Council has decided to move the amendments standing in its name.

The Hon. M.J. ELLIOTT: I think that this time is as appropriate as any to refer to a couple of questions that I asked of the Minister last night. I would like to check with her the answers to some of those questions, in particular, in relation to the archaeological and anthropological studies that are meant to have been carried out. Again I ask the Minister: was an instruction ever given that the Aboriginal Heritage Grant staff were not in any way to speak to people in relation to the Wilpena project?

The Hon. BARBARA WIESE: I am advised by the Director of the National Parks and Wildlife Service, who is the officer in charge of the officers to whom the honourable member refers, that he has never issued any such instruction; nor is he aware of any instruction that may have been issued by the Director-General of the department. Presumably, they would be the people who would be likely to issue such an instruction if, in fact, it had been issued.

The Hon. M.J. ELLIOTT: In answer to questions yesterday the Minister talked about archaeological studies and said that the department's archaeologist, in a singular sense, is based at Port Augusta. In fact, I understand that the archaeologist has been there for about only six months and that, indeed, more senior archaeologists may be based here in Adelaide, perhaps with longer-term experience with the people.

Of course, there is also a need to make a distinction between archaeologists and anthropologists. As I understand it, there has been no anthropological work at all done there. I tried to explore those issues by way of question yesterday. I again address those issues to the Minister, because the suggestion being made to me is that the work is not being done anywhere near adequately enough, yet we are about to proceed with the project.

The Hon. BARBARA WIESE: It is indeed correct that the archaeologist based at Port Augusta has been there for only about six months. I understand that it is correct that another archaeologist is based in Adelaide.

The Hon. M.J. Elliott: Is he more senior?

The Hon. BARBARA WIESE: As I understand it, the person concerned is more senior than the person at Port Augusta. However, I am not quite sure what the honourable member is getting at, because the studies that were undertaken on behalf of the department have actually been conducted by Dr Lubers, as I indicated last night. He is a very experienced and well respected person in his field, and it is his study. Perhaps the honourable member ought to be confining his remarks to that.

The Hon. M.J. ELLIOTT: Is it not, in fact, the case that Dr Lubers is an archaeologist and has qualifications in anthropology and that any work he would have done would have been purely archaeological and that, in fact, no work of the latter type has been done?

The Hon. BARBARA WIESE: It is true that Dr Lubers is an archaeologist. With respect to the discussions that have taken place with Aboriginal people, I point out that they have been direct consultations. The honourable member seems to be suggesting that we need an anthropologist to talk to Aborigines about their interests, culture and heritage. In fact, I would argue that these people are capable of speaking for themselves: they do not necessarily need an anthropologist to interpret the information that they want to pass on to us.

So, there has been direct consultation with the Aboriginal communities in the area. As I understand it, they have established their own committee to deal with these issues specifically, and Dr Lubers has had discussions with them, as have, of course, officers of the Government. Members of the Ophix Finance Corporation have also had discussions with these people about the relevant issues.

The Hon. Mr Lucas's amendments carried; the Hon. Mr Elliott's amendments negatived.

The Hon. R.I. LUCAS: I move:

Page 3, lines 24 to 29—Leave out these lines and insert subclause as follows:

(4a) The notice must not specify a form of accommodation that does not appear in the fourth schedule to the lease.

Page 4, after line 21—Insert paragraph as follows:.

(ba) three persons for a cabin;'

These amendments are part of a package.

Amendments carried; clause as amended passed.

Clauses 4 to 6 passed.

Clause 7—'Environmental Impact Assessments.'

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

Page 6, after line 3—Insert subclause as follows:

(2a) An environmental impact assessment prepared under subsection (1) must assess the likely environmental and social effects of the acts and activities referred to in section 5 or 6.

This amendment will ensure that all aspects of the proposed development are properly addressed by an environmental impact statement, and the Bill presently does not propose this.

The Hon. R.I. LUCAS: I move:

Page 6, after line 3—Insert subclause as follows:

(2a) The council, or the person nominated by the council, must, when preparing a draft environmental impact assessment, address those social and environmental effects of the acts and activities referred to in section 5 or 6 that should, in the opinion of the council or the nominee, be included in the environmental impact assessment.

My amendment is designed to achieve the same purpose as the Hon. Mr Elliott's amendment. There is a slight difference in wording, but my amendment seeks to ensure that the social and environmental effects of the acts or activities referred to are considered in the environmental assessment. Clearly, we oppose the Hon. Mr Elliott's amendment.

The Hon. BARBARA WIESE: The Government supports the amendment moved by the Hon. Mr Lucas and opposes that moved by the Hon. Mr Elliott. The Lucas amendment merely states what would have been done as a normal part of the environmental impact assessment process, anyway, and makes that clear for the purposes of this Bill. Although the Democrat amendment looks very similar, the Government believes that it would not achieve the same purpose but would leave open still the threat of ongoing vexatious litigation, because it leaves open the possibility for challenge as to what social and environmental effects should be assessed.

There is no definition of who will determine which effects will be considered. The amendment is much too loosely worded, and the Liberal amendment deals with this issue in a much more acceptable way. However, I suggest to the Hon. Mr Lucas that perhaps he considers changing the word 'effects' to 'impacts', because the provision would then be consistent with the terminology used in the remainder of the Bill, and would therefore achieve consistency.

The Hon. R.I. LUCAS: I seek leave to move my amendment in an amended form by striking out 'effects' and inserting 'impacts' in order to achieve consistency with the terminology throughout the Bill.

Leave granted.

The Hon. M.J. ELLIOTT: We have just heard a fair bit of nonsense. The words included in the Lucas amendment 'in the opinion of the council or the nominee' relate to the proponents of the project. It is ludicrous for the proponents to decide what social or environmental effects that they will look at are important; that is an absolute nonsense. That does not work in the EIS process anywhere else, and to start doing that sort of thing now is plainly a ludicrous thing to do.

As for the Minister's comment that it opens up the prospects of litigation, I do not believe that there has ever been any litigation over how an EIS has been run. It is a great pity that there has not been litigation, because the way in which they are done in South Australia is appalling; however, that is beside the point. The suggestion that there may be litigation over the way in which the EIS is run is an absolute and complete nonsense.

The Hon. Mr Elliott's amendment negatived; the Hon. Mr Lucas's amendment carried; clause as amended passed.

Clause 8—'Conditions imposed by Minister.'

The Hon. R.I. LUCAS: I move:

Page 6, lines 32 to 36—Leave out subclause (1) and insert the following subclause:

(1) The Minister must, by notice served on the council, impose on the council or the person authorised by the council, the conditions (if any) recommended by an officially recognised environmental impact assessment in relation to the airport works or the power lines.

The amendment needs to be looked at in the light of the amendments moved by the Hon. Mr Elliott, who has two amendments on file for this clause, although one is similar in intent. The Hon. Mr Elliott has another amendment to this line which inserts 'officially recognised' into the environmental impact assessment. While we are moving amendments to the same line, at this stage they are two different amendments. However, the Hon. Mr Elliott's amendment to lines 34 to 36 has the same intention as my amendment. My amendment is a fairly simple one, which seeks to clarify the conditions in subclause (1). The existing drafting provides:

(1) The Minister, after considering the environmental impact assessments in relation to the airport works and the power lines, must, by notice served on the council, impose on the council, or the person authorised by the council, such conditions as the Minister thinks are necessary or desirable in relation to the establishment of the airport works or the power lines.

This amendment in effect removes the phrase 'as the Minister thinks are necessary or desirable' and seeks to clarify and tighten up the imposition of conditions by the Minister in relation to the EIA.

The Hon. BARBARA WIESE: The Government opposes both amendments and for similar reasons. The amendments are obviously very similar but, at the end of the day, we would have a marginal preference for the Lucas amendment over the Elliott amendment, if it came to that, and I believe it will. The reason for opposing these amendments is that they both, in effect, remove the ministerial responsibility for the setting of the conditions. The purpose of the environmental impact assessment process is to assess the environmental and social impacts of the proposed development. It is the role of the Government to make decisions on what conditions should be imposed on the development.

In making these decisions, it is the role of the Government to take into account the interests of the wider community and to consider all the factors which relate to the development. It is the Government's responsibility to impose conditions. This is the normal process which is currently followed under the provisions of the Planning Act. The assessment report makes recommendations but it is the planning authority or the Governor that sets the conditions. As currently proposed, the Bill reinforces the Minister's responsibility in the environmental impact assessment process and it is the Minister who ultimately is accountable to Parliament. So, we believe that neither of these amendments is desirable or necessary.

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

Page 6—

Line 32—After 'considering the' insert 'officially recognised'.

Lines 34 to 36—Leave out 'the Minister thinks are necessary or desirable in relation to the establishment of the airport works or the powerlines' and insert 'are necessary to implement the recommendations of those assessments'.

As to the first amendment, I wish to make it clear that what the Minister would be considering are the final documents of the environmental impact process and not the draft. The second amendment is to impose a clearer obligation on the Minister to give proper effect to the environmental impact assessments which are to be produced for both the powerlines and the airport.

The Hon. Mr Elliott's amendments negatived; the Hon. Mr Lucas's amendment carried; clause as amended passed.

Clause 9—'Other Acts, etc., not to apply.'

The CHAIRMAN: The House of Assembly has advised that a clerical correction is necessary in clause 9 as follows: page 6, line 42 and page 7, line 1, 'sections 3, 4 and 5' should read 'sections 3, 5 and 6'.

The Hon. R.I. LUCAS: I move:

Page 6, lines 42 to 44—Leave out 'and those acts and activities may be undertaken in accordance with this Act notwithstanding any other Act or law to the contrary'.

The clear import of this subclause is to provide exemption under the Bill from provisions of the Planning Act and the Native Vegetation and Management Act 1985. However, as

drafted, it would also potentially exempt the development from a whole series of other pieces of legislation, including the Occupational Health, Safety and Welfare Act, Public Health Act, Equal Opportunity Act and Aboriginal Heritage Act. Without going through a comprehensive list of other Acts that it may well be exempt from, that is a good cross-section of them. It is the view of the Liberal Party that, if there is the possibility that that is the result of clause 9 (1), that should not be the case. Laws of the land such as equal opportunities, occupational health, safety and welfare, and Aboriginal heritage legislation ought to apply to the development. My amendment seeks to clarify and ensure that that is indeed the position.

The Hon. M.J. ELLIOTT: I indicate that I will support the amendment but will in fact be opposing the whole clause. The Leader of the Liberal Party (Dale Baker) made a great fuss about retrospectivity. Whilst the legislation is in fact retrospective in the way it works, in that it clearly authorises something which is being questioned before the courts, even without this clause it is still a retrospective Bill, in effect. This clause is particularly virulent in that regard. Even with the amendment of the Hon. Mr Lucas, the Planning Act and the Native Vegetation Management Act do not apply to these activities.

If a resort development anywhere else in the State were attempted, the Planning Act and Native Vegetation Act would have to be complied with. In this instance, a resort, being developed in a national park, does not need to comply with either of those two Acts. It is absolutely scandalous. People are outraged that that would happen anywhere in the State, but to go inside a national park and do it is particularly outrageous. When it is taken a step further and it is realised that this is also tackling the very essence of a present High Court case, the Government is acting very clearly in a retrospective manner. For a great number of reasons, this is the most reprehensible clause of a very reprehensible Bill. The Liberal Party really will show what it is made of, depending on how members vote on this clause.

The Hon. DIANA LAIDLAW: Like the Hon. Mr Elliott, I certainly support the Liberal Party's amendment moved by the Hon. Mr Lucas on this matter. I also share his abhorrence of the clause in general. I have advised my Party, however, that I will not be dividing on the various clauses and will oppose the Bill in general. I find that, with all due respect to my Leader, if the laws of the land in respect to equal opportunity, Aboriginal heritage and the like, should apply, I believe even more emphatically that, in respect to a building development, particularly one of this size, the Planning Act, the Native Vegetation Management Act and the National Parks and Wildlife Act should apply.

I repeat the statement that I made in my second reading speech that from time to time the Government, departmental officers and others seem to think that campers should be treated like feral animals and pests, yet the department is doing nothing about feral goats, rabbits and the like in the area. That the Government is prepared to herd campers into a concentrated camping ground and is prepared to cut down trees for that purpose, just defies logic and is beyond belief, in my view. I find this clause contemptible, but I have indicated to my Party that because I intend to vote against the Bill I will not be dividing on this clause.

The Hon. BARBARA WIESE: The Government strongly opposes this proposed amendment and, in fact, I would argue that clause 9 is the essence of this Bill. I remind members that the purpose of this legislation is to ensure that no further vexatious litigation can occur with respect to this project. Without this clause and without this catch-all provision, the opportunity is available for people to challenge this development further.

So, we would have achieved nothing, and all the pain and agony that various members of Parliament in this place have been experiencing in recent times in determining their position on this Bill would have been for absolutely no reason whatsoever, because we would be opening up the opportunity for further litigation. I remind members that the Government has been put on notice that every effort will be made to find opportunities to delay and frustrate this development, and the court process will be used wherever possible. It is important therefore that this clause be worded as it is in the Bill.

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

The Hon. K.T. GRIFFIN: In relation to clause 9 (1), can the Minister identify the other Acts or laws which might affect the activities in sections 3, 5 and 6 and in respect of which indemnity is granted? My colleague, the Hon. Mr Lucas, has referred to the Occupational Health, Safety and Welfare, Workers Rehabilitation and Compensation and Aboriginal Heritage Acts, but what I think we need to get from the Government is some identification of what is the problem and which Acts are likely to present a problem—which the Government is trying to deal with in respect of that clause.

The Hon. BARBARA WIESE: The Government does not have any particular Act in mind at all, in the drafting of this legislation. If we were accurately able to predict under which Acts of Parliament the opponents of this legislation might wish to pursue action, we would list those Acts of Parliament in the legislation, as we have already done with the Native Vegetation Act, for example, and the Planning Act.

The purpose behind this clause, as I think I indicated earlier, is simply to provide a catch-all in case, if we have not thought of something, it can be covered. The purpose of this legislation, as I indicated earlier, is to ensure that the vexatious litigation that has been foreshadowed cannot continue; so the legislation is drafted in terms that will allow the development to take place without those threats hanging over it.

I repeat that the Government does not have any particular piece of legislation in mind; otherwise we would have named it. We simply want to cover all options.

The Hon. K.T. GRIFFIN: That is a pretty wide sort of provision to put into the Bill. Usually, one has some idea of the sorts of provisions that might create difficulty. I would suggest that, if the Minister and the Government, with its band of advisers and wealth of resources to enable research to be undertaken, are unable to determine whether or not there is something else, then it seems that this is a provision that starts at shadows. I think that, unless the Government can persuade us that there is some specific provision which is likely to cause concern, it is unwise to leave in those words which my colleague the Hon. Mr Lucas wishes to remove. They may give some comfort to the Minister—but the Minister cannot identify what the comfort would be from. I support the amendment moved by the Hon. Mr Lucas, because it does not appear that this clause will do any constructive work.

The Hon. BARBARA WIESE: Perhaps I can add to what I have just said in the sense that it is not the intention of the Government that an amendment of this kind would cover those Acts which would be described as regulatory Acts. For example, we would not expect the Building Act or the occupational health and safety legislation or the

Health Act, or things of that kind, to be included there, because it is not necessary. Those things are covered under the terms of the lease. This is simply a measure to ensure that anything that we have not thought of, that may fall into the category of prohibitive provisions of Acts, is in fact taken care of.

The Hon. M.J. ELLIOTT: A State Liberal Party council meeting expressed very clear concern about retrospectivity, yet here we have a clause, above all clauses, which is quite clearly retrospective since it denies the functioning of the Planning Act which is clearly being tested in the High Court at present. I would like to understand why Liberal members here have all *en masse* chosen to go against their State council.

The Hon. K.T. Griffin: We are not bound by—

The Hon. M.J. ELLIOTT: I understand that, but I would like to hear why members have decided to do that, because I am sure their own people would like to know.

The Hon. K.T. Griffin: We'll look after ourselves. We don't need the Democrats to look after us.

The Hon. M.J. ELLIOTT: I am just trying to help you. You would then have the opportunity to put it on record so your members could read it in *Hansard*. In any event, for a Party which says that it believes in the rule of law, why is it choosing this particular path of overruling a case which is currently before the courts? In addition, so far Liberal members have not put up any argument why the Native Vegetation Act, for instance, should not apply inside a national park, when everything anybody does outside a national park quite clearly is subject to the Native Vegetation Act. I would like to hear any member explain why the Liberals are willing to allow that to happen.

The Hon. R.I. LUCAS: The Hon. Mr Elliott has had the experience of being a member of the Young Liberal Movement of the Liberal Party. That is a distinction that I cannot claim, never having been a member of the Young Liberal Movement in South Australia.

The Hon. Barbara Wiese: You weren't old enough.

The Hon. R.I. LUCAS: Never old enough and perhaps still not. Also, in his time he worked as a research officer for the Liberal Party. The Hon. Mr Elliott and I go a long way back. We could tell good stories about each other.

An honourable member interjecting:

The Hon. R.I. LUCAS: We offered him Ross Smith but he did not like his chances. So he has had that vast wealth of experience in the Liberal Party in days gone by. I might advise him that it has not changed. As he well knows, the organisation is unlike the Labor Party organisation. I am not sure about the Democrats, I am not sure whether their votes are binding. Are they binding on you, Mr Elliott? The Democrats, I understand, take referenda or polls on all the major policy decisions, but are they binding?

The Hon. M.J. Elliott: They are not, but I have to explain.

Members interjecting:

The CHAIRMAN: Order! There is too much conversation in the Chamber.

The Hon. R.I. LUCAS: The Australian Democrats evidently follow the fine traditions of the Liberal Party in that the decisions of their members are not binding on their parliamentary members, so I do not really understand why the Hon. Mr Elliott is seeking, from members of the Liberal Party in this Chamber, an explanation when indeed we follow the very same principles that are followed by the Australian Democrats in relation to the establishment of policy decisions.

Really, I do not want to prolong the debate in this Chamber, but the Hon. Mr Elliott knows the position. We will, indeed, explain our position, as we already have, in relation to Wilpena and all other policy matters that are debated in this Parliament, when required to do so in the various form of the Liberal Party, as indeed I am sure, on occasions, the Hon. Mr Elliott is required to explain his position on some occasions to his members, the Australian Democrats, if they have a different view, on occasions, on particular policy matters.

The Hon. M.J. ELLIOTT: I thought that, at the very least for posterity, when people look back at this folly and wonder why on earth some people voted the way they did, that somebody from the Opposition might have wanted to put on record why they were happy for the Native Vegetation Act not to apply in national parks and why they were happy for the Planning Act and even the national parks legislation itself not to apply in national parks. Otherwise there will be something of a void in understanding how such an irrational decision was ever reached. Obviously, that challenge is not to be taken.

The Hon. R.I. LUCAS: The Hon. Mr Elliott, as he indicated earlier by way of confession in relation to drafting of an amendment, said that he had only just got off a plane 48 hours earlier. In the rather lengthy second reading contribution that I gave, and I confess the longest speech that I have given in the eight years of my parliamentary career, I indicated on behalf of the Liberal Party the reasons for the Liberal Party adopting the position it has on the Bill.

The Hon. M.J. Elliott: The parliamentary Party?

The Hon. R.I. LUCAS: The parliamentary Party. I indicated at great length the dilemmas which confronted the Liberal Party in addressing this very difficult issue, in balancing the problems of retrospectivity or, as I said in my second reading speech, as some wanted to argue, retroactivity. I am not a lawyer and I did not want to enter into that debate, but I certainly reject the proposition from the honourable member that no-one from the Liberal Party has explained the reasons why the Liberal Party adopted the position that it did in relation to this Bill.

The Hon. M.J. Elliott: Not in general terms. What about this clause?

The Hon. R.I. LUCAS: The argument the Liberal Party put in the second reading contribution in this Chamber, and in the other Chamber, made quite clear how the Liberal Party wanted to balance all of the arguments in relation to the Wilpena development. The Liberal Party wanted to support the development, as per its policy prior to the 1989 State election, as reaffirmed again by the parliamentary Party earlier this year, and it needed to balance that wish to support the development with its concern about the retrospective elements of this legislation.

As the honourable member knows, and as has been conceded by most other members, the Liberal Party did successfully incorporate some amendments in the other place to take out some aspects of the retrospectivity but, as the Hon. Mr Elliott would have to concede if he read my second reading speech, we were frank enough to admit that, yes, there were elements of retrospectivity still remaining in the legislation, and that was part of the dilemma.

So, let it not be said by the Hon. Mr Elliott, fairly, anyway, that no-one from the Liberal Party in this Chamber indicated their reasons for adopting their position on the Wilpena legislation. The reasons developed by the Party were very fully explained in my second reading contribution and in the contribution of a number of other members in this Chamber during the second reading debate last week.

The Hon. M.J. ELLIOTT: Once again we have generalisations. On this clause, the reasons for the action taken by the Liberal Party are not being explained. Once again, those members have totally avoided the question why the Native

Vegetation Act should not apply in a national park. As far as retrospectivity is concerned, the best description is that they fiddled at the edges. The major essence of this whole clause is an attempt to stop an action which is in the High Court. The Minister has said so. The Liberals are supporting that action by supporting this clause.

The Hon. BARBARA WIESE: I am glad that this debate has come back to the purpose of this clause. I remind members of the Committee where we began. The Government was put on notice that every means would be used to challenge this development. It was told that one of the Acts of Parliament under which this development would be challenged was the Native Vegetation Management Act. We do not have any problem with that Act for the purpose of this development because we believe that it is in conformity with that piece of legislation. However, we have been told that it will be on the basis of that piece of legislation, the Planning Act and anything else that can be found that legal challenges will be mounted against this development.

The Government believes that it is unreasonable that that should be allowed to occur and I understood that the Liberal Party, too, generally felt that way. The purpose of clause 9 is to ensure that we cover those pieces of legislation that have already been named, and any other legislation which we have not thought of but which may be used to mount the sort of legal challenges that have been flagged to us, if people have the opportunity to do so. The matter will continue to be the subject of litigation and it will be impossible for the developer to attract finance for the project, and a development will not occur. I bring members back to the legislation and the terms of the lease. Clause 12 of the Bill states:

(1) Nothing in this Act—
(a) varies the lease or in any way restricts the exercise by the lessee of the lessee's rights under the lease;

I ask members to take note of that. Clause 5.3 of the lease states that, without affecting the generality of the preceding subclauses (5.1 and 5.2) of this clause, the lessee will at its own expense undertake a number of actions. One of those actions is described in clause 5.3.4, as follows:

From time to time forthwith, comply with all statutes, ordinances, proclamations, orders or regulations, present or future, affecting or relating to the demise of premises or any part or parts thereof, and with all requirements which may be made or notices or orders which may be given by any government or semi-government or city, municipal, health, licensing, civic or other authority having jurisdiction or authority over or in respect of the use of the demised premises, etc.

The point I am making is that those Acts of Parliament that cover the sort of issues that have been raised by members during the course of this debate, that is, compliance with health regulations, with Building Act regulations and with other regulatory pieces of legislation, are covered by this lease. The lessee is obliged to comply with the provisions of those pieces of legislation. Through this Bill, the Government is trying to achieve coverage of those pieces of legislation which include prohibitive acts.

We have named those pieces of legislation where we have noticed that litigation will occur, if at all possible. There may be other pieces of legislation that the Government has not thought about, that it has not been able to predict, so we want to ensure that those, too, are covered. However, that is not to say that the Government will allow the developer of the Wilpena Station project to get away with anything that is not reasonable. We are not in the business of allowing a sensitive, extraordinarily important part of South Australia's environment and heritage to be run roughshod over by a developer. That is not our intention. We are attempting to attract a development which will assist us in providing proper management controls in a national park that is currently being degraded and overrun by the number of visitors and for whom we cannot provide adequately. I appeal to members to think seriously about the action they are about to take in voting on this clause because it is extraordinarily important that we protect the integrity of this legislation.

The Hon. K.T. GRIFFIN: The issue is complex but the clause to which the Minister referred provides that the lessee should comply with statutes and so on, but clause 9 says that the development can take place notwithstanding any other Act or law to the contrary. There is an inconsistency in that. Either one or the other applies. I suggest that it is arguable—although I put it on a more definite basis than that—that the provision in the lease to which the Minister just referred really means nothing when read in conjunction with clause 9 (1).

I will address a couple of other issues in relation to clause 9, particularly this issue of retrospectivity. I touched upon it in my second reading speech because it has been the source of a lot of controversy and debate. When the Bill first saw the light of day, clause 9 was numbered clause 7 and subclause (2) was in a different form. It triggered a view that the whole Bill was retrospective. In fact subclause (2) sought to provide that the Planning Act did not apply and would be deemed never to have applied to the lease. That was clearly retrospective. The difficulty was that it was not distinguished from other aspects of the Bill.

Subclause (2), as it was amended in the other place, moderates significantly the impact of the provision that was introduced into that place. It now states that, when the lease was executed, it was not a division of an allotment within the meaning of the Planning Act. That does not in any way prejudice the rights of third parties because that issue of whether or not the creation of the lease created a division of an allotment and thus brought the lease within the Planning Act was never an issue. It was an issue in the Supreme Court action which was forgone by the plaintiffs at a very early stage. As I understand it—and I have read the judgments of the Supreme Court but not the transcript of argument—it was not an issue in the Full Court, nor is it an issue in the appeal to the High Court. Whether or not this lease, when it was executed, created a division of an allotment, was not an issue.

Whilst this subclause may have some retrospective effect, it is minuscule and does not prejudice anyone's rights which have already been exercised, because the point has not been argued in the courts that it is a division of an allotment of land. The two provisions in subclause (1) and subclause (3) are not technically retrospective because they do not apply before the time when this Bill becomes an Act of Parliament and is assented to.

The Hon. M.J. Elliott: They are not technically, but are effectively.

The Hon. K.T. GRIFFIN: I will finish it. Just a minute. They are not technically retrospective. They have an effect, as I interpret it, that the appeal to the High Court can still continue, but if it does then there are two possible consequences. The first is that the High Court may say that now that the Planning Act no longer applies to the development from the date at which this Bill becomes law, if the High Court were to hear the case and make an order, the order would not affect the development. So, to that effect, the order is somewhat hollow. The second possible consequence is that the High Court will say that because this question of the Planning Act is no longer relevant to the development, it is not appropriate for the High Court to set aside time to hear that appeal. The effect, then, is to make the

plaintiffs consider whether or not, in those circumstances, they should continue with a view to endeavouring to establish a point of principle or whether they should cut their costs and withdraw at this stage.

So, I think it is important to recognise that technically it is not retrospective, but the practical effect is that the continuation or not of the High Court appeal will be qualified. I wanted to make that point clear because there has been a lot of discussion about this question of retrospectivity. I suggest that only in a minor respect is it, in fact, retrospective and, in those circumstances, no rights in relation to a division of an allotment of land are varied or overridden by the Bill, because they have not been argued in any of the proceedings so far.

But, referring to the first subclause, I can understand the Government's wish to impose a blanket indemnity in relation to other Acts or laws, but I must say that I do not think it very good legislation to do that. I think that one must consider the impact of the legislation, partly because of the unintended consequences that might flow from something which may not have been thought through. In fact, I must say that I am somewhat surprised that, in proposing this legislation, the Government has not considered what those other Acts or laws may be.

The Hon. M.J. ELLIOTT: I have one brief comment. I think that the effect of the law is more important to the people of South Australia than the technicality. I think the Hon. Mr Griffin has, in fact, conceded that the effect of this clause is to act retrospectively. That is the more important issue and not the technicalities. That is not a minor differentiation: it really goes to the heart of the matter. This is effectively retrospectivity and it cannot be dressed in any other way. That was the purpose of its drafting.

The Hon. BARBARA WIESE: I wish to make one further statement in relation to the points I have already made concerning this clause; that is, that it is important to remember that this lease agreement was signed in 1989, and the clause from which I read earlier, which bound the lessee to comply with statutes, ordinances and so on, was intended to apply to those pieces of legislation as they existed in the form in which they existed when the lease was signed.

So, it was always the intention that the lessee would comply with the provisions of the Building Act, the Health Act, the Occupational, Health, Safety and Welfare Act , the Native Vegetation Act, and all those other Acts that would be the subject of compliance. Even though Acts of Parliament are now named in this legislation, it is still the intention that the lessee will comply with the spirit of those pieces of legislation, despite the fact that the exemption is provided and named with respect to particular pieces of legislation.

The Committee divided on the amendment:

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

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

Majority of 3 for the Ayes.

Amendment thus carried.

The Committee divided on the clause as amended.

Ayes (19)—The Hons J.C. Burdett, T. Crothers, L.H. Davis, Peter Dunn, M.S. Feleppa, K.T. Griffin, J.C. Irwin, Diana Laidlaw, Anne Levy, R.I. Lucas, Bernice Pfitzner, Carolyn Pickles, R.J. Ritson, R.R. Roberts, T.G. Roberts, J.F. Stefani, C.J. Sumner, G. Weatherill and Barbara Wiese (teller).

Noes (2)—The Hons M.J. Elliott and I. Gilfillan.

Majority of 17 for the Ayes.

Clause as amended thus passed.

Clause 10—'Resumption of lands.'

The Hon. K.T. GRIFFIN: I have already raised some questions on an earlier clause about the area of land that is likely to be necessary for the purpose of the airport. Provisions in the clause allow for the resumption of land. Is the Government proposing to resume without negotiation or following negotiation with lessees? My question relates to the airport land but extends to the power line and the airport power line. Can the Minister indicate what mechanism the Government proposes to follow in relation to the resumption of land? What sort of compensation is in contemplation in respect of any land that might have to be resumed for the purposes of this clause?

The Hon. BARBARA WIESE: I want to make perfectly clear that both the airport land (the preferred site) and the lands that would be preferable for use for the power line are issues that have yet to undergo the environmental impact statement process, and it may well be that the preferred options as outlined to this date may change in some way or another as the result of the environmental impact assessment process.

However, should the EIS confirm the recommendations that have been made so far about the siting of the airport and the power line, it would be the Government's intention to negotiate with respective landowners or leaseholders, as the case may be, to determine what would be an appropriate way of resolving this question. That may be in some cases providing some form of financial compensation, but in other cases landholders may prefer to receive a piece of land in compensation for the land that is perhaps purchased by the Government.

These questions cannot be resolved until we know, first, what land is appropriate for these two developments and, secondly, until we have had satisfactory discussions with the individuals involved. I can certainly indicate that the Government intends to reach an amicable arrangement with the respective leaseholders and landholders, as the case may be, so that the interests of all parties can be satisfied.

The Hon. K.T. GRIFFIN: On the basis that land is resumed by the Crown for the purpose of the airport and powerlines, is it envisaged that a lease will be issued by the Government to the District Council of Hawker or will there be some other form of tenure for the airport land and the powerlines?

The Hon. BARBARA WIESE: It would be the intention with respect to the powerline that the Crown would sublease the appropriate land to the District Council of Hawker which would provide the power. In the case of the airport, the Crown would sublease the land to the proposed airport authority which would be constituted under the Local Government Act.

The Hon. K.T. GRIFFIN: Then the proposed airport authority would be a separate statutory body but would be under the control and direction of the District Council of Hawker?

The Hon. BARBARA WIESE: That is correct.

The Hon. K.T. GRIFFIN: Can the Minister also indicate, in relation to any resumption of land, whether it is the intention that compensation for such resumption will be payable by the Government or by some other body or agency and, if so, which?

The Hon. BARBARA WIESE: It would be the intention that the Government would provide whatever form of compensation is deemed appropriate. I can indicate that some provision has already been made for such action to be taken,

as I outlined in August this year when I made announcements concerning the Government's commitment to the powerline and airport facility.

Clause passed.

Clause 11—'Commonwealth legislation.'

The Hon. K.T. GRIFFIN: This clause provides:

An act or activity may not be undertaken pursuant to this Act in contravention of an Act or law of the Commonwealth.

Has the Government made any assessment of what Acts or laws of the Commonwealth may apply to any of the acts or activities referred to in this Bill?

The Hon. BARBARA WIESE: As far as I am aware, the Government has not made an assessment of what Commonwealth Acts may apply. As I understand it, this is a customary provision which is included in various pieces of legislation.

Clause passed.

Clause 12—'Preservation of rights under lease.'

The Hon. BARBARA WIESE: At this stage, I suggest that progress be reported and that the Committee have leave to sit again, as I understand that there are some issues currently under discussion which would be best facilitated by taking that course of action.

Progress reported; Committee to sit again.

ROAD TRAFFIC ACT AMENDMENT BILL (No. 3)

Second reading debate adjourned on 13 November. (Page 1737.)

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. DIANA LAIDLAW: I indicate first that I am very disappointed that, after the extensive contribution which I gave on behalf of the Liberal Party and which was supported by the Hon. Peter Dunn, the Minister has not had the courtesy that is normally extended in this place to sum up the second reading debate and to respond to the questions, concerns and proposed amendments that we have outlined in that debate. I find it of particular concern because the Minister on behalf of the Government should be aware that in dealing with this Bill the Minister in the other place indicated in respect of one of the two major provisions of this Bill (dealing with radar detectors and jammers) that he would be seeking further advice on this matter; that he would consider the matter further and advise the Legislative Council accordingly. I have had no such advice from the Minister personally. Certainly, no such additional advice was provided by the Minister during the second reading stage. There has been no response to our concerns and questions.

The Hon. ANNE LEVY: Amendments relating to this are on file and I presume that the matter will be discussed when we come to that amendment. I am certainly more than willing to do so at that time.

The Hon. DIANA LAIDLAW: I just expressed disappointment at the lack of the usual courtesies shown in this place. As the Minister would know, depending on the responses the Minister provides in summing up a second reading debate, we can curtail the Committee stage quite considerably, but if that is not what the Minister and the Government want, we will plough ahead. With respect to this clause, can the Minister advise the Government's planned date of operation of this Bill?

The Hon. ANNE LEVY: I understand that there is no reason why it cannot become operative on 1 January.

The Hon. DIANA LAIDLAW: I am pleased to receive that advice, as I understand it is hoped that in other States the legislation with respect to jammers and detectors will certainly become operational on that date and I was not sure what were the Government's plans in that regard.

Clause passed.

Clause 3—'Interpretation.'

The Hon. PETER DUNN: This clause defines a radar detector or jammer as being 'a device the sole or principal purpose of which is to detect when a traffic speed analyser is being used or to prevent the effective use of a traffic speed analyser'. What happens in the case of a dual purpose instrument? I can assure the Minister that such a device is not very difficult to make; it could be a radio and radar detector at the same time, or it could be a device used for some other purpose. Is that covered by this clause? The clause merely refers to 'sole purpose'.

The Hon. ANNE LEVY: The clause stipulates 'sole or principal purpose'.

The Hon. Peter Dunn: So, it is restricted to that?

The Hon. ANNE LEVY: The clause provides: 'a device the sole or principal purpose . . .' and it would seem to me that, if radar detectors or jammers were combined with a radio, the principal purpose could be taken as being to detect radars, as radios can exist quite separately from a radar detector.

The Hon. PETER DUNN: I beg to object there. There are radios that will pick up the frequencies that radars use; it can still be used as a radio and its principal purpose is probably to use the other end of the frequency scale, but it may have as an offshoot the purpose of picking up radar. If those are to be taken out of cars (and I do not know of any), I suspect that the effect of this legislation in the long term would be to cause those sort of instruments to be made.

The Hon. ANNE LEVY: I suggest that that bridge be crossed when we come to it. If there are no such devices at the moment, the matter can be looked at if and when they have been devised.

The Hon. DIANA LAIDLAW: I will just make a general comment, not necessarily in support of what I believe is the basis of the questioning by the Hon. Mr Dunn but to indicate to him and to the Parliament that, certainly since I have had responsibility as shadow Minister of Transport, the one thing I have learned in this field is how ingenious drivers and operators are. The newest trick they will get up to to break the law never ceases to surprise me. I have certainly learned with respect to radar detectors and jammers that, in the past few weeks since it was reported that this legislation would be introduced, these devices are now being installed in cassette players and like equipment in vehicles, and it would be interesting to see whether or not the Government would deem such a device in a cassette player to be covered by this legislation. The principal purpose of that unit would be that player itself, rather than the detector within the unit, and it will be interesting to see how the Government and those asked to apply this law will apply it. I am not saying I approve of the practice; in fact, there are many outlandish and outlawed practices in transport generally. I would warn the Minister that the benefit of the doubt is not something that one should always give in this transport field, and I do support the caution that the Hon. Mr Dunn expresses in this matter.

The Hon. ANNE LEVY: In response to that, I think I can say that the prohibition of the sale of such devices will mean that any detection and test case for the legislation would occur in the future at the point of sale, rather than at the point of use.

The Hon. Peter Dunn: That is not what the Bill says.

The Hon. ANNE LEVY: The Bill certainly prohibits the sale of such devices and if they were to be a test case it would operate at the point of sale, and I presume it would—

The Hon. Peter Dunn: It is an offence to own one.

The Hon. ANNE LEVY: The Bill provides that it is an offence to sell one. When such a device has been invented, it would have to be sold before it could be owned by a motorist.

The Hon. DIANA LAIDLAW: We are saying now that this would not be a new device that is being invented; people are manipulating electronic equipment already in their vehicles by inserting those devices where a cassette would normally be now, and so hiding them. So, they are not easy to detect; that is what we are saying. It is not a matter of a new machine being invented, at all.

The Hon. ANNE LEVY: My apologies. I thought Mr Dunn was talking about the invention of new contraptions.

The Hon. Diana Laidlaw: He is simply suggesting how inventive these people can be.

The Hon. ANNE LEVY: I now take it the honourable member is talking about concealing a radio jammer, or a radar detector, in such a way that the instrument itself will not be detected. However, I do not see that that is related to the definition of the device. That is surely related to the policing of the Act, as to whether it has been hidden in such a way that it is hard to detect. I see that as a very different problem from that of the definition.

Clause passed.

Clause 4—'Road closing and exemptions for road events.'

The Hon. DIANA LAIDLAW: I raised a number of matters during my second reading contribution that I did not necessarily want to raise all over again during the Committee stage. I had hoped that those matters would be responded to by the Minister, but we will have to start again.

The Hon. Anne Levy: I haven't been given anything.

The Hon. DIANA LAIDLAW: You may not have been given anything, but that does not mean that I do not have to ask my questions all over again. That is totally frustrating. It is a waste of *Hansard's* time. It is simply frustrating in terms of the processes of this place. The Liberal Party recognises that there is a need for changes to the road closing provisions of this Bill in respect to road events. Certainly, we note that the Grand Prix is exempt from this Act, but there are many other smaller events where there is currently no application to the Minister for roads to be closed or for exemptions from provisions of the Road Traffic Act and, therefore, people are technically breaching the law if they are participating in fun runs and the like.

There have also been considerable concerns about the safety of many of the participants, that concern having been expressed by local government, the police and the like. I have received considerable concerns, not only through members of Parliament but through councils, about the actual consultation arrangements with Local Government. It does indicate in subsection (2) that:

> An order to close a road . . . can only be made with the consent of every council within whose area a road intended to be closed by the order is situated.

In respect of the matters brought to my attention, councils have advised that they were given hardly any notice at all that an organisation is to hold an event on the next Saturday or Sunday. They get the notice from the Minister or from the police that they are seeking consent to close that road. They have no time to consult with local residents. They certainly have no time to discuss the matter in council and, because of the expectations of the people participating in the fun run, bicycle race or whatever, notwithstanding the fact that they have to consent to this road closure and look as though they are a willing participant in this closure, they virtually find that they are given no option at all in the matter. Certainly they do not have time to inform local residents that their roads will be closed for a certain period of a day or for certain days of a week for the conduct of that event.

As I understand that new section 33 has been developed in consultation with local government, has the Government given some undertaking to councils that there will be an improvement in such arrangements in future in terms of involvement of local councils in decisions on the closure of roads and in terms of the granting of council consent for the closure of those roads? As a resident of Lower North Adelaide, where we find our roads closed very regularly, particularly around the parklands, I wonder what arrangements will there be in future for consideration with local residents.

The Hon. ANNE LEVY: I understand that this whole section has been developed in close consultation with local government and that they are very happy with the provisions as set out in the Bill. I also understand that one of the aims of the Bill is to ensure that when any event is planned the organisers must consult with the police right from the initial planning time for an event, and that the police will, of course, make contact with the local council as soon as they are aware that an event is being planned. The actual consultation with residents is, of course, a matter for councils to undertake as they see fit. There is no obligation on them to do so, although I imagine, of course, that most councils will so consult. However, because councils will be drawn in right from the initial planning stage, there will be plenty of time for them to consult with local residents if they wish. Of course, the actual closing of the road is done by the council, not by anyone else.

The Hon. DIANA LAIDLAW: In the consultations between the Government and officers with local councils—if not local councils, at least the LGA—was consideration given to provision in this legislation to ensure that councils did consult or at least advise local residents that roads would be closed within their area in the coming week or that their specific road would be closed for a certain number of hours? As I indicated during my second reading speech, I have not drawn up an amendment on this matter, but I feel very strongly about it and would consider the option of recommitting this clause, depending on the Minister's answers. That is what I was waiting for in terms of the reply to the second reading debate.

The Hon. ANNE LEVY: As I understand it, the question of mandatory consultation was never raised in discussions with the LGA by either party. I would point out that the sections relating to closure of roads are in no way being changed. They are the same as currently apply. The new element is the planning of events. Because this will occur long before any event is held, there will be a much greater time span after the council is made aware of the event, so they who have to give approval for the closure will have adequate time to consult if they wish. The question of compulsion on consultation has not been raised. Since that aspect of the legislation is not being changed.

The Hon. DIANA LAIDLAW: I was not necessarily interested in consultation but in advice so that preparations could be made by the households affected when their road is closed. I am not sure whether the Minister has ever encountered this problem, but, as a resident of lower North Adelaide, I have found that the roads are closed on a number of occasions. I gave an example in my second reading speech that I have sought to leave my home to go

to appointments—and this has been the experience of other residents of North Adelaide—only to find that I could not get my car out. Because no advice has been given that the road is to be closed, people cannot meet their commitments. It seems to me that it would be an easy matter for councils to provide such advice. Has that matter been considered for inclusion in this Bill or just discounted as unnecessary?

The Hon. ANNE LEVY: That relates to the section of the Act that has not been changed. That question was not raised in discussions with the LGA. I can only suggest to people concerned that they take up the matter with their local council.

The Hon. PETER DUNN: In her explanation to the Hon. Diana Laidlaw's question, the Minister said that district councils will confer with the police. I find no compulsion in these clauses to that effect. Is that correct? Must councils consult with police and, if so, what happens in areas outside incorporated areas and where police are few and far between?

The Hon. ANNE LEVY: No, as I understand it, the legislation means that the police must inform the council. It is not a question of the council consulting with the police; the onus will be on the police to inform the council. In unincorporated areas, where there is no council, there is no-one to give approval for road closure because, under this legislation, only councils can give approval for closing.

The Hon. PETER DUNN: What is the result of that? Does that mean that roads outside incorporated areas cannot be closed?

The Hon. ANNE LEVY: In incorporated areas, the council will have power to close the road. In unincorporated areas, the Minister has that power.

Clause passed.

Clause 5 passed.

Clause 6—'Offence to own, sell, use or possess radar detector or jammer.'

The Hon. DIANA LAIDLAW: I move:

Page 2, lines 38 to 46—Leave out subsections (1), (2) and (3) and substitute new subsection as follows:

(1) A person must not—

(a) sell, offer for sale or use a radar detector or jammer, or

(b) drive a motor vehicle that contains a radar detector or jammer.

The Liberal Party considers this to be one of the two very important areas in which it will move amendments. Clause 6 deals with the issue of radar detectors or jammers. The Liberal Party endorses the decision made by Federal and State Transport Ministers at a meeting in March this year that attention should be given to the banning of the use, sale and offering for sale of these radar detectors and jammers. However, we take exception to the provision in this Bill that a person must not own a radar detector or jammer.

In respect of a radar jammer, we believe that the matter is essentially covered by an amendment some years ago to the Federal Radio Telecommunications Act. In respect of detectors, we note that some 40 000 South Australians own one of these devices, the principal purpose of which is to thwart the law to break the speed limit. Although that would be the contention of most people, those who have them argue that they are a safety device and important in terms of keeping people within the speed limit, so there is a diversity of views. While as a Party we do not approve the purchase and purpose of these radar detectors, the Liberal Party acknowledges that they were approved for sale in this country for a number of years and that the Government has not acted to ban those sales and has been quite happy to accept sales tax, import duties and a whole range of other duties on the sale of these objects. I was a passenger in a car in which such a device was used and, because I disapproved of its purpose, it was no longer used.

This Bill seeks to make it illegal to own these devices, and the Liberal Party finds that provision to be offensive and unnecessary. The Liberal Party does not object to the provision that in future they must not be sold, offered for sale or used, and we argue that the provision regarding possession should be amended to driving a motor vehicle that contains a radar detector or jammer, in the belief that the offence is caused when these devices are used within a motor vehicle. That is what the Bill should address. That is the purpose of the amendments I have moved.

The Liberal Party has also moved to delete reference to subclauses (2) and (3), which deal with the powers of police to enter and search any land or premises where a police officer has reasonable cause to suspect that an offence against this section has been committed or that there is a radar detector or jammer or any evidence of a commission of offence against this section. The Liberal Party has always supported enter and search provisions where there is a suspicion of a criminal offence. In such—

The Hon. R.J. Ritson: We don't want dawn raids with sledgehammers.

The Hon. DIANA LAIDLAW: That is absolutely right. That is a most appropriate interjection from the Hon. Dr Ritson. We are talking about a device—

The Hon. Anne Levy: It was out of order.

The Hon. DIANA LAIDLAW: It may be out of order, but it is appropriate, nevertheless. We are talking about devices which, when used within a car, constitute an offence, because it is only within a car that they can be used in order to disobey speed limits. That is what we are trying to stop because we all believe that speeding is a major cause of road accidents and deaths. That is where the offence occurs: on our roads. However, because this Government Bill provides that it is will be illegal to sell, offer for sale or use such a radar detector an inevitable consequence is that the police can now enter or search a home or any other premises and not just the car in which the offence is committed. One cannot break the law speeding when one is sitting in one's home. The offence can be committed only in the terms of these things in a car or motor vehicle.

The Liberal Party believes that it is absolutely inappropriate, in those circumstances, to have such Hitler-like or draconian measures where police can enter any premises or land and search for these devices. It is on that matter that the Minister of Transport in another place indicated that he would seek further advice, acknowledging the wisdom of the Liberal Party's arguments. It is on that matter that I hoped the Minister would report further in summing up the second reading debate. However, we have heard no further information but, perhaps, the Minister would care to respond at this time.

The Hon. ANNE LEVY: Yes, this is the appropriate time to indicate to the mover that the Government will accept the amendment, which will remove the offence of owning or possessing a radar detector or jammer and the power of a member of the Police Force, on the authority of a warrant issued by a justice, to enter and search any land or premises where he or she had reasonable cause to suspect that an offence against this section had been committed or that there was a radar detector or jammer on the premises.

Initially the Bill was drafted making it an offence to own or possess these devices because the actual use of a radar detector is virtually impossible to detect, and the only reason that a person would have purchased such a device would be to enable them to use it so that they could thwart the law with a very reduced risk of being apprehended.

The main purpose of providing the power to a police officer to enter and search premises related to commercial situations where there was reasonable cause to suspect that radar detectors or jammers were being held for under-the-counter sales. However, as the Hon. Miss Laidlaw's amendment will still prohibit the sale or offering for sale and the use of a radar detector or jammer and, additionally, make it an offence to drive a motor vehicle that contains a radar detector or jammer, the fact that it will be illegal to have such an instrument in a motor vehicle, whether or not it is being used, will still fulfil the purpose for which the clause was designed. The Government is therefore happy to accept the amendment.

The Hon. PETER DUNN: I congratulate the Government on using some wisdom in accepting a partial deterrent and taking away the absolutely draconian effects that this Bill had in its initial drafting. However, I must ask: where do we finish up with this? Will the Government legislate to stop people flashing their lights at one another? Is the Government going to legislate to stop people from using CB radios? Will it legislate to stop taxi drivers telling one another that there is a radar point on the road? Where is the Government going to stop with this nonsense? It is absolutely ridiculous even to introduce it.

I find it very difficult to understand the logic of any of this; I really do. There is no other reason for this than its being a fund raiser for the Government. That is all it is. It is nothing to do with controlling speed: it is a revenue raising measure for the Government. I will not be convinced otherwise until the Government legislates to stop people signalling one another to indicate that there is a radar unit down the road. We do the same with amphometers, but it slows people down: if the police are out there in force people will see them and they will slow down. The situation at the moment is that the police hide behind trees.

I put a question on notice two months ago asking about radar between Gepps Cross and Technology Park. I still have not received a response to that question—no answer at all. I suspect that the reason for that is that the Government is making a lot of money while not answering my question. I find the whole thing ridiculous. The whole issue of banning dinkie toys like radar detectors is ridiculous. What next!

The Hon. ANNE LEVY: In response to the honourable member's specific question, as opposed to his rhetoric, no such measures are contemplated by the Government.

The Hon. I. GILFILLAN: I have been taken somewhat unawares by the Government support of the amendment. I appreciate that the amendment has dealt with, in part, a concern of mine; that is, the right of the police to enter and search any land or premises. Although I was not able to brief Parliamentary Counsel, to their credit they have somewhat hastily drafted an amendment which I intended to move to clause 6, page 2, lines 42 to 44, and which states:

> Leave out all words in these lines an insert:
>
> 'suspect that a radar detector or jammer is being offered for sale.'

My opinion was that there were good grounds for the police to be able to enter and search premises where they suspected that these devices were being marketed, but not where it was purely a suspicion that such a device was privately owned on the premises. I thought that that was an excessive power. Maybe the Minister can reassure me that I understand her correctly to say that the Government will support the amendment moved by the Hon. Diana Laidlaw, which leaves out subsections (1), (2) and (3) and substitutes a new subsection as follows:

> (1) A person must not—
>
> *(a)* sell, offer for sale or use a radar detector or jammer; or
>
> *(b)* drive a motor vehicle that contains a radar detector or jammer.

This virtually deletes any police powers for enter and search.

The Hon. ANNE LEVY: That is correct.

The Hon. I. GILFILLAN: I move:

> Page 2, lines 42 to 44—Leave out all words in these lines an insert 'suspect that a radar detector or jammer is being offered for sale'.

I believe on balance that it is reasonable for the police to have the power to search and enter premises suspected to be involved in trafficking and trading in these devices. Although the earlier draft of the Bill was excessive, the Government did not have to go to the extent of removing completely police powers of search and enter.

The Hon. ANNE LEVY: I seek advice, Mr Acting Chairman. The Hon. Ms Laidlaw's amendment leaves out subsections (1), (2) and (3) and replaces them with something else. The Hon. Mr Gilfillan's amendment should perhaps be an amendment to the Hon. Ms Laidlaw's amendment to add a subsection (2). Otherwise, the amendments are contradictory, with one amendment removing something and the Hon. Mr Gilfillan's amendment changing something that the other amendment removes.

The proposal advanced by the Hon. Mr Gilfillan is viewed as reasonable by the Government. As I said earlier, the main purpose for which subsection (2) had been inserted related to commercial situations, where it was suspected that these devices might be for sale. The power to search in those circumstances would certainly not be opposed by the Government.

The Hon. I. GILFILLAN: If the Minister looks at how the amendment is drafted, it is reasonable to accept it and oppose the Opposition's amendment if one is willing to accept that 'possess a radar detector or jammer' will still remain as an offence. That is the position that the Democrats hold. It is difficult to distinguish between use and possession, because these devices are readily removable from vehicles. We have no complaint with clause 6, other than the power in new subsection (2), which enables the police to enter and search on the reasonable suspicion that one of these units is in place. New subsection (3) is also reasonable, because it does emphasise that there cannot be willy-nilly entering and searching of any property: a warrant needs to be taken out and information must be given on oath.

If that information is given, that it is suspected that there is trading, new subsection (6) becomes a reasonable provision to remain in the Bill, whereas the Liberal amendment does remove any power of enter and search and also removes as an offence the possession of these devices. The Democrats are not willing to support either of these matters.

The Hon. ANNE LEVY: The Government was happy to have possession removed from the legislation on the basis that some people have obtained these devices legally and retrospectively they should not be turned into offenders because they bought something quite legally and now possess it and, through the passing of legislation, would be turned into offenders. However, while the amendment moved by the Hon. Ms Laidlaw leaves out the word 'possession', it makes it an offence specifically to drive a vehicle that contains such an device. Whether or not the device is being used, or whether or not it is turned on, it is an offence to have one in a moving vehicle.

It is believed that that is the appropriate way of ensuring that these devices are not used to beat speed traps and that people who now possess such a device will not offend if they do not throw them in the rubbish bin. However, they will not be able to have them in their vehicles when driving their cars, whether or not they are turned on. It is felt that that is a reasonable approach.

I must admit that I am attracted to the modified form of new subclause (2), which the Hon. Mr Gilfillan is suggesting, on the basis that it will enable searching of commercial premises for illegal goods being held for sale. I appreciate the point, but I would require advice from the Chair as to how we go about this—whether one is an amendment to the other or in what way it is possible to incorporate the best features of both amendments.

The Hon. DIANA LAIDLAW: With respect to enter and search provisions, can the Minister provide other instances where the Government has seen fit in legislation to provide for such draconian and excessive powers suitable for criminal offences where a product is banned?

The Hon. Peter Dunn: It's legal now.

The Hon. DIANA LAIDLAW: Legal now but banned in future for sale, offering for sale or using. Why are any such enter and search powers seen as appropriate in such instances?

The Hon. K.T. GRIFFIN: If it is an offence, under the Hon. Diana Laidlaw's amendment, to sell, offer for sale or use a radar detector or jammer. In that context a warrant is not required to enter premises and search. The act of sale is something which stands alone, and obtaining a search warrant to enter someone's premises, even commercial premises, will not establish the offence of sale because they may just be there. If, say, a plain-clothes police officer enters a shop and says, 'I hear you have got some radar detectors; can you sell me one?' and the person says, 'Come out into the back room and I'll show you what I've got,' and then there is a sale—of course, it is entrapment but it is perfectly legal—you then have the necessary ingredients to establish the offence of selling. You also have the same in the area of offering for sale. It would be pretty obvious when you enter a commercial premises, whether it be an electronics firm or automotive electronics distributor, that if they are on the shelves they would be offering them for sale, but if they are in someone's back storeroom—

The Hon. Anne Levy: Or under the counter?

The Hon. K.T. GRIFFIN: The evidence would be fairly strong just because of the fact that they are on display that they are offering them for sale.

The Hon. Anne Levy: What about under the counter—they are not on display.

The Hon. K.T. GRIFFIN: They may not then be offered for sale.

The Hon. Anne Levy: Why would they be there?

The Hon. K.T. GRIFFIN: Just by obtaining a search warrant and searching you cannot establish that the fact that they are under the counter is an offer for sale. One obtains a search warrant and goes through the shop and finds these things under the counter. That may not necessarily be sufficient evidence to establish that they are being offered for sale. As far as using a radar detector is concerned, you do not need a search warrant to determine whether or not a person is using a radar detector or jammer.

With respect to the other offence of driving a motor vehicle that contains a radar detector or jammer, as the honourable Minister said, if a car travelling along the road has one in its boot or glove box and is pulled up at the fruit-fly road block at, say, Ceduna or Renmark and when looking for fruit they find a radar detector, then that establishes an offence. With respect, I would suggest that for none of the offences being created by the amendment is a search warrant needed. I agree with the Minister's perception of the removal of the word 'possession' because I think it is draconian. You may have a radar detector in your home which you bought maybe three, four or five years ago, but you immediately become a criminal and are committing that offence. I suggest that that would be the situation where, if you are creating that offence, you need the search warrant—or you could argue for a search warrant; I would not necessarily concede that you need it.

Notwithstanding the exchange that has occurred between the Minister and the Hon. Mr Gilfillan, I would ask the Minister to rethink her position, particularly because, in accepting the amendment, I do not see that it justifies the rejection of the amendment to delete the reference to search warrants.

The Hon. Anne Levy: I am sorry, you have confused me.

The Hon. K.T. GRIFFIN: Let me just repeat it; it was a bit convoluted. The acceptance of the first amendment to proposed subsection (1) does not create an offence for which a search warrant is necessary. Therefore, I ask the Minister to reconsider the exchange which occurred earlier in relation to perhaps her perception of the desirability for a search warrant.

The Hon. PETER DUNN: The argument put forward by the Hon. Mr Griffin is quite clear. We have eliminated the word 'possess'. If it is not illegal to possess one, why would you want to break into a building—a home or a factory—

The Hon. Anne Levy: Or a shop with a whole range of them.

The Hon. PETER DUNN: But it is not illegal to possess them. The Minister has agreed to that. If it is not illegal to possess a radar detector—it might be old stock, and we have agreed that it becomes retrospective—I would have thought there is no necessity for the inclusion of proposed subsections (2) and (3) if it is not illegal. What can be done about it when you get in there? The amendment of the Hon. Diana Laidlaw is quite sufficient. If I had my way, I would eliminate section 53a, but I have not got my way, which is normal in this place.

The ACTING CHAIRMAN (Hon. R.R. Roberts): And you have not moved an amendment.

The Hon. PETER DUNN: I could do as the Hon. Mr Gilfillan did—include an amendment two minutes after we got into the middle of the debate.

The Hon. ANNE LEVY: I am happy to admit that the logic of the Hon. Mr Griffin has convinced me that, to attempt a mishmash of the two amendments would not be very logical. Consequently, I will continue to support the amendment moved by the Hon. Ms Laidlaw.

The Hon. DIANA LAIDLAW: I thank the Minister. I do believe that the legislation will be improved. I appreciate the Hon. Mr Griffin's contribution in helping to sort out some of these issues.

The Hon. I. Gilfillan's amendment negatived; the Hon. Diana Laidlaw's amendment carried; clause as amended passed.

Clauses 7 to 10 passed.

Clause 11—'Provisions applying where certain offences are detected by photographic detection devices.'

The Hon. DIANA LAIDLAW: I move:

Page 5—

Line 21—Leave out 'and'.

After line 22—Insert new paragraphs as follows:

(d) by striking out paragraph *(a)* of subsection (5) and substituting the following paragraph:

(a) a statement that a copy of the photographic evidence on which the allegation is based—

(i) will, on written appplication to the Commissioner of Police by the person to whom the traffic infringement notice or summons is issued, be sent by post to the address nominated in that application or (in the absence of such a nomination) to the address of the registered owner;

and

(ii) may be veiwed on application to the Commissinner of Police:

(e) by striking out from subsection (6) 'stating that a copy of the photographic evidence may be viewed on application to the Commissioner of Police' and substituting the following:

stating that a copy of the photographic evidence—

(a) will, on written application to the Commissioner of Police by the person to whom the traffic infringement notice or summons is issued, be sent by post to the address nominated in that application or (in the absence of such a nomination) to the address of the registered owner;

and

(b) may be viewed on application to the Commissioner of Police.;

(f) by inserting after subsection (9) the following subsection:

(9a) A photographic detection device may, for the purpose of obtaining evidence of the commission of a prescribed offence, be programmed, positioned, aimed and operated so that a photograph is taken of a vehicle—

(a) in the case of an offence against section 75 (1)—from the rear of the vehicle;

or

(b) in the case of a prescribed offence other than an offence against section 75 (1)—from either the front or the rear of the vehicle.;

(g) by inserting in subparagraph (ii) of paragraph *(a)* of subsection (10) 'this act and' after 'the requirements of';

and

(h) by inserting in subparagaph (ii) of parargaph *(b)* of subsection (10) 'this Act and' after 'that the requirements of'.

This clause is the other major provision of this Bill as far as the Liberal Party is concerned. Members will appreciate that since about 1 July 1988 we have had red light cameras in terms of photographic equipment to deal with speeding offenders and, in more recent times, we have been using two speed detection cameras on a trial basis. With the introduction of photographic detection devices, owner onus provisions were introduced into this legislation so that we have had the opportunity to test and become experienced with these provisions over some two years.

In its wisdom, the Government has seen the need to change these provisions and the Liberal Party accepts those changes. In respect of the definition of registered owner', the Bill seeks to widen that definition now to include a person to whom ownership of a vehicle has been transferred or who is not yet registered or recorded as the owner and to include any other person who is in possession of a vehicle by virtue of hire or bailment of that vehicle. We believe that these amendments will overcome a number of hitches and frustrations that have been experienced with the legislation to date.

We also support some of the Government's initiatives to correct some of the anomalies in the current owner onus provisions as they relate to a registered owner who is a natural person or a body corporate. Currently, for instance, where the registered owner is a natural person, the person is not required to name the driver, and a statutory declaration to that effect is all that is required in practice, to ensure the owner is not liable. That is not the case with respect to a body corporate and the Government will propose changes, which the Liberal Party supports in that regard.

Because of those changes, particularly those relating to an owner who is a natural person, the Liberal Party proposes two amendments. The first is with respect to a person's ability to obtain photographic evidence, taken from a red light camera or speed camera, of the allegation that they have been speeding. The current situation is that, upon receipt of an expiation notice, generally with a very heavy fine, a person who is concerned about that may go to Holden Hill Police Station and look at the evidence there to see proof of whether it was their vehicle and, potentially, whether or not they were driving.

Certainly, many complaints have been delivered to my office and certainly, other members have received similar complaints from elderly people, people employed in small business, people employed generally and people from the country who cannot get to Holden Hill Police Station to look at that evidence and, therefore, to note in a statutory declaration whether or not they were driving.

The Liberal Party believes that, in these circumstances where the Parliament has agreed to reverse the onus of proof and say that someone is guilty unless they can prove themselves innocent and where the Government is obtaining a great deal of revenue from such measures, we should at the very least provide alleged offenders with the opportunity to seek in writing from the Commissioner of Police a copy of that photographic evidence so that they may make their judgment about how they will respond to the expiation notice.

My second amendment (to page 5, line 21) relates to the photographing of the alleged offence. The current practice, the result of a policy decision within the police ranks, is that the photograph can be taken only of the rear of the vehicle. That is certainly appropriate for red light cameras, and the Liberal Party has noted that fact in its amendment, in seeking to insert a new subsection after subsection (9). However, we believe that, with respect to speed cameras on the open roads, the police should receive a message from this Parliament, and the public generally, that we believe that if, in seeking to catch offenders, the police believe it is best that they photograph a vehicle from the front or from the rear, they have the opportunity to do so.

That is certainly the case in Victoria, where, by the end of this year, some 56 speed cameras will be in operation. That certainly was the initial practice in the use of speed cameras in this State, but some high-ranking person in this State took offence because of the presence of the person who was accompanying them in the car at the time of being photographed and so, since that time, the police have decided as a matter of policy to photograph just the rear of the vehicle.

What I have learned from the police, further to my advice to the Minister earlier in terms of what seems to make people outlaws when they get behind the wheel of a car, is that now, because they know it will be from the rear of the vehicle, people are putting on tow bars so that the camera cannot focus on that number plate and the police cannot

get a clear reading, or they are moving the number plates from the front of their vehicle to the back because the front number plate generally gets the most dented as a result of being hit by stones and the like. They are moving that number plate to the back of the vehicle in the knowledge that the police in this State will only photograph from the back and, therefore, they can blur or distort the image of the photograph and the police have less evidence in terms of lodging an expiation notice.

So, I believe there are a number of reasons why it is important, first, to provide that people have a right at least to seek a photograph of the offence they are alleged to have committed and, secondly, that the police should be aware that this Parliament is prepared to accept that, if they see fit to photograph vehicles from the front or the rear, they should proceed in that manner. I hope the Committee will support the amendment.

The Hon. ANNE LEVY: The Government opposes this amendment. As the Hon. Ms Laidlaw said, her amendment deals with two quite separate issues. The first relates to the viewing of the photographic evidence on the part of an alleged offender; the second issue concerns the actual operation of the photographic detection devices. Basically, the opposition by the Government to this amendment is that it is totally unnecessary on both counts. The first part of the amendment relates to the viewing of photographic evidence. The photograph taken by the device is available now. The current situation has created very little dissent, so there is no reason to alter it. It is not unreasonable to say there is always the question of cost and resources. Obviously, the costs would rise considerably if photographs had to be supplied, as a right, to every person who infringes the rules.

The Hon. Diana Laidlaw: A request.

The Hon. ANNE LEVY: It would soon become known and there would be a considerable number of requests to receive the photograph. In my experience, when people who have been caught by one of these photographic devices receive the notice and the notice indicates at what location, what date and what time they were found speeding, in every case they have said, 'Yes, I was at that place on that date at about that time, so I am prepared to say that I did jump the gun,' or what have you. Consequently, there has been very little dissent with the current situation and it would seem unreasonable to set up a situation where, at vast expense, large numbers of photographs will be sent to people, when most are perfectly happy with the current situation. For those who doubt the veracity of the camera, it is possible for them to go and see the photograph. It is not that the photograph is being withheld.

The Hon. Diana Laidlaw: If they can get there from the country, or if they are working nine to five.

The Hon. ANNE LEVY: It is not impossible. Police stations are open more than nine to five. As I say, there has not been a great cry for the production of these photographs or complaint about the current situation where they are available for viewing if people wish to query the notice sent to them.

Regarding the second part of the amendment, dealing with the operation of photographic detection devices, the Government takes the view that this is quite unnecessary. The present Act does not specify the direction from which a photograph can be taken, so it does not limit the ability to take a photograph from any direction. However, it is practical to take a photograph only from the rear of the vehicle in relation to section 75 (1) offences, that is offences caused by disobeying the red traffic light. The only practical thing to do is to take the rear view. In the case of other prescribed offences, while it is possible to take photographs from the front or rear of the vehicle, inserting this amendment certainly would not result in any changes in operational procedures. So the amendment is quite unnecessary. The honourable member, in moving the amendment, mentioned front number plates becoming more damaged than back number plates and people swapping them over and so on to avoid detection. In response, I can only say that currently our legislation provides that it is an offence to have a number plate which is not clearly visible, either from the front or from the back. It is an offence to have a number plate which is not readable, be it from stones or paint or any other cause. Certainly, in terms of disobeying red lights, photographs will always be taken from the rear, because that is the only practical way in which it can be done. In summary, it is felt that both parts of the amendment are quite unnecessary.

The Hon. I. GILFILLAN: I think the amendments are useful and constructive contributions to the Bill. In particular, the argument that it is unnecessary to make a photograph available on written application to the Commissioner is quite indifferent to the situation that a large proportion of those who want to see verification of the evidence would find it very difficult to go to Holden Hill. I think they are sensible amendments. There will still be a big proportion of people who know it has been a fair cop and take it sweet; they will not be fussed about having a photograph. So I think that first amendment stands as a significant improvement to the Bill, considering the people who may find it very difficult and have some doubt about the accuracy and detail of the offence. Regarding the second amendment, in relation to the position when photographing, the Minister may well be right, that it is currently an option, but to make sure that it does stand in the legislation, I believe that the wording of the amendment is clear and helpful and I intend to support it.

The Hon. ANNE LEVY: I point out to the Hon. Mr Gilfillan that I understand that the requirement for photographing from the rear is currently in the regulations and, if it is felt that there should be a change, it should be made to the regulations rather than to the legislation in this way, which does not achieve anything. I am also informed that the reason why the photographic evidence is available only at Holden Hill is because there has never been any request to make photographs available anywhere else. It would be very easy to make them available at any police station anywhere in the State if such a request were made, but it has never been made.

The Hon. DIANA LAIDLAW: I find the last comment by the Minister extraordinary, but I do not blame her for making it because she is clearly acting on advice. As I indicated earlier, a number of people have rung me, including country people, an older woman and a number of small business people who simply could not get from the southern suburbs, down Seaford way, to Holden Hill to view the photographs. It is unreasonable to assume that they should come to town.

The Hon. Anne Levy: Have they written complaining or asking that they be somewhere else?

The Hon. DIANA LAIDLAW: They have said that they cannot get there and that no offer has been made to send the photographs to the local police station or to them. They have just been told that they are required to come to Holden Hill. They would not have bothered to make contact with me as a representative of the Opposition if they were not unhappy with the service that they have been given. As the Minister knows, we generally hear only from people who are unhappy.

The Hon. I. Gilfillan interjecting:

The Hon. DIANA LAIDLAW: That is another point. I cannot introduce regulations to provide for these cameras to be set so that they take photographs away from a vehicle, toward a vehicle or in both directions. I only have the capacity to seek to amend the Bill. Therefore, I believe it is important that this matter be addressed in the Bill because I have had no indication that the Government will address it in regulations. It is important that we maintain this provision in the legislation and support the amendments.

Amendments carried; clause as amended passed.

Clause 12 passed.

Clause 13—'Regulations.'

The Hon. DIANA LAIDLAW: I move:

Page 5, lines 35 to 37—Leave out all words in these lines and insert—

Section 176 of the principal Act is amended by striking out paragraph *(p)* of subsection (1) and substituting the following paragraph:

(p) prescribing and providing for the payment of fees in respect of specified matters, including fees for the inspection of vehicles for the purposes of this or any other Act—

(i) by any department of the Public Service of the State;

or

(ii) by a person authorised to inspect vehicles by any Act;.

This amendment and this provision appear quite innocuous. It deals with regulations, providing:

Section 176 of the principal Act is amended by inserting in paragraph *(p)* of subsection (1), ', including fees for the inspection of vehicles by any department of the Public Service of the State for the purposes of this or any other Act'. . .

Essentially, it provides for fees to be charged for the inspection of vehicles. In isolation, it does not make much sense, but it does make sense when it is considered in relation to a Bill to amend the Motor Vehicles Act which is currently before another place. That Bill considers the compulsory inspection of vehicles for re-registration purposes, particularly in the first instance where these vehicles have come from interstate and are of seven years of age and older. That Bill proposes that these vehicles should all be inspected before re-registration.

Related to that Bill is this provision to amend regulations so that fees can be charged for the inspection of vehicles. The Liberal Party believes that fees should be charged but we do not believe that such inspections and fees for such inspections should be confined only to inspections undertaken by a department of the Public Service of this State. That is the case in all other States, and I am most aware of the situation in New South Wales where authorised agents conduct inspections of vehicles for the Registrar of Motor Vehicles. They are authorised for that purpose and they can charge fees set by the Registrar. This means that there is not a huge backlog or waiting time at a central Government-run depot such as the Vehicle Inspection Unit at Regency Park.

It would help people in country areas, if they must have their vehicle inspected for the purposes of re-registration, that those inspections be conducted by an authorised agent in that area and fees charged for that purpose. As I said, in isolation the amendment looks pretty irrelevant but, when connected to a major Bill before the other House, it is important. By allowing authorised agents to conduct inspections and charge fees for undertaking that work, we will not be creating a monopoly for the Public Service.

The Hon. ANNE LEVY: The Government opposes this amendment for a number of reasons. First, the Road Traffic Act is concerned about road safety. Although the Hon. Ms Laidlaw is talking about authorised people carrying out inspections, what she is really talking about is the private sector inspecting vehicles. Because it is concerned with road safety, the Government has no plans to change the situation to allow for any safety related vehicle inspections to be undertaken by the private sector.

I am informed that country people face a waiting time of a maximum of three days for a Government inspector to inspect any vehicle. There is no problem getting an inspection for people who are not close to Regency Park. The main point is the safety of vehicles. The Government accepts that it has a responsibility to see that vehicles on the road are safe. In that respect, the Government will not entertain any ideas of letting the private sector have a part in certifying the safety of vehicles when it is the Government's responsibility to see that those vehicles are safe.

The Hon. Diana Laidlaw: I would have thought that it was an individual's responsibility to see that vehicles are safe.

The Hon. ANNE LEVY: You don't need to interject.

The Hon. Peter Dunn: She doesn't need to but she feels compelled to.

The CHAIRMAN: Order!

The Hon. ANNE LEVY: Furthermore, I feel that, with regard to this amendment, even it were carried, the clause would allow for the setting of fees for inspections carried out by the private sector, but it would not give power for inspections to be carried out by the private sector.

So, we would have a situation where there was no power for inspections to be carried out by the private sector and a clause in the Bill that provided for fees to be set for something for which there was no power. That is perhaps a legal quibble, but I think those with a legal turn of mind would appreciate the absurdity of the situation. However, I reiterate: the main point is that it is the Government's responsibility to ensure through inspections that vehicles are safe on the roads. This is done not just for the safety of people who may own and drive a vehicle but for the safety of everyone else on the road. The Government is not about to delegate that responsibility to anyone in the private sector.

The Hon. DIANA LAIDLAW: That is an extraordinary argument from the Minister when one considers that the Minister of Transport himself has indicated that the Government will not insist on compulsory inspection of all vehicles. Certainly, the extension of the Minister's argument is that there should be compulsory inspections of all vehicles on an annual or periodical basis of reregistration. That is certainly not the Government's policy, and I would never support the Government's having the responsibility to ensure that people maintained their car.

Certainly there is an oversight, but we must ensure that people are more responsible. If they are going to drive a car, be licensed to drive a car or if they own a car, surely we should make them responsible for the maintenance of that car. It is not a Government responsibility. To suggest that Governments alone can undertake that job, when we see so many people having faith in the RAA in this State, joining up and paying membership fees, is ludicrous.

The Minister would not even enable the RAA to be an authorised agent to conduct inspections of vehicles for roadworthiness. It is an absolutely ludicrous argument, and heaven knows how much it will cost to send a person to a country area on a one-off basis to inspect a vehicle. That is before we have the introduction of the amendments arising from the Motor Vehicles Act, where some 14 000 vehicles—on the latest figures—will be inspected on an annual basis. I do not know how many people will be running around the country and at what expense when we are currently sacking teachers because we cannot afford

them. I cannot understand why the Government cannot enable the RAA, at least, to be an authorised agent, along with country dealers and the like, so that they can exercise that responsibility.

In relation to the legal quibble: I accept that. If there is provision in the Act for authorised agents to conduct these inspections and, therefore, charge fees, I believe that we can achieve that. New South Wales and all other States have inspections of such vehicles—we are the only State that does not—and they all have provision for authorising agents. I believe we could easily seek such amendments in this Act.

The Hon. ANNE LEVY: Currently in the Motor Vehicles Act, the Registrar has the power to refuse to register a vehicle if he thinks that vehicle is unroadworthy. However, he does not have the power at present to order an inspection to determine whether or not that vehicle is unroadworthy. The Motor Vehicles Act Amendment Bill will establish that power to ask for inspections, and it has been stated that these inspections will be applied to any vehicle from interstate that is more than seven years old.

The aim of this measure is to prevent the dumping of old cars in South Australia. However, I still indicate that the amendment moved by the Hon. Ms Laidlaw relates only to the power to charge fees for an inspection by an authorised person; it is not giving the power for an authorised person to carry out the inspection. I think the cart is very much before the horse, or it is granting a power to set a fee for something that cannot happen. To that extent, it is totally unnecessary.

The Hon. I. GILFILLAN: The Democrats oppose the amendment.

Amendment negatived; clause passed.

Title passed.

Bill read a third time and passed.

MOTOR VEHICLES ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 13 November. Page 1732.)

The Hon. ANNE LEVY (Minister of Local Government): In responding to some of the comments made and questions asked by the Hon. Ms Laidlaw in her second reading speech, I can indicate that the payment of motor vehicle registration renewals will be allowed at all Australia Post locations operating on the Electronic Counter Service (ECS) network. Australia Post will receive payment and issue a receipt to the client. The receipt will, in fact, be a permit issued pursuant to section 16 of the Motor Vehicles Act. The permit will be in a form determined by the Registrar, and the owner will be required to display the receipt as evidence that the vehicle is currently registered and insured until the registration certificate and label are prepared and forwarded to the owner by the Motor Registration Division.

Turning to the question of drivers' licences, the question of the validity of drivers' licences issued by Australia Post refers only to the temporary driver's licence, which is current for 14 days or until the plastic licence is received. The full driver's licence is issued by the Registrar of Motor Vehicles in accordance with the Motor Vehicles Act.

The proposal to appoint motor vehicle dealers to register vehicles they sell is being developed in consultation with the Motor Trade Association. Investigations to date suggest that initial approval should be restricted to new car dealers to process registrations of new vehicles that they are selling. It is proposed that dealers entering the scheme would be required to enter a formal contract and some form of bond arrangement to cover the cost of registration transactions that have been issued, should the dealer default. It is certainly agreed that care needs to be exercised in approving motor dealers to register cars they sell, and for this reason it is expected to commence by allowing the registration of new vehicles only.

Turning to another query raised by the honourable member, motor vehicle owners will be advised of the new services available through Australia Post by an insert with the registration renewal and a message on the outside of the envelope containing the registration renewal. In addition, Australia Post will actively advertise the availability of its services in order to attract as much business as possible to its offices.

Turning to the financial details relating to this, a commission rate of 95c per transaction will be paid to Australia Post. This commission has been negotiated by Treasury with Australia Post on the basis of a wide range of Government bills being paid through Australia Post offices. In this way the most competitive rate per transaction was negotiated.

As to another query, the motor registration renewal transaction is a high volume transaction: there are 1.4 million per annum. However, it is a simple transaction, requiring less than 5 per cent of motor registration counter resources. It is a minor part of the counter resources. It is expected that a small staff saving will occur but it could be 12 to 24 months before the impact can be accurately assessed. If staff savings do occur, they may result in either a direct saving or a reallocation of resources to permit further service upgrading in other areas.

Finally, there are presently no plans to close any motor registration office. Indeed, Cabinet has reversed the decision to close the Mitcham branch office, which is to be relocated.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. DIANA LAIDLAW: I thank the Minister for the diligence shown by her staff and the Minister of Transport's staff in answering the variety of questions that I posed yesterday about the implementation of the provisions in the Bill. I am pleased with both the speed with which the answers were provided and the detail provided. I have no further questions, and I have no amendments on file to the Bill. I am pleased to see this effort to improve services to clients. I applaud such initiatives and will watch their implementation with interest.

Clause passed.

Remaining clauses (3 to 6) and title passed.

Bill read a third time and passed.

STATUTE LAW REVISION BILL (No. 2)

Adjourned debate on second reading.

(Continued from 13 November. Page 1739.)

The Hon. J.C. BURDETT: I support the second reading of this Bill. Traditionally, there is in these Bills no change in the substantive law but simply amendments of a clerical, drafting or similar nature. The Minister stated in the second reading explanation that the Bill contains sundry minor amendments to the Correctional Services Act and the Legal Practitioners Act in order to correct several small errors of a drafting or of a clerical nature. That appears to be correct.

The Bill also contains amendments arising out of the revision of the Wills Act. It is said (and I find this rather amusing) that it is carried out for the purposes of rendering its language gender neutral and for generally bringing it a little more into line with modern expression. As to the suggestion that the Bill renders its language gender neutral, there are numerous amendments in the schedule which delete 'he' and insert 'testator'.

In my view, that is not gender neutral. It should read 'testator or testatrix'. 'He' has been deleted and 'testator' has been inserted, and it is said that that makes it gender neutral. It does not make it gender neutral. It does amuse me very much. Recently in this Council we referred the Adelaide Children's Hospital Bill to a select committee, and the select committee recommended various amendments, and one of the amendments used the words, 'testator or testatrix'. So, you have to be sensible and consistent with the drafting, which the Government has not been. 'Testator' is not gender neutral. As I say, with the Adelaide Children's Hospital Bill an amendment was expressly passed using the term 'testator or testatrix'. I do not find that the present wording makes a lot of sense.

The Hon. T.G. Roberts: My Latin is very gender neutral, though, John.

The Hon. J.C. BURDETT: I suppose it does not matter very much. There ought to be more consistency. In the last Statute Law Revision Bill that I spoke to, I likewise drew attention to a matter of an inconsistency in the drafting. With respect to the Strata Titles Act, that is said to be amended for the purpose of converting its penalties into divisional fines; and, generally speaking, that is correct. I have a question that the Minister can respond to either now or in Committee. The second reading explanation stated:

> As always, this Bill does not seek to make any substantive changes to the law contained in the four Acts in question.

However, clause 2 (2) in the Bill provides:

> The second schedule will be taken to have come into operation on 1 August 1990.

Retrospectivity is the buzz word at the moment, but I find it rather strange that, although the second reading explanation states that the Bill does not make any substantive changes to the law, it is necessary to make it retrospective and to come into operation on 1 August 1990. As there are no substantive changes made to the law, why is it necessary to make the Bill retrospective to come into operation on 1 August 1990? I hope that the Minister can give me an answer to this, either when he replies to the second reading debate or in the Committee stage. Generally speaking, the Bill does appear simply to make drafting, clerical and similar amendments, and I support the second reading.

The Hon. C.J. SUMNER (Attorney-General): To answer the Hon. Mr Burdett's question about the second schedule, dealing with the Legal Practitioners Act, that is made retrospective to 1 August 1990 because that is the date that the most recent amendments to the Legal Practitioners Act came into effect. If I recollect correctly, a technical problem existed in that legislation when it took effect. This Bill corrects that minor problem. It was really a problem of a technical omission and this has been made retrospective to ensure that inspectors who have been acting pursuant to section 35 (1) *(a)* of the Legal Practitioners Act have in fact been doing so legally.

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

UNIVERSITY OF SOUTH AUSTRALIA BILL

Adjourned debate on second reading.

(Continued from 7 November Page 1589.)

The Hon. R.I. LUCAS (Leader of the Opposition): I support the second reading of this Bill and, in doing so indicate that, through this long period of discussion in South Australia, there has been a reasonable degree of bipartisan support in trying to ensure that the Bills we see before us this evening do, as much as is possible, ensure that we have an effective and efficient higher education system in South Australia. Whilst I have been very critical of the Hon. Mike Rann on other occasions on other issues, I must say that, in relation to the discussions on these two pieces of legislation, the University of South Australia Bill and its companion legislation, the Statutes Amendment and Repeal (Merger of Tertiary Institutions) Bill, the Minister has been very amicable and amenable to discussion and consultation in an effort, both on his part and certainly on my part on behalf of the Liberal Party, to try to ensure that we have as good a piece of legislation as is possible for the University of South Australia.

Certainly, I speak on behalf of the Liberal Party when I indicate that our attitude both to this Bill and to the companion Bill are motivated by a genuine desire to ensure that not only do we have good and established institutions, as we already do, with the University of Adelaide and Flinders University, but also that we have a good, effective institution in the new University of South Australia.

It is almost three years to the day since the Commonwealth Green Paper was released by Minister Dawkins in December 1987. In considering present legislation we need to look at a little of the history of the past three years dating from the Commonwealth Green Paper and through the State Green Paper and the State White Paper and the various discussion papers produced by the Office of Tertiary Education, to fully understand how we arrived at this point.

The Commonwealth Green Paper, released by Minister Dawkins in December 1987, argued very forcefully that there were many major problems and inadequacies with higher education in Australia. For example, at present we have very low participation rates in higher education in Australia and low production of graduates, compared with other advanced western countries. For example, Australia's participation rates in higher education are about 25 per cent lower than those in the United States of America and Canada. Australia's output of graduates in certain fields of study trails the United States and Canada by between 33 per cent and 45 per cent. The proportion of Australia's labour force qualified to degree level is about 40 per cent lower than that in Japan, United States and Canada.

Associated with this feature is the fact that in 1987 the demand for higher education process had outstripped supply by between 14 000 and 20 000 places and our percentage in Australia at that time was estimated by the Office of Tertiary Education as being of the order of 1 000 to 2 000 unmet demand places in higher education in South Australia. Significant equity concerns in higher education were identified by the Commonwealth Green Paper. At that time, whilst females represented just on 50 per cent of the total student population, they remained under-represented at postgraduate level and, in particular, in science and technology courses. Aboriginal students and those with lower socio economic backgrounds still remained under-represented. Associated with those concerns were questions relating to the most appropriate procedures and criteria for selection and entry.

Whilst talking about equity concerns as identified in the Commonwealth Green Paper, I would certainly add another segment of our community, namely, the country students. Certainly, all the research shows that the percentage of country students staying on to year 12 by way of year 12 retention rates, the percentage of students going on to higher education and the percentage of students graduating from our higher education institutions are amongst the lowest of all the groups in our community. I will address some comments to the effects of mergers—the Dawkins revolution—on country students in particular a little later.

Another identifiable problem was in relation to the whole subject of credit transfer. The system (in 1987 and certainly currently) provides few opportunities for credit transfer of courses undertaken by students between institutions and also between sectors of post secondary education. So, only in a few limited circumstances can students do, for example, an associate diploma in a college of technical and further education and be automatically accepted as a result of that diploma into a higher education institution somewhere else in South Australia. I know of some examples and some were given to me at the Regency College in relation to its engineering courses, but in many cases it is still very much subject to the whim or to the discretion, depending on which vantage point one takes, of the university faculties and schools as to whether or not the associate diploma in a particular area is to be recognised. Again, much more work is required in this area of credit transfer.

Other identifiable problems were in relation to the binary system of higher education, as it existed then, with the distinction between the universities and the colleges of advanced education. The binary system made much more difficult the efficient allocation of funding according to any objective examination of the actual strengths and weaknesses of individuals, departments and institutions. Another weakness identified was the question of course proliferation. Certainly, this issue was taken up very strongly by the Office of Tertiary Education in South Australia in its discussion Papers. The Commonwealth Green Paper argued that the current proliferation of institutions and the lack of coordination of courses meant an inefficient use of resources in some areas.

This leads on to the Commonwealth Green Paper's argument and the State Government's argument, through the Office of Tertiary Education, that, through rationalisation of course offerings, considerable savings could be made to the institutions and to the taxpayer, eventually. The Commonwealth Green Paper argued that, in the staffing area, the existing arrangements for the employment and remuneration of academic staff did not provide the flexibility required for the effective management and utilisation of staffing resources.

The Commonwealth Green Paper raised a whole series of other perceived problems and inadequacies with the system of higher education as it existed then and, certainly, spokespersons for the Liberal Party, both Federal and State, have agreed with a good number—not all—of those criticisms of our system of higher education identified by the Commonwealth Green Paper.

Certainly, it is not my point of view or that of the Liberal Party that our current shape, structure and operation of higher education in South Australia or in the nation is ideal. There certainly is agreement that much needs to be done to improve it; however, as I guess is the case with many identified problems, there are differing views as to the most appropriate way of solving them. The Commonwealth Green Paper's recommended course of action was to go down the path of a unified national system and educational profiles. It recommended that we have a unified national system of higher education institutions; that the old binary system, which highlighted the difference between the colleges and the universities, would disappear; that, in particular, the change would mean that the unique role of the universities in research as well as teaching would be unique no longer; and that universities would have to fight hard to retain their research funding levels.

Institutions were to be allowed the supposed choice not to change and to join the unified national system but, if they did, their level of Commonwealth funding would decrease as resources were moved from their then current base. So, in effect, it was no choice at all for institutions in relation to whether our not they could join the unified national system.

The Commonwealth Green Paper argued very strongly for educational profiles, that these profiles were to be developed by the institutions and were to describe the fields of study and research, proposed enrolment mix, the approach on equity issues and credit transfer, as well as other proposals. Then, on the basis of the profiles, the Government would negotiate a contract with the institution, specifying funding levels that the Government was prepared to offer in the light of the ability of the institution to meet the higher education needs of the community and the contribution to national priorities identified by the Commonwealth Government.

There indeed lay the nub of the problem of the response by the Hawke Government to the problems in higher education. Their response was to be a centralist, controlled response from Canberra, one in which the Commonwealth Government dictated to the universities and colleges, as they existed then, what priorities they ought to be following in relation to their teaching and research profile, and it was to be the Commonwealth Government that identified the national priorities, and institutions would have their funding restricted in some way if they were not to follow the agreed positions in the educational profiles.

The Commonwealth Green Paper made a whole series of other recommendations, that I will not pursue in detail now, in relation to funding, to staffing policies, to the number of graduates, and to the whole question of credit transfer, to which I referred earlier. I want to move now to the major aspect of the Commonwealth Green Paper that affects us here this evening, and that is in relation to the recommendations on the consolidation of institutions or, in fact, mergers. The Commonwealth Green Paper strongly supported the perceived benefits of larger institutions and therefore supported consolidation or rationalisation which might help achieve more larger institutions.

The paper argued that the benefits of larger institutions could be identified in three classifications. First, for students there would be a wider range of educational offerings and greater scope for transfer with maximum credit. There would be better facilities such as libraries, computing and student services. For staff, the perceived benefits of mergers were to be a wider range of courses, enhancing professional contacts, broader promotional opportunities and more flexibility in apportionment of teaching and research loads. In the end, for the institutions themselves, the alleged benefits were to be substantial efficiencies of scale, greater flexibility in responding to changed community demands and greater scope to develop effective research infrastructure.

Much of the debate about mergers in this State and in other States have centred, indeed, on whether these perceived benefits for students, for staff and for institutions will in fact eventuate. When we debate the companion Bill, certainly there will be long discussion when we talk about

the suggested review committee—for which the Liberal Party will be moving in that particular piece of legislation—about whether these alleged benefits for students, for staff and for institutions in mergers will in fact materialise, for the students, staff and institutions.

Certainly, there is little evidence nationally and in this State that there has been, in past mergers of higher education institutions, any evidence at all of substantial efficiencies of scale. I want to quote, from the *Australian* higher education supplement of 24 October 1990, an article by Professor David Penington and John Daley. Professor David Penington, as members would probably be aware, is the Vice Chancellor of Melbourne University, and Mr John Daley is a Melbourne graduate in science and law. Their article states that the Commonwealth Government Department of Employment, Education and Training is still citing the prospective plan from 1987 for the merger between the Institute of Health Sciences and La Trobe University, which predicted savings of $1.4 million a year. The article continues:

> Apparently, no-one in the department has bothered to ask La Trobe University, whose figures, we understand, show that the merger has already cost La Trobe $3 million rather than providing any saving.

We have some evidence in South Australia as well of the mergers instituted by a previous Liberal Government of 1979 to 1982 of the colleges of advanced education into the South Australian College of Advanced Education, as we know it today. Certainly, there is a deal of evidence which indicates that that particular merger did not achieve substantial efficiencies of scale and, indeed, many have argued to me that the cost of the new merged institution was an increase over the aggregate costs of the former five institutions.

The Commonwealth Green Paper, in arguing for mergers, went on to say that the last round of institutional amalgamations in the early 1980s achieved significant cost savings and students experienced a wide range of educational benefits. The paper stated that institutions should have a minimum student load of 2 000 equivalent full time student units (EFTSU) to be reasonably cost efficient and to have a comprehensive educational profile. Their student load should be at least 7 500 to 8 000 EFTSU. It then goes on to recommend that, if institutions want to become part of the unified national system, the following benchmarks are to be used: 5 000 EFTSU for an institution to have a broad teaching profile with some specialised research activity; 8 000 EFTSU for a relatively comprehensive involvement in teaching and with the resources to undertake research across a significant proportion of its profile. An institution with a current load below those benchmark levels would have needed to move toward them either by increasing intakes or by establishing formal arrangements with another appropriate institution.

One of the problems with the Commonwealth Green Paper was that it was arguing for a massive increase in graduates from 88 000 through to 125 000 by the turn of the century, without any contemplation at all of a significant increase in Government funding to higher education, and that in large part the increase in graduates was to be financed by these supposed efficiencies of scale that would be achieved by the merger of higher education institutions. The Commonwealth Green Paper went on to say that it would assist consolidations by contributing to early retirement or redundancy schemes of staff as well as giving priority and allocations of future captial funds to projects which might assist approved consolidations. That really was the setting for the debate that we have here this evening.

In 1987, the Commonwealth Green Paper argued that there were significant problems, that there was a need for mergers and changes, and suggested to all States that they must institute mergers post haste. Since that Commonwealth Green Paper, we have seen a State Green Paper, a State White Paper and three discussion papers by the Office of Tertiary Education arguing for significant change in our structure of higher education. We must look at those papers and we must consider the Commonwealth Green Paper. As I have been critical of much of the Dawkins juggernaut in higher education, I must also be frank and say that I gave some credit earlier to Minister Mike Rann in his handling of these two Bills, and the Dawkins juggernaut has some good aspects in relation to higher education change in Australia.

I refer to country outreach and to getting some of our universities off their backside, getting them to offer higher education courses to the Iron Triangle, an area in which the Hon. Ron Roberts has considerable interest, to the South-East, an area in which I have interest, and to the Riverland. There are many opportunities in those areas for our universities to offer university level courses, at least to first year status and perhaps second year status, through the TAFE colleges in those districts. It has been unacceptable—and it is a view I have made known to the University of Adelaide and to the Flinders University—that until this stage it has only been institutions such as the Warrnambool Institute of Technology that have been able to offer higher education courses to the students and young people of Mount Gambier, because Flinders University and the University of Adelaide refused even to contemplate country outreach courses.

In the Riverland, only interstate institutions have been prepared to offer through the Riverland TAFE college higher education courses to those students. I am pleased to say that, as a result of the Dawkins juggernaut and a new Vice-Chancellor at the Flinders University (Professor John Lovering), the first move has been made by Flinders University to offer higher education courses at the Port Pirie College of TAFE to service students in the Iron Triangle and country areas near Port Pirie. Some good has come from the Dawkins juggernaut and I want to be on the record in supporting those changes and in encouraging the University of Adelaide, Flinders University and the new University of South Australia to do more for country students—students outside the metropolitan area—to encourage them and to provide courses in higher education for them.

If we can limit the period that country students have to be away from their families in the Iron Triangle or the South-East, for example, we will encourage more of those students to go on to higher education, because it is a big step. I did it. I came from Mount Gambier in the early 1970s to study at the University of Adelaide, and it is a big step for someone of 16 or 17 to move away from their family, friends and home. Given the current financial problems, it is even more difficult for young people to live independently and try to put themselves through a higher education course. Instead of having to go away for three or four years, they have to go away for only two years, making it easier for them to undertake further study. It will encourage more country students to avail themselves of the opportunity to go on to higher education.

In respect of higher education institutions, there has been movement in the area of credit transfer. I have referred to that matter, and I will not deal with it any further. To give credit where credit is due, the movement has resulted from the efforts of Minister Dawkins and his Commonwealth Green Paper and the associated changes that have ensued.

The Bannon Government's attitude to higher education reform has changed markedly over the past three years, since the Commonwealth Green Paper. More than two years ago, in 1988, there was widespread criticism of a draft White Paper, which was leaked, and which indicated that the Bannon Government was considering significantly increasing State Government power and control over the governance of South Australia's universities. For example, it was suggested that the Government set up a committee to appoint the Vice-Chancellors of the universities and that the committee of seven would comprise a majority of Government or union representatives. It is anathema to our universities, to their freedom, autonomy and independence, that their most senior executive officer, the Vice-Chancellor, be appointed by a Government and union controlled committee. In the draft White Paper, it was envisaged that the Government would appoint the Chancellor of each university. It was also envisaged that there would be a significant increase in Government and union representation on the governing councils of the two universities.

As I said, at the time there was a widespread backlash in our academic institutions towards the Bannon Government's proposal, and the Government, particularly Premier Bannon, backed off from those proposals in the draft White Paper. A State White Paper or discussion paper was released in Adelaide in July 1988. That recommended very strongly that our five higher education institutions in South Australia be collapsed into two major universities. One would be called the Flinders University of South Australia and would incorporate the city campus of the Institute of Technology, Flinders University, the Sturt and Magill campuses of the South Australian college and the Levels and Whyalla campuses of the Institute of Technology. The University of Adelaide would be the other university and would include that university, the city premises of the South Australian college, Roseworthy College and Salisbury and Underdale campuses of the South Australian college.

It was argued that there should be considerable restructuring of higher education courses in addition to the recommended collapsing of the five higher education institutions into two universities. The paper suggested that, should courses in architecture and building be consolidated, that should occur within the Flinders University and be located in the city campus of that university to balance the distribution of higher status professional areas between the two institutions.

It is also recommended that the legal practice course currently offered by the Institute of Technology be transferred to the Law School within the new University of Adelaide. It recommended that a women's studies institute be established within the new Adelaide University, incorporating the resources currently devoted to this area in the South Australian college, Flinders University and Adelaide University. It recommended that the new Conservatorium of Music be located within the new University of Adelaide and that the inter-institutional Institute for Aboriginal Studies and Development and the South Australian Institute of Languages be housed in the new Flinders and Adelaide Universities respectively. Resources for the teaching of languages should be rationalised with both universities having distinct and complementary briefs to be negotiated between the institutions.

I will return to the State White Paper perhaps during my second reading contribution to the companion Bill, because earlier in that report there is considerable discussion about the advisability of moving bits and pieces of various institutions from one campus to another. When we consider the debate on the Universities Parliamentary Review Committee, not only should we be considering the much lobbied for movement of the School of Pharmacy from the Institute of Technology to the Adelaide University but, indeed, we must consider all other issues that have been put to the Government and to the Opposition over the past three years. Many of those have been considered and reported upon in the State White Paper, to which I refer. However, I will comment further on that in relation to the companion Bill.

In July 1988 the Government recommended the establishment of two universities. The Government then moved away from that position quite significantly. We were leading up to a State election some time towards the end of 1989. At some stage during that period we ended up with Minister Mayes in charge of higher education, and in that climate the Bannon Government backed off from mergers of higher education institutions and said that it was up to the institutions themselves.

That was a major change of policy on the part of the Bannon Government. Until that stage the Bannon Government had been forcefully supporting the Dawkins juggernaut in relation to the forced merger of higher education institutions in South Australia. It had been encouraging, persuading, cajoling and doing whatever it could to ensure that its policy of amalgamated institutions in South Australia eventuated. Indeed, as I have quoted, it saw the desirability of establishing just two universities here in South Australia. In the lead-up to the election that policy was changed significantly; it was deemed to be an election loser. Members of the academic community were significantly opposed to that particular policy and the Government backed off from that proposition.

After many abortive attempts, we arrive at the current model for higher education in South Australia, that is, the model which is encapsulated in this Bill and in the companion Bill and which establishes three universities. As I said at the outset, the Liberal Party, having considered all the arguments, both for and against the mergers has said, and continues to say, that it supports the mergers of the five institutions into the three new universities.

We believe that the suggestion that the new Flinders University be a combination of the old Flinders University and the Sturt campus of the South Australian college was always a logical decision, given the contiguity of the campuses and the view of many in the academic community at the Sturt campus that, all along, they wanted to join Flinders University. In my view, that was always going to be the easiest part of the merger debate in South Australia.

There is also some logic in the University of Adelaide amalgamating with Roseworthy Agricultural College, given the small size of Roseworthy and the existence of the Waite Institute within the University of Adelaide. The proposition that Waite and Roseworthy should be within one prestigious university like University of Adelaide was always going to have some good prospect of success. Again, given that the city campus of the South Australian College of Advanced Education was next door to the University of Adelaide, if there was to be some restructuring of higher education, there was always some logic in that campus amalgamating with the University of Adelaide.

The third university, which will, in essence, be a combination of the Institute of Technology and the major part of the South Australian College of Advanced Education was, in my view, always going to have the toughest task to establish itself. In our support of this Bill, the Liberal Party certainly wishes it and its leaders, both present and future, every good wish in their endeavours to establish a prestigious University of South Australia. It will be a tough task,

because it will be a multi-campus university; and it will have six campuses spread all over South Australia. Therefore, the simple task of administration of that university will be difficult. The South Australian college struggled for a decade to bring some cohesion to the college from its five campuses. To a degree it succeeded but, as I said, areas like the Sturt campus always had the view that they wanted to leave the South Australian college and join Flinders University. So, it will be difficult, as indeed it was difficult for the South Australian College of Advanced Education, to establish itself.

The question of the name of the university has attracted much comment by way of submission to the Liberal Party. The Liberal Party intends to support the name 'University of South Australia' for the new university. There has been much suggestion that we should take the opportunity to try to amend the name of the University of South Australia and there have been many and varied suggestions such as the Mawson University, the Playford University, the Florey University, and the Chisholm University; a whole range of other suggestions have been made over the past months—perhaps the Legh Davis University!

The Liberal Party's position, after considering all those prospects, was that we supported the unanimous view of the South Australian Institute of Technology and the South Australian College of Advanced Education that the new university be called the 'University of South Australia'. There has been some continuing problem with that. Some representatives of Flinders University believe that the name is too similar to its name, that is, the 'Flinders University of South Australia'. I am advised that at a meeting earlier this year the Flinders University council opposed the new university being called the 'University of South Australia', but that at a meeting in August or October, after much debate, that motion was rescinded. For all those reasons, I indicate that the Liberal Party intends to support the name 'University of South Australia' and will not move during the debate to amend it.

A number of specific provisions in the Bill will require extensive debate in Committee. At this stage I do not intend to flag those issues, but I want to indicate, particularly in relation to the nature of the interim council, that there will need to be some further debate there and in a number of other areas I intend to move a number of amendments.

I have provided the latest draft of those amendments to all the institutions in South Australia and to the Minister of Employment and Further Education for his consideration. As I stated at the outset, certainly in the debate in another place there was a good degree of bipartisan support for many of the amendments, and I would expect, given the good nature and spirit of the consultation that we have had, that there will be bipartisan support for most, if not all, of the amendments that the Liberal Party will move in Committee.

We do so on the basis that we want to ensure that the University of South Australia can work and that it has to the greatest extent possible bipartisan support from the Labor Government and the alternative Government in the Liberal Party. I indicate the support of the Liberal Party for the second reading of the Bill.

The Hon. R.J. RITSON secured the adjournment of the debate.

STATUTUES AMENDMENT AND REPEAL (MERGER OF TERTIARY INSTITUTIONS) BILL

Adjourned debate on second reading.

(Continued from 7 November Page 1590.)

The Hon. R.I. LUCAS (Leader of the Opposition): The Liberal Party supports the second reading of the Bill. As I indicated in my second reading contribution to the University of South Australia Bill, these are companion pieces of legislation and much of the comment that I made on the previous Bill is relevant to the debate on this Bill. I am sure that my colleagues will be pleased to know that for that reason I will be considerably shorter in my contribution to this Bill.

As I indicated, this Bill is part of the package in respect of the merger of higher education institutions, and the Liberal Party is pleased to support it. This Bill, more so perhaps than the former Bill, is definitely a Committee Bill, and there will be considerable debate in Committee. We sought to raise many questions with the Minister in another place and, again, we did so in the spirit of trying to seek a compromise position between Government and Opposition.

With the bipartisan spirit that has generally been adopted concerning both Bills, most of the amendments that we will move to this Bill will enjoy the support of the Government and the Liberal Party. I will refer to one or two where there is a difference of opinion concerning the establishment of the universities parliamentary review committee. However, I guess that it is not possible to agree with the Government on everything, and we will certainly have a debate about the pros and cons of that amendment when we come to it.

This Bill seeks to give legislative backing to a series of merger agreements that have already been signed between the five higher education institutions that currently exist, and some legislative backing for a number of other agreements that have been or are about to be entered into by the five higher education education institutions in relation to the dividing up or sharing of common resources, in particular, of the South Australian College of Advanced Education. That is the reason for the Bill. In various areas it tidies up the mergers and the effects thereof on the University of Adelaide and Flinders University and, therefore, it is a real bits and pieces Bill.

Some or most of the provisions are repeated in various clauses and, therefore, if successful, amendments generally moved to one part of the Bill will need to be replicated in other clauses.

There are only two or three significant areas of the Bill on which I want to touch in the second reading. As to the difficult question of transfer of students and courses clauses, this has been a difficult area. When the Liberal Party embarked on consultation with representatives of higher education institutions, it found that there was a widely divergent view about how the clauses in the Bill were to be interpreted.

This part of the Bill is meant to clarify what sorts of degrees and awards students at, for example, Roseworthy Agricultural College who complete their degree this year might get in May next year. As members would know, in the normal course of events, a university or Roseworthy College student would finish their degree this year and get their certificate or degree in April or May next year. However, in April or May next year Roseworthy College will not exist because of 1 January the mergers will have been implemented, if this legislation is passed.

The Hon. T. Crothers: Goebels was a graduate of a university.

The Hon. R.I. LUCAS: I am not sure of the significance of that interjection. It is now in *Hansard*, and it can be interpreted by the thousands of *Hansard* readers at their leisure. It was, and still is, my view that students should get a Roseworthy College degree if that could be organised. But, as I said, there were vastly differing view about what

the original drafting of the legislation meant. Certainly, in the discussions with the Minister and his advisers, with Parliamentary Counsel and the institutions, we did agree that, because there were these divergent views, there was a need for clarification by way of amendment to these provisions of the Bill.

When I circulate my amendments tomorrow, members will see that they clarify the position of what sort of degree or award should be given to students who, for example, do one year at Roseworthy College and finish their degree by doing two years at the University of Adelaide. That is an important matter to students. Some students of Roseworthy College, because of the international recognition of that college in wine marketing, for example, want to retain a Roseworthy degree. They do not want a University of Adelaide degree. The Hon. Mr Crothers, with some experience in the liquor industry, I am sure would agree with that point.

I am also advised that there are students in the School of Art in the South Australian College of Advanced Education who, because of the national recognition of that award, would like in some way to have an award or a degree which recognises the School of Art in the South Australian College of Advanced Education. The third area, possibly, is that of engineering through the Institute of Technology. A number of employers and a number of engineers believe, rightly or wrongly, that the engineering degree from the Institute of Technology is to be preferred to the engineering qualification from the University of Adelaide. They argue, and have argued to me, that the employers consider more favourably graduates of the Institute of Technology Engineering Faculty. I do not want to get into an argument with the engineers from the University of Adelaide.

The Hon. T. Crothers: You can get into enough arguments with the engineers in your own Party.

The Hon. R.I. LUCAS: I can get into enough arguments with the Hon. Mr Crothers or other members in this Chamber, and so I do not want to get into an argument with the engineers; but that is the view of some graduates. It is their wish that, having completed a degree at the Institute of Technology, they receive a degree from the Institute of Technology. This would have been next May had it not been for the merger. The Parliament ought to try to accommodate that position. My personal view is that someone who has completed their degree this year should in fact obtain a degree or award from that institution. The amendments I will move go wider than that, and do so because of some aspects of merger agreements and because of some commitments given by some institutions. They therefore go a little wider than my preferred personal position, but I will explain those amendments in more detail during the Committee stage.

I will now touch briefly upon probably the only significant matter of difference between the Government and the alternative Government, and that is the question of a Universities Parliamentary Review Committee. I want to place on record during this debate that, perhaps contrary to the impression that might have been given by some members in a debate in another place, the sole purpose of this review committee is not to resolve the question of whether the School of Pharmacy and related disciplines ought to be moved to the University of Adelaide into some centre for health sciences. Notwithstanding that some members have given that impression, as mover of the amendment in this place, I want to state quite clearly that our reason for this particular committee is much wider than the question of a centre or an institute for health sciences.

During the Committee stage which, as I said, will need to be of some length, I will refer to some of the discussion in the State White Paper which refers to the desirability of moving various parts of faculties and schools from various institutions into other institutions. I will not go through all that argument now; however, I wanted to place on the record that our reason for this committee is not solely the purpose of the discussion concerning an institute for health sciences.

In addition to the question of the appropriate shape and structure of higher education, of which we would all have widely differing views, there is certainly a view within the academic community nationally that, whilst we are heading headlong, with the support of the Liberal Party in this State, down the path of mergers, there has been no established process of monitoring, reviewing and analysing whether indeed the mergers are having benefits and identifying those benefits and the problems that might exist with those mergers, to indicating to higher education institutions the views of members of Parliament.

I want to refer again briefly to an article by David Penington in the *Australian* higher education supplement. He states:

> The rationale given by the White Paper for amalgamations was that there would be administrative savings, and that students and staff would take part in a wider range of subjects and course offerings. It appears the department—

that is the Department of Employment, Education and Training (DEET)—

> has no plans to analyse whether either of these predictions is borne out in practice.
>
> DEET told the Senate committee that the factors used by the department to measure diversity are the range of courses offered by a single institution, and the proportion of the student body enrolled in diploma and associate diploma courses. Because institutions of differing character now operate as one, diversity by these measures is inevitably increased for the amalgamated institution, but represents no real change.
>
> The 'diversity' rationale for amalgamation has not really been assessed.

He goes on to refer to a matter that I referred to in debate on the University of South Australia about the merger between Lincoln Institute of Health Sciences and La Trobe University saving $1.4 million a year. David Penington suggests that, in fact, it cost La Trobe $3 million rather than providing any saving. He further states:

> The department has no plans to test either of the rationales for amalgamations given in the White Paper. Meanwhile, the amalgamations policy is still being pursued. We can only surmise that Mr Dawkins does not want to know the answers.

That, from the pen of one of the most respected members of our academic community, one of our most respected Vice Chancellors in Australia, Professor David Penington, summarises the argument very succinctly and powerfully that Government needs to satisfy itself that the supposed benefits of these major decisions that we are taking do in fact eventuate and that the Parliament and the Government ought to be informed as to the effects of these major decisions.

I have heard much criticism, which I will address when I move this amendment in Committee, of this proposal for a parliamentary committee. I want to make clear, as I have to those persons with whom I have spoken, that this committee is a committee to monitor and advise. It is not a committee that can take decisions off its own bat. It can provide advice and the institutions themselves can consider that advice and perhaps act upon it. If they do not, then Government and, indeed, Parliament eventually, may well want to consider the recommendations of the committee.

However, the committee itself has the power only to listen, make judgments, report and advise. It cannot of itself

take action and that simple rationale, simple argument and simple explanation for the committee has been lost on some members of our academic community.

I would indicate that we all in this Parliament have differing views as to the role of the Parliament and politicians *vis-a-vis* our universities. I place on the record, as I have done previously, that my personal view is that we would want the institutions to work these decisions out for themselves, as far as is humanly possible. I have said consistently for three years that I believe the universities and the colleges have to work out their merger agreements themselves. That indeed is the current position of the Bannon Government. Again, I would wish the institutions to take the decisions themselves, as far as is humanly possible, having received and listened to advice, perhaps, in relation to any rationalisation of course offerings.

However, there are many powerful arguments for some change in the offering of courses in South Australia. We have heard a lot of one case for which there is much powerful argument and that will have to be considered on its merits, namely, the School of Pharmacy becoming an institute of health sciences. That will have to be considered on its merits, as will any other proposed rationalisation of courses. That is the significant area of potential difference between the Government and the alternative Government that will be dealt with in the Committee stage. As I indicated, my comments in the second reading debate of the University of South Australia Bill covered a good part of my whole attitude not only to that Bill but also to this Bill and I do not intend to repeat those comments. I indicate again that I support the second reading of the Statutes Amendment and Repeal (Merger of Tertiary Institutions) Bill.

The Hon. R.J. RITSON secured the adjournment of the debate.

REFERENDUM (ELECTORAL REDISTRIBUTION) BILL

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

CONSTITUTION (ELECTORAL REDISTRIBUTION) AMENDMENT BILL

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

ADJOURNMENT

At 11.46 p.m. the Council adjourned until Thursday 15 November at 2.15 p.m.