LEGISLATIVE COUNCIL

Tuesday 27 August 1991

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

PAPERS TABLED

The following papers were laid on the table:

By the Minister of Tourism (Hon. Barbara Wiese)—
SA Council on Reproductive Technology—Report, 1991.
Fisheries Act 1982—Regulations—
Marine Scalefish—Licence Renewal.
River Fishery—Licence Renewal.
Lakes and Coorong Fishery—Licence Renewal.
Miscellaneous Fishery—Licence Fee.

QUESTIONS

UNEMPLOYMENT

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister of Small Business, as the Acting Leader of the Government in the Council, a question about unemployment.

Leave granted.

The Hon. R.I. LUCAS: In his budget papers the Federal Treasurer, Mr Kerin, predicted that unemployment would peak at 10.75 per cent in the current financial year. However, in subsequent press conferences after the budget he has publicly indicated that the unemployment rate is likely to stay at about 10 per cent for the next two years. Given the fact that South Australia tends to have a higher unemployment rate than the national average (for example, the most recent figures indicate that our unemployment rate is 10.4 per cent compared to the current national figure of 9.8 per cent), such a prediction is obviously most concerning to South Australian workers and their families.

My question to the Acting Leader is: does the Minister believe that any package of economic policies which results in such high levels of unemployment is unacceptable and needs to be changed and, if so, will she put that view to the Prime Minister and the Treasurer?

The Hon. BARBARA WIESE: I think that all members would take the view that the current levels of unemployment in Australia are unacceptable and that they would want to see those levels of unemployment reduced as quickly as possible. I think that my colleague, the Attorney-General, made remarks of this sort last week in response to a very similar question which was asked by an honourable member opposite. This Government is certainly very concerned about the levels of unemployment in South Australia and, to the extent that it is possible for the South Australian Government to have any impact in this area, it is certainly keen to take whatever action is possible to provide the economic conditions in this State that would enable companies to employ as many people as possible. As to any representations that could or should be made to the Federal Government, that is a matter that must be considered by the relevant Ministers and, more particularly, by the Premier, because such representations should be made at that level.

MINISTERIAL STATEMENT: TOURISM MARKETING MANAGER

The Hon. BARBARA WIESE (Minister of Tourism): I seek leave to make a statement.

Leave granted.

The Hon. BARBARA WIESE: Last Thursday in this place, the Hon. Diana Laidlaw raised matters which brought into question the credentials of Mr Roger Phillips to hold this important position and the thoroughness of the selection panel which recommended his appointment. I am now in a position to confirm that Mr Phillips was, as he claimed in his application, General Manager, Marketing, with the Melbourne Tourism Authority for which he worked from April 1988 to May 1990. He held this title for the final three months of this period, prior to which he was Tourism Marketing Manager.

Before joining the MTA, he was Executive Director of the Mornington Peninsula Agency for Tourism for four years. After leaving the MTA, he was Managing Director of Alliance Creative Marketing. His credentials were thoroughly checked with Mr Ed Davis, who was Deputy Executive Director of the Melbourne Tourism Authority during the period of Mr Phillips' employment, Ms Katie Lahey, Chief Executive Officer of the Victorian Tourism Commission and Mr Denis Moriarty, General Manager, Marketing,with the Victorian Tourism Commission. The selection panel for the TSA position believed that his previous experience, strong references and personal presentation equipped him well for the job and they were unanimous in recommending him for the position.

As I indicated last week, I was very surprised that Mr Phillips' *bona fides* would be called into question. Naturally, Mr Phillips himself is extremely upset, particularly about the public way in which these allegations have surfaced, and rightfully so, given the facts I have just outlined. Not only has this matter been aired in Parliament but, to my knowledge, at least one Adelaide radio station consequently carried a report on it. A simple phone call to my office or to the Managing Director of Tourism South Australia would have provided answers to the questions asked by the honourable member, if her concern had been genuine. As it stands, the reputation of an able public servant, who is unable to defend himself in this place, has been tarnished by baseless and unnecessary questions.

LOCAL GOVERNMENT ELECTIONS

The Hon. K.T. GRIFFIN: My question is to the Minister for Local Government Relations. In view of the Minister's reported statement to the ALP State Convention on the weekend that she supported compulsory voting at local government elections but opposed a provision requiring the Government to bring it into operation by 1993, will she give an assurance that the Government will not seek to try to impose compulsory voting at local government elections on the community or local government during the balance of the current parliamentary term?

The Hon. ANNE LEVY: Yes, Mr President.

ART GALLERY

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage a question on the subject of support for the Art Gallery of South Australia.

Leave granted.

The Hon. R.R. Roberts interjecting:

The Hon. DIANA LAIDLAW: Yes, as I have checked my other questions, and there are holes in the Minister's ministerial statement.

The Hon. R.R. Roberts: Are you going to apologise?

The Hon. DIANA LAIDLAW: No need to. State Cabinet's decision to defer for two years the first of the four stages of extensions to the Art Gallery of South Australia has generated considerable disillusionment and unrest amongst staff and donors, as well as others. They are losing patience with the shoddy treatment that the gallery has received at the hands of the Bannon Government. In recent days donors and friends of the gallery have reported to me that they are becoming sick and tired of the Government's taking their generosity and voluntary work for granted for it appears, as they have told me, that the harder they work and the more they give the more the Government withdraws support.

This is a serious matter considering, as the Minister mentioned earlier, that 83 per cent of the gallery's collections arise from private donations and funds. In 1988-89, the Government cut $50 000 from the gallery's acquisition budget, a sum that has never been reinstated. Since the Art Gallery Foundation was established in 1981, the only Government support provided has been the $500 000 pledged by the Tonkin Liberal Government in 1980. Earlier this year the foundation launched the third five-year appeal, but no Government pledge of support has yet been forthcoming.

I am able to tell the Minister that it has not escaped the attention of donors that the Government provides the Festival of Arts, and rightly so, with a generous biennial challenge grant. Meanwhile, gallery staff have contacted my office and have told me that morale at the gallery has hit rock bottom, fuelled by speculation that several senior staff members are contemplating leaving rather than hanging around waiting possibly for another five years until the stage one extensions are completed, as proposed. My questions are:

1. At a time when all other State, national and Territory galleries are enjoying splendid new extensions, why has the Bannon Government adopted a deliberate policy to downgrade the Art Gallery?

2. When, if ever, does the Government propose to pledge financial support to the foundation in its commendable efforts to raise funds for acquisitions for the gallery, as is the practice interstate?

3. Will the Minister refute claims that senior staff are threatening to resign or retire from the Art Gallery because of State Cabinet's decision to defer stage 1?

4. Has the Minister or the Premier given any undertaking to the board that they will consider proceeding with stages 2 and 3 in two years, together with stage 1, to ensure that our gallery does not become the Cinderella of all art galleries in this nation?

The Hon. ANNE LEVY: The honourable member's sources of information are obviously different from mine.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: I have not heard of any senior staff threatening to resign.

Members interjecting:

The PRESIDENT: Order! The honourable member has asked a question; she is entitled to get an answer in the same manner in which the question was asked—in silence.

The Hon. ANNE LEVY: I certainly have not heard any suggestions of senior staff resigning. I would be very interested if the honourable member could indicate which senior staff are threatening to resign.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: It is quite obvious that the board and staff at the Art Gallery are disappointed with the decision to defer the extensions, as I am sure is every member of this Council, indeed of this Parliament.

Members interjecting:

The PRESIDENT: Order! The Council will come to order.

The Hon. ANNE LEVY: I am so glad, Sir, that members opposite took heed of your previous request that they remain quiet. I should point out to the honourable member that it is 15 years since there was first talk of further extensions to the Art Gallery. The last lot of extensions to the Art Gallery occurred 30 years ago, and 15 years ago discussion commenced about further extensions being required.

A couple of years ago, the Government gave approval to design plans and prepare for extensions. At the request of the Art Gallery itself, the Government decided to undertake a thorough study of the requirements of the Art Gallery and to do a long-term preparation for its future. It was following this that the current four-stage proposal was developed.

I also point out to the honourable member that only stages 1 and 2 have received planning and building approval. No suggestion has been made that stages 3 and/or 4 would be set on a timetable. No date has been established as to when stages 3 and 4 might or might not occur; as I say, they have not even received planning approval. This is because approval has not been requested: I am not suggesting that it has been turned down by the planning authority.

Only stage 1 has been considered.

There has been informal discussion as to whether part of stage 2 might occur at the same time as stage 1 on the basis that stage 2, if completed, at least to lock-up stage if not to useable stage, simultaneously with—

The Hon. L.H. Davis: I think you should just get on the stage and leave town.

An honourable member: He's done it again.

The Hon. ANNE LEVY: He's at it again, Mr President.

The PRESIDENT: Order! The Council will come to order.

Members interjecting:

The PRESIDENT: Order! I appeal to members to observe silence. I have been looking at *Hansard*, and far too many interjections are coming from both sides of the Chamber. I ask members to listen to questions in silence and to be silent when answers are given. I know that maybe Ministers do not like the questions, and perhaps members do not like the answers, but that is Parliament.

SOUTH AUSTRALIA'S BIRTHPLACE

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Minister for the Arts and Cultural Heritage a question about the proper birthplace of South Australia.

Leave granted.

The Hon. I. GILFILLAN: The contentious issue of where exactly is the birthplace of South Australia has recently been raised by the Kangaroo Island Pioneer Association and the Kingscote council. For many years Glenelg has laid claim, somewhat spuriously, to being the birthplace of our State—a claim that has been hotly contested by the Kangaroo Island Pioneer Association and recently by the Mayor of Kingscote, Mrs Janice Kelly. The following historical data I think will be of interest to members and are relevant to this issue.

On 12 July 1834 the House of Commons in London approved the South Australian Colonisation Bill. On 15 August 1834 royal assent was given to establish a Crown colony with the South Australia Association established to promote the measure. On 22 January 1836 the South Aus-

tralia Company was established. On 2 February 1836 the Province of South Austraila was formally established and its boundaries defined by the issuing of letters patent.

A letter dated 2 May 1991, from the History Trust of South Australia addressed to Mr Dene Cordes, Vice-President of the Kangaroo Island Pioneer Association, states:

Dear Dene,

Please find in one of the enclosed articles a facsimile of the proclamation read at Glenelg on 28 December 1836. It is important to note that, despite what the media and some writers say, South Australia was not proclaimed at that time.

The Province of South Australia was formally established and the boundaries defined by the issuing of letters patent on 19 February 1836 . . . What happened at Glenelg was the proclamation of the establishment of government in South Australia. I have enclosed an article from the *Proceedings of the Royal Geographical Society of Australasia, S.A. Branch* vol. 43 (1936-37) which goes into considerable detail about that event.

Kind regards, Brian Samuels, Acting State Historian.

Three points from that document, which are spot on in relation to this issue, and which were reported in the Historical Royal Geographical Society of 1936, are as follows:

3. It is not reasonable to think that Governor Hindmarsh (and his secretary) who were cognisant of all the necessary proceedings, would have assumed the responsibility of doing anything that had already been done by higher authority, unless the Governor had received a definite and specific instruction to do so. There is no record of any such instruction having been given.

4. The reference to 28 December as the anniversary of the 'proclamation of South Australia' is neither officially nor historically correct.

5. It is considered that 'Inauguration Day' is the best description that can be applied to 28 December 1836 and to future anniversaries.

On 7 July 1836, the first South Australia Company ship *Duke of York* arrived at Kingscote, Kangaroo Island, with the settlers headed by South Australia Company secretary, Samuel Stephens. On 14 August 1836 Stephens wrote in his diary for that day:

This morning I hoisted, for the first time, the British Admirality ensign and decorated with the company's flag and colours a booth which I prepared for the performance of divine service.

The province of South Australia was therefore conceived and proclaimed in England, but first settled and born at Kingscote, Kangaroo Island. At the same time seven ships carrying settlers arrived from England after the *Duke of York* and before the arrival of Governor Hindmarsh in the *Buffalo* in December. On 28 December 1836 at Holdfast Bay Governor Hindmarsh formally inaugurated government in South Australia and proclamations were made requiring all to obey the laws and declaring Aborigines to have equal rights. On 1 January 1837 Governor Hindmarsh wrote to the Secretary of State:

. . . on the morrow, being the 28th, I took possession at Glenelg, and after reading my commission establishing the council and complying with all other formalities prescribed by my instructions, saluted His Majesty's colours with 21 guns . . .

The first Colonial Secretary, Robert Gouger, wrote in his journal concerning the events of 28 December 1836:

. . . we then held council in my tent for the purpose of agreeing upon a proclamation requiring all to obey the laws and declaring Aborigines to have equal rights and equal claim with white men upon the protection of the Government . . .

My questions to the Minister are:

1. In the light of the above facts, does the Minister agree that Reeves Point on Kangaroo Island, not Glenelg, is the true birthplace of South Australia?

2. Will the Minister approach the Governor Her Excellency Dame Roma Mitchell to have a formal vice-regal announcement and recognition of Reeves Point, Kangaroo Island, as South Australia's birthplace?

The Hon. ANNE LEVY: From what the honourable member has read out—and I applaud him for pursuing this historical research with the able assistance of the History Trust and the State Historian—it would seem to me that the birthplace of South Australia was London. The letters patent to which he refers were signed in London, and it seems to me as though that was the birthplace.

The Hon. I. Gilfillan interjecting:

The Hon. ANNE LEVY: As the honourable member indicates, it may be the place of conception—not of birth. When it comes to colonies, the difference between conception and birth may not be as clearcut as it is for humans. There is no doubt that the Admiralty Ensign was raised on Kangaroo Island. Whether that is equivalent to a birth or to the onset of labour, I am not sure. Perhaps it could be equated to something a little less than birth and that in fact the proclamation of government was the actual birth.

I am sure that these analogies can be and have been argued about on numerous occasions. As I am sure the honourable member would know, the Governor visited Kangaroo Island recently for the celebration of the anniversary of the raising of the ensign, to which he referred. Not wishing to offend either my friend the Mayor of Kingscote or my friend the Mayor of Glenelg, I do not wish to impose my views above those of the State Historian and I would suggest that analogies regarding births, deaths and marriages are probably inappropriate, anyway, in these matters.

MINISTERIAL APPROVALS

The Hon. J.C. IRWIN: I seek leave to make a brief explanation before asking the Minister for Local Government Relations a question about ministerial approvals.

Leave granted.

The Hon. J.C. IRWIN: In recent discussions with councils it has been brought to my attention that matters needing ministerial approval are accumulating in the Minister's office. I assume that some of these matters would be relatively simple and that others would need a great deal of expert attention. I know that the Local Government Association has suggested that ministerial approval should be written out of the Local Government Act and, indeed, any future local government constitution type Act, but that is for the future and not now. My questions to the Minister are:

1. Can the Minister say whether there is a hold-up in ministerial approvals, or is there a steady flow of advice back to councils?

2. Does the Minister have expert advice in her office on matters needing ministerial approval? If not, what arrangements is the Minister making to speed up ministerial approval so as not to disadvantage councils that need approvals or otherwise to get on with their planning?

The Hon. ANNE LEVY: I can assure the honourable member that there is no hold-up in my office at all, that any matters that arrive—

Members interjecting:

The Hon. ANNE LEVY: They are at it again, Mr President!

The PRESIDENT: Order!

The Hon. ANNE LEVY: Any dockets that arrive for which my approval is necessary are always processed by me within at least 24 hours. I know of no occasion where any delay was greater than 24 hours.

The Hon. L.H. Davis: That's much more impressive than Barbara Wiese.

The PRESIDENT: Order! The Council will come to order.

The Hon. ANNE LEVY: However, I would point out that, with the abolition of the Department of Local Government, many of its functions have been taken over by

the Local Government Services Bureau, which is managed by a committee on which sit State Government and local government representatives with a majority from local government. In keeping with the spirit of the memorandum that was signed between State and local government, I have delegated authority for many approvals to the management committee of the bureau. I do not have here a list of the authorities which have been delegated, but I shall be very happy to obtain one for the honourable member. Not all ministerial approvals required under the Local Government Act have been delegated, but a very large number of them have been delegated to the management committee of the bureau so that, if any hold-ups occur (and I doubt this), it may be because the management committee of the bureau does not meet every day, and is therefore not available to grant these approvals on a daily basis as a Minister is able to do.

This is certainly the first I have heard that there have been any hold-ups in approvals, and I would be very surprised if there were hold-ups of more than perhaps a few days, resulting from the timing of management committee meetings. I will certainly obtain a list of the delegations I have made to the management committee of the bureau for the honourable member's information and for the councils, if they are interested.

BALTIC STATES

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation before asking the Acting Leader of the Government in the Council, representing the Minister of Ethnic Affairs, a question about independence of the Baltic States.

Leave granted.

The Hon. M.S. FELEPPA: Given that many South Australians had to flee the countries of their origin, I believe that the recent events in the Soviet Union are a matter of public importance to the State. Will the Minister advise the Council of the implications for South Australians of the declarations of independence made by a number of former Soviet Union republics and the recognition today by the Commonwealth Government of the three Baltic republics?

The Hon. BARBARA WIESE: As the honourable member has indicated, the Federal Government has today decided to establish full diplomatic relations with the Baltic States of Estonia, Latvia and Lithuania. Thereby, Australia becomes one of the first nations in the world to establish these relationships with those Baltic States.

As the honourable member well knows and as other members in the Council would be aware, the USSR annexed these States by force back in 1940. Although Australia did not recognise the incorporation of the Baltic States into the Soviet Union in 1940, until today Australia had accepted the reality of Soviet *de facto* control over the affairs of those States.

Many people in South Australia come from those Baltic States and I am sure they would be delighted by the Federal Government's decision today. I expect that there will be much celebration and I imagine that some implications will flow for them from the Federal Government's decision. I will be very happy to refer the honourable member's question to my colleague in another place for a fuller explanation and reply. I am sure that the Minister will be in touch with the representatives from those communities and that he will be able to provide a full report on their views and on the implications for those people.

EARTHMOVING INDUSTRY

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Small Business a question about the earthmoving industry in South Australia.

Leave granted.

The Hon. L.H. DAVIS: The earthmoving industry in South Australia has shed 1 000 employees over the past two years. The number of employees in the earthmoving industry has fallen dramatically from 3 000 to 2 000 in the space of just two years. This collapse in employment in the earthmoving industry is in fact reflected in a survey of several earthmoving contractors and in the past 12 months the number of people employed by those firms surveyed have been cut by between 20 per cent and 50 per cent. The turnover in earthmoving firms is down by between 25 per cent and 40 per cent and profitability is absolutely zero. In fact, earthmoving contractors are now tendering for work at or below cost—there is simply no profit there at all. No-one is operating profitably and retrenchments in the industry are continuing even as we speak. Ironically, redundancy payments are placing contractors under even greater financial pressure.

On Friday evening I attended the annual dinner dance of the Earthmoving Contractors Association of South Australia which was held at the Adelaide Convention Centre. One of the guests present representing the Government was the Minister of Labour, the Hon. Bob Gregory. I should inform the Minister of Small Business of the comments made by the President of the Earthmoving Contractors Association, Mr Kevin Renfrey, at this dinner. He said:

> Over the past eight years Federal Government taxes have increased by 128 per cent and the State Government taxes by 153 per cent, whilst inflation for that period [increased by] only 70 per cent. In this time, business has had the new impost of such taxes as—

I am quoting specifically State taxation—

> FBT ... the introduction of various licences and regulations through WorkCover and through occupational health and safety requirements. Some of the changes have been necessary, but as with nearly all Government initiatives too often they have led to draconian threats and penalties, such as the letters from WorkCover we all receive. Government places an enormous administrative load on employers: they have increased financial burdens and have contributed to job site productivity losses.

Mr Renfrey continued:

> In the workplace:
> - Our businesses are not working to full capacity.
> - Government demands keep our business administrators busy.
> - Our manufacturing base is still being eroded.
> - We are back to budget deficits.
> - Productivity-based pay increases are not productive.
> - There are almost no cranes over the Adelaide CBD.
> - There are record small business failures.
> - And we now have Government departments tendering for work in the private sector, bidding from a position of advantage and with no real public accountability.
>
> In a time when we seek integrity and stability from our Government, we have a vicious power struggle that is influencing the key decision-making processes of the nation ... the country's good is being overlooked. Fundamental problems such as tax reform, labour market reform and foreigh debt are only being addressed by Party factions bent on short-term survival.

That is an excerpt from a blistering speech which was made by Mr Kevin Renfrey, the President of the Earthmoving Contractors Association, and which was delivered, I should say, to the Minister of Small Business, to thunderous applause from the 450 people in attendance. The Hon. Bob Gregory, as the Minister representing the Bannon Government, could not have but received the message. My question to the Minister is: does she agree with the observations of Mr Kevin Renfrey, President of the Earthmoving Contrac-

tors Association, that were delivered so powerfully at the association's annual dinner last Friday evening?

The Hon. BARBARA WIESE: I have indicated on numerous occasions in this place that all businesses in Australia and South Australia are operating in a very difficult climate and I would expect that the earthmovers are no exception to those in various other industries. I think the facts are—

The Hon. L.H. Davis: He was blaming the Government.

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —that taxation regimes imposed on businesses in South Australia are in fact very similar and in some cases better than exist in other parts of Australia.

The Hon. Peter Dunn interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: I do not think it is appropriate—

The Hon. L.H. Davis interjecting:

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

The Hon. L.H. Davis: She is misleading the Council.

The PRESIDENT: Order!

The Hon. BARBARA WIESE: I do not think it is appropriate that statements be made that suggest that businesses generally in South Australia are very much worse off than businesses in other parts of Australia. The fact is that there is a recession in Australia. In those circumstances, we can expect that many businesses will suffer. I might say that some businesses are doing much better. Conditions have held up extremely well for some sectors of industry within South Australia.

The Hon. L.H. Davis: Name them.

The Hon. BARBARA WIESE: I am very sorry if the earthmoving industry is not in that—

Members interjecting:

The PRESIDENT: Order! The Council will come to order.

The Hon. BARBARA WIESE: I am very sorry if the earthmoving contractors are not in that category.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis will stop interjecting.

The Hon. BARBARA WIESE: However, it seems that there are signs that the economy may improve before much longer and I hope that, when the economy does improve, earthmovers, along with those in many other sectors of industry in South Australia and Australia, will benefit from that. I must say that hearing statements of this kind coming from members opposite is pretty extraordinary—

The Hon. L.H. Davis: I am quoting Kevin Renfrey, the Earthmoving Contractors Association President.

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —when one considers—

Members interjecting:

The PRESIDENT: Order! The Council will come to order.

The Hon. BARBARA WIESE: —that within the past few years when the economy was better and when more money was available for investments in various developments in this State, including tourism developments, members opposite were very obvious in their lack of support for some of those propositions and, as a result, much earthmoving work is not occurring within South Australia, because there were not sufficient numbers of people prepared to get behind investors who wanted to encourage development in this State. Members of the Earthmoving Contractors Association might also take that into consideration when they are doing their round-up of the economy and determining who is responsible for what.

KANGAROO ISLAND TOURISM DEVELOPMENT

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage, representing the Minister for Environment and Planning, a question concerning a tourism development on Kangaroo Island.

Leave granted.

The Hon. M.J. ELLIOTT: My question relates to a proposed development on Black Point on the south cost of Dudley Peninsula on Kangaroo Island. The District Council of Dudley recently voted 3-2 to approve this development, which is to include a helipad, 24 self-contained units, four tennis courts, a swimming pool, car park, saunas, stabling for 16 horses, thoroughbred horse paddocks, theatrette, recreation areas, billiard room and a two-storey farm manager residence with five bedrooms. The land on which it is proposed that this development be sited is surrounded by approximately 2 000 hectares of privately owned bushland, which has recently come under heritage agreements with the Native Vegetation Management Branch of the Department of Environment and Planning.

The coastal areas adjacent to the proposed site are part of a coastal reserve. The land itself is zoned central farming under the Supplementary Development Plan but has not been used for farming for many years—since the Second World War, I believe—and there is no farmhouse on the site at present. In 'general farming' zones, the plan allows for 'small scale holiday accommodation in association with an existing farm where such development is grouped with the exisiting farmhouse and is subordinate to the overall management of the property for primary production'. It is little wonder, then, that the application by Mr G. Zappacosta of Sydney to develop the Black Point site was opposed by the Department of Environment and Planning, the Coastal Protection Board, the Native Vegetation Management Board, the National Parks and Wildlife Service, the State Planning Authority and the Dudley District Council's administration and planning consultant.

In fact, all the recommendations and comments submitted to the council were against the development. Concerns that have been expressed include: the capability of the land, much of which is sand dunes; the appropriateness of siting a resort within an area set aside for conservation; the amount of traffic which will be generated—in fact, there is not even a proper road to the site at present; the amount of water which will be needed, particularly in summer—it is doubtful there is anywhere near enough water near the site, and certainly not enough rainfall; and what will happen to waste and effluent from the site. Nevertheless, three of the five district councillors decided that they knew better than all the professional advice given to them and voted to approve the development, in complete defiance of the SDP.

Mr Zappacosta's architect has written to the council assuring it that the primary purpose of the development will be the breeding of thoroughbred horses and that possibly 20 sheep and five dairy cows might be kept at the site. The letter admitted that stock feed would have to be imported to feed the animals. The letter has been seen by many for what it is: a manipulation of the proposal in an attempt to appear to be somewhat within the guidelines of the SDP. There is no existing farmhouse and there is certainly no current farming operation.

What has been clear to all the professionals involved in giving advice to the council and to local residents and people who own land for conservation purposes is that the development is not only against the SDP but it would also adversely affect the delicate environment of the surrounding

protected area. I believe that a group of residents is now discussing the possibility of mounting an appeal to the Planning Appeal Tribunal. My questions to the Minister are:

1. Does the Minister agree that is should not be up to the resources of private individuals to enforce Government policy, in this case the SDP, and will the Government be intervening in this case?

2. Given the Government's stated concern for environmental protection and conservation, does the Minister agree that any handing-over of more planning powers to local government could frustrate attempts to turn that concern into action?

3. As this is at least the second largest commercial tourism development proposed for the island, and is not likely to be the last, does the Government have a position about the tourism future of Kangaroo Island which takes into account the island's fragile ecology and existing rural spirit?

The Hon. ANNE LEVY: I will refer those three questions to my colleague the Minister for Environment and Planning. I point out that the question of referral of greater powers to local government in respect of planning does not, as far as I am aware, envisage the lack of an appeal system. Under our current system, the Dudley council has by this slim majority approved the planning application. It is for my colleague in another place to provide the full answer, and I will refer the question to her.

ME SYNDROME

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health a question about the ME syndrome.

Leave granted.

The Hon. J.C. BURDETT: In 1988 and 1989 I asked questions about the provision of an electron microscope to enable research to be carried out into the ME syndrome. On 15 February 1989 (*Hansard* page 1906) I said

> On 8 November 1988, during the Committee stages of the debate on the Appropriation Bill, I asked a question about the ME syndrome (myalgic encephalomyelitis). As reported at page 1308 of *Hansard*, I referred to the symptoms of the ME syndrome as follows:
>
> > . . . an extremely distressing condition involving fatigue, weakness, muscular weakness, pain, twitching and spasm, skeletal or joint pain, urethritis, burning, itching, numb skin, paralysis and a further list which is twice as long.
>
> On page 1309, I referred to the fact that 'there are over 6 000 sufferers in South Australia', and I said:
>
> > A distinguished South Australian researcher, Dr Mukherjee, who is a world leader in research into the condition, says that what is necessary for the research to continue is an up-to-date electron microscope at the IMVS . . . This would cost about $500 000.

Prior to that, the former Minister of Health, Dr Cornwall, had virtually promised, in a speech which I quoted, that the microscope would be provided. After he ceased to be a Minister, the following Minister of Health, Mr Blevins, did not want to know about it, and it was not progressed during the time he was Minister.

The present Minister of Health, Dr Hopgood, did want to know about it and he purchased the microscope and it was installed with a great fanfare of trumpets—and that was fair enough—about a year ago. I have received a letter from the ME Syndrome Support Association, which had been the principal body canvassing and lobbying for this microscope, thanking me for my part in the provision of the microscope. I received acknowledgement in its newsletter also.

So, the electron microscope was obtained. At the time when the support group was lobbying for it, they said that it would be useful not only in regard to the ME syndrome but also in other areas, including cancer research. I have been informed that, while the microscope has been there for almost 12 months, it has not been used at all for ME research. It has been used for some other purposes, but it is underutilised and has not been used at all in regard to the purpose for which it was obtained, namely, research into the ME syndrome. My questions are:

1. Does the Minister acknowledge that this is the case: that it has not been used for research into the ME syndrome?

2. Why has it not been used for that purpose?

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

IMMIGRATION REVIEW TRIBUNAL

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Ethnic Affairs, a question about the closure of the Immigration Review Tribunal in Adelaide.

Leave granted.

The Hon. J.F. STEFANI: Recently, the Federal Minister for Immigration, Local Government and Ethnic Affairs (Mr Gerry Hand) announced that the South Australian registry of the Immigration Review Tribunal is to be closed. The registry staff will be displaced and only one senior full-time staff member is expected to be retained. The registry office was opened only 12 months ago and was expected to provide a service to South Australian and Northern Territory communities by processing applications for review of migration decisions.

The decision to close the office appears to be premature, particularly in the light of the impending inquiries being undertaken by the Federal joint standing committee on migration regulations and the Department of Immigration and Ethnic Affairs on the operation of the tribunal. People within the South Australian ethnic community have expressed the view that it would have been more prudent for the Federal Minister to await the findings of these inquiries as in general terms they may have a great effect on future immigration decisions. My questions are:

1. Will the Minister take up this important matter with his Federal counterpart?

2. Will the Minister investigate the impact that the closure of the office will have on the South Australian community and report his findings to Parliament?

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

DOG ATTACKS

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage, representing the Minister for Environment and Planning, a question about dog attacks.

Leave granted.

The Hon. BERNICE PFITZNER: Recently, the Epidemiology Branch of the Health Commission produced statistics which showed that there are nearly 500 dog attacks a year on children and that the highest rate of injury is in

the one to four year age group. Those statistics also showed that 95 per cent of hospital admissions were as a result of bites to the head and face. Further, for every child that was attacked, two or three attacks were made on adults. So, we can anticipate 500 children and 1 500 adults, or a total of 2 000 cases per year. If the rates are the same, and we were to apply them nationally, 30 000 persons per year will present to hospitals as a result of dog attacks.

The Dog Control Act of 1979 has sufficient legislation for the control of dogs. However, it is reported that the implementation and monitoring of the Act is deficient in certain local councils. For example, a member of the community reported that a neighbour's dog was chasing her. The council responded by saying that it could do nothing until the dog actually bit her. The dog did bite her about two chases later. Section 44 of the Dog Control Act provides:

> If a dog attacks, harasses or chases any person, or any animal or bird owned by or in charge of some other person, the person responsible for the control of that dog is guilty of an offence.

Further, another member of the community was bitten by a dog and, when she reported it to the council, the officer indicated that she had to supply further information regarding the owner's name, the dog's name, the breed of the dog and whether or not the dog was pedigreed. I note that nowhere in the Act is this information required and that section 44 still applies. My questions are:

1. Is the Minister taking any steps to ensure a decrease of dog attacks?

2. What recommendation has the Dog Advisory Committee made to the Minister to decrease dog attacks?

3. Will the Minister consider researching this issue, perhaps through the Chief Executive Officer of the Dog Advisory Committee, with a view perhaps to establishing a central dog authority or a central dog control unit attached to the Department of Environment and Planning, to better implement and monitor the Dog Control Act? The figure of $1.2 million received from dog licences could fund this unit, which could have not only a policing role but also an educational and research role.

The Hon. ANNE LEVY: I will refer those questions to my colleague in another place. I point out that the Dog Advisory Committee currently gives general advice regarding dog control and that dog control is under the authority of local councils. The registration fee charged for dogs covers the cost to the councils, and a small proportion of that registration fee goes to the Animal Welfare League and the RSPCA for the work that they do in controlling dogs. Use is already made of dog registration fees for the control of dogs, and any further measures of control would require very much increased fees for dog registration.

The Hon. BERNICE PFITZNER: As a supplementary question, I am aware that 20 per cent of the licence fees goes to the RSPCA and the Animal Welfare League for operating the pounds and that 80 per cent goes to local government. However, I would expect that an Act of Parliament, which is not well implemented—and this is evidenced by the attacks—would be looked at by a responsible Government.

The PRESIDENT: The honourable Minister is aware now, I presume.

The Hon. ANNE LEVY: I do not think that was a question: it was a statement, which I do not think is permitted in Question Time.

The PRESIDENT: I thought it evolved from the Minister's reply.

The Hon. ANNE LEVY: I expected it to, but no question was asked. I thought Question Time was limited to questions.

The PRESIDENT: I thought it was a supplementary question following the Minister's reply.

The Hon. BERNICE PFITZNER: I did ask a question, but in an indirect fashion. If the parliamentary Act is not well implemented, does not the Minister think it is an issue that is worth following up?

The PRESIDENT: The supplementary question usually relates to the reply to the question. The Minister indicated that she would take the matter to her colleague in another place, so I did not think much arose from the answer she gave.

The Hon. ANNE LEVY: I would not have thought so, either. I point out that local government matters should be dealt with by local government. We are trying to increase the separation of responsibilities between State and local government, with neither tier of government unnecessarily interfering in the affairs of the other tier of government.

FINNISS SPRINGS

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Lands a question about access to the proposed Finniss Springs Aboriginal heritage area.

Leave granted.

The Hon. PETER DUNN: On Monday 19 August the Minister announced that she would resume the Finniss Springs pastoral lands under the Pastoral Land Management and Conservation Act. Subsequent to that announcement, the Minister said that she would do so under the Aboriginal Heritage Act.

There is some confusion as to the Act under which the Minister has resumed the land, which, has, as the Minister indicates in her letter, 21 significant sites on it. If it comes under the Aboriginal Heritage Act, will it be subject to the same criteria as the Pitjantjatjara lands, in which event there will be little public access to it; will it be resumed under the Pastoral Land Management and Conservation Act? My questions are:

1. Will the general public be allowed access via the roads that traverse the proposed area that is held under the Finniss Springs heritage legislation?

2. If not, what is the proposal for circumnavigating that area?

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

PERSONAL EXPLANATION: TOURISM MARKETING MANAGER

The Hon. DIANA LAIDLAW: I seek leave to make a personal explanation.

Leave granted.

The Hon. DIANA LAIDLAW: At the beginning of Questions the Minister made a statement in relation to Tourism South Australia's General Manager, Marketing. Towards the conclusion of that statement she intimated that my concern was not genuine in asking questions in relation to the appointment of a Mr Roger Phillips. I refute that suggestion most strongly, and again repeat the statement that I made before asking that question: not only for the sake of Tourism South Australia but also for the State's long-term well-being it is vitally important that we have the most able person in this position of marketing the State in tourism terms. I

received a tip-off from Tourism South Australia to check the credentials on advice that the credentials had not been checked with Mr Phillips' superior within the Melbourne Tourism Authority, and that was so. That was not checked with the Director of the Melbourne Tourism Authority.

The Hon. Barbara Wiese interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: It was not checked with the employer, the Director of the Melbourne Tourism Authority. With respect to the Deputy Executive Director, I point out that following a restructuring of the Melbourne Tourism Authority—

The Hon. ANNE LEVY: On a point of order, Mr President, a personal explanation should deal with personal matters, not recanvass a debate—

The PRESIDENT: I go along with that, but in the course of a personal explanation I think the member must refer to why she is giving the personal explanation. We do not want to rehash the whole statement.

The Hon. DIANA LAIDLAW: I understand that, Mr President. The Minister suggested that I was not genuine. I am pointing out, first, that this position was not checked with the Executive Director of the Melbourne Tourism Authority. Secondly, while I concede that it was checked with the Deputy Executive Director of the authority, that gentleman also departed the Melbourne Tourism Authority at the same time as I understand Mr Phillips reached a mutual understanding to depart.

Thirdly, contact was made with Ms Katie Lahey, the Chief Executive Officer of the Victorian Tourism Commission. However, she informed the person on the selection panel making the contact that Mr Phillips had never worked with the Victorian Tourism Commission and that the reference check should be referred to the Executive Officer of the Melbourne Tourism Authority, and that was never undertaken.

SUPPLY BILL (No. 2)

Second reading.

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

That this Bill be now read a second time.

It provides $1 200 million to enable the Public Service to carry out its normal functions until assent is received to the Appropriation Bill. Members will recall that it is usual for the Government to introduce two Supply Bills each year. The earlier Bill for $850 million was designed to cover expenditure for the first two months of the year. This Bill is for $1 200 million, which is expected to be sufficient to cover expenditure until early November, by which time debate on the Appropriation Bill is expected to be complete and assent received. The amount of this Bill represents an increase of $60 million on the second Supply Bill for last year to cover wage and salary and other cost increases since that time. I seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides for the issue and application of up to $1 200 million.

The Hon. R.I. LUCAS secured the adjournment of the debate.

CRIMINAL LAW CONSOLIDATION (ABOLITION OF YEAR-AND-A-DAY RULE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 August. Page 157.)

The Hon. J.C. BURDETT: I support the second reading of this Bill, the subject matter of which was part of a package introduced in the last session in what was basically a statute law revision Bill. This particular part of the Bill and the present Bill seek to abolish a rule that has been a rule of the common law in regard to the serious crime of murder for a very long time—as I said when I spoke on the Bill in the last session, for something like 500 years. Because it was felt that it was necessary in order to classify the crime as murder, in addition to all the other complex ingredients of that crime, that a time limit be put on when the death followed—it could not be forever and you could not end up dying of old age—the year and a day rule was imposed.

Last session I asked that that part of the package be stood over. I did so because the Government had not referred this important measure to the Law Society and therefore had not enabled the Criminal Law Committee of the Law Society to look at the matter. That seemed to me then, and seems to me now, to be a dereliction of duty on the part of the Government.

Not to refer a so-called reform of this kind to the Law Society to enable its Criminal Law Committee to examine the matter seemed to me to be quite improper. I took that point, and eventually that part of the then Bill was withdrawn, but not without the Attorney making some vituperative remarks about me that it was all right, that it was obvious, and so on.

The Hon. K.T. Griffin: The Attorney-General hadn't consulted, had he?

The Hon. J.C. BURDETT: No. I had a number of discussions with spokespersons of the Criminal Law Committee of the Law Society. The committee did consider the matter. I was told that it needed time and that it could not do this quickly. It raised a number of matters—and I will refer to at least one of them—that it did want time to think about. The committee has now done that and its President wrote the following letter (dated 2 August) to the shadow Attorney-General, the Hon. Mr Griffin:

> Please find enclosed copy of a letter forwarded this day by the Law Society to the honourable the Attorney-General. The society has, after considerable reflection, decided to support the amendment. I take this opportunity of thanking the Opposition for ensuring that adequate time was allowed for a careful consideration to be given to the possible consequences of the proposed amendment.

I would just comment that it was the Opposition, not the Government, that gave the Law Society the opportunity for careful consideration. The Government had not consulted the Law Society at all and I believe that that was a gross dereliction of duty. It was quite wrong for the Attorney-General to attack me in saying that I was unnecessarily holding things up, because it was necessary for the society to look at the matter. As was said in the previous letter, a copy of the letter to the Attorney-General was attached to the letter to the Hon. Mr Griffin. The letter to the Attorney-General states:

> I refer to previous correspondence concerning this matter, and in particular to my discussion with your Mr Matthew Goode. I advise that the society has now received a recommendation to support the proposed amendment. Members of the society's Criminal Law Committee had been concerned with issues such as:
>
> 1. issue estoppel, *autrefois* acquit and convict or *res judicate* in the criminal law generally;

2. admissibility of evidence from, or the fact of the conviction recorded in, the first trial, at the second trial; and
3. sentencing on the second trial.

The society is now satisfied that the current criminal law to a large extent will take care of those concerns, though it expects that after the amendment there will be more argument as to the precise parameters of the principles of *autrefois* convict and acquit when offenders previously tried for an offence are tried a second time for a more aggravated version of the initial offending.

That letter was also signed by the President of the society. First, while I now support the Bill, because the Law Society and its Criminal Law Committee are now prepared to support it after consideration, I was right in asking that time be given for its consideration because the society and its committee did need time to look at it. They seriously considered it and did not just say, 'It is all right,' as the Attorney-General was prepared to say.

In regard to the matters raised by the President of the Law Society in the last paragraph of his letter, the matter referred to concerns a person convicted of a lesser offence, such as assault occasioning grievous bodily harm or something of that sort. He is tried. He may have pleaded not guilty and, for example, may have raised the plea of self-defence, but he is sentenced and is serving the sentence. Later—it may be longer than a year and a day now, under the Bill; it may be two, three, five or 10 years later—he is accused of murder because there is now no time limit. Of course, it has to be proved that the person did die as a result of the act of the accused, but the question will arise as to what is the effect of the previous conviction and what is the effect of the plea, which may have been self-defence, in these circumstances. There certainly will be, as the Law Society has suggested, legal questions to be answered.

It is not simple and the matter is not over yet. This Bill will create problems in the legal system. I have confidence in the common law system and I have confidence that the courts will overcome the problems, but for the Attorney-General to have suggested as he did that it did not have to be looked at and that there was nothing in it that the Law Society was required to consider was quite wrong and improper in my view.

Certainly, I hope that in future, when there are matters relating to the common law in particular, especially in serious cases such as murder, the Attorney-General will have the courtesy of referring the Bills in question to the Law Society. After consideration the Law Society, with the reservation that there are still matters to be resolved, has decided that it has no further objection to the Bill, and neither have I. Therefore, I support the second reading.

The Hon. R.J. RITSON: I, too, support the second reading of the Bill and I thank my colleague the Hon. Mr Burdett a great deal for bringing into this Chamber important problems relating to people being tried twice on different charges for the same act and for his consultation with the Law Society. Indeed, I would have thanked the Attorney-General had he done that homework but he did not, and so I lose the opportunity to thank him. I thank the Hon. Mr Burdett for the diligence that he has shown in explaining to members of this Council some of the problems and for the extent to which he consulted and engendered the goodwill of the Law Society in dealing with those problems.

I want to contemplate in passing the reasons that might have existed in the first place to explain this rule. Perhaps over the decades and centuries it was thought that the passage of time made causation less clear and, indeed, might have dulled the witnesses' memories, and that on such an important subject as murder convictions became unsafe. However, if that was so, situations in which a person died a year minus a day after the act was perpetrated, but where the perpetrator was only apprehended five years later, would have been subject to the same limitations but, of course, they were not. I cannot understand why the year and a day rule was there, but perhaps lawyers and judges of the last century had some reason for it. It is quite distinct from actual evidence of causation, because that can be as clear, as clear, as clear and yet the rule of a year and a day still prevents trial and conviction of the perpetrator.

Of course, over the past 20 years medical practice and medical science have developed to a point where people can be kept alive and saved from earlier death and succumb later with the very clearest evidence of direct causation, and the abolition of this rule in those terms may be about 20 years too late. I am told that the law is meant to limp slowly along behind medicine in any case, and that at least makes it safe if slow in its changes.

I think it is a somewhat sad commentary that the intiative to change this aspect of the law was probably brought about by the question of AIDS and the fact that a number of attacks have been made on people by using AIDS contaminated instruments. At least one innocent person has thus been infected and whether or not he succumbs to that disease may not be known for five years or so. However, before AIDS was ever heard of, the same situation would have applied in relation to perhaps hepatitis B. Of course, with increasingly sophisticated assessment and treatment of brain injury, the likelihood of this situation applying to people who suffer head injuries as a result of an assault does increase.

Quite apart from the question of AIDS and for other reasons of improved general medical expertise, this amendment does make sense. I thank the Hon. Mr Burdett for undertaking the work that the Attorney-General should have performed. I support the second reading of this Bill.

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

HOLIDAYS (LABOUR DAY) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 13 August. Page 58.)

The Hon. J.F. STEFANI: The Opposition supports this Bill. The purpose of the amendment is to effect a permanent change in the observance of the Labour Day holiday in South Australia from the second Monday in October to the first Monday in October. Indeed, if the Bill is approved, the change will operate from October 1992.

The proposal has been referred to the Industrial Relations Advisory Council, which supported the change. The Bill seeks to bring greater uniformity of observance of public holidays in South Australia in line with other States and Territories. Industries, retailers and other employer organisations have indicated their support for this Bill. The change of dates will coincide with the current school holiday period and will not inconvenience employees and their families. The Opposition supports the Bill.

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

WORKERS LIENS (REPEAL) BILL

Adjourned debate on second reading.
(Continued from 13 August. Page 58.)

The Hon. K.T. GRIFFIN: The Opposition will not support the second reading of this Bill. This legislation came

before the Council during the previous session and on that occasion we moved successfully that the second reading of the Bill be taken six months hence. That had the effect of deferring consideration of the Bill beyond the last session.

This Bill is in identical terms and seeks to repeal the Workers Liens Act. In his second reading explanation the Attorney-General indicated that the Bill, if passed by Parliament, would not be proclaimed to come into effect until there had been a reasonable opportunity for those in the construction industry to develop an alternative scheme to protect contractors and subcontractors from the sort of claims that are presently covered by the Workers Liens Act.

We indicated during the previous session that such an undertaking was not good enough because there was no control over the Government as to when the proclamation should be made. The haste with which the Government first introduced the Workers Liens (Repeal) Bill suggested that it was anxious to dispose of it once and for all and that it may not necessarily have a significant amount of resolve to develop an alternative scheme that will provide some measure of protection for contractors and subcontractors against those builders who face financial difficulties. As a consequence of that, the repeal might be proclaimed to come into effect even if an alternative scheme is not in place.

In the second reading explanation the Attorney-General said that, in keeping with the second recommendation of the select committee that industry consultation take place in respect of trust funds, voluntary or compulsory insurance schemes, direct payments and back guarantees, the Minister of Housing and Construction established a working party on insolvency in the building industry. This committee reported in December 1990 and the Construction Industry Advisory Council is still considering the working party report and public response to it.

It is expected that this process will take some time as the parties still have not reached a consensus on the appropriate future direction that should be followed to curb the incidence and impact of insolvency in the building industry. It is recognised that that is a difficult issue to resolve, but the Workers Liens Act has been around for 85 years. It has acted as a means of protecting contractors and subcontractors, even though in more recent times difficulties have been faced by those responsible for managing insolvencies and in getting uncompleted work finally completed after a principal contractor has gone into liquidation or receivership.

Those difficulties are acknowledged, and the representations of the Insolvency Practitioners Association that the Bill should be repealed have been noted by the Opposition. Representations by some lawyers practising in the area to support the repeal have also been noted. The problems with the administration of the Act, including the fact that liens under the Act cannot be registered against Government land, have again been noted.

On the other hand, we have had significant representations from small business to maintain the Workers Liens Act until an appropriate alternative scheme is in place. One of the most recent letters that I have received is from the Building Industry Specialist Contractors Association of SA Inc, which states:

In May 1991, you wrote to a number of subcontractor associations advising of your success in defeating the Bill to repeal the Workers Liens Act. This stance adopted by the Liberal Party in defeating the Bill was greeted with enthusiasm by the subcontractor associations. We are aware that Parliament commences sitting shortly, and we are concerned that during the next sessions the Attorney-General is likely to once again attempt to introduce a Bill to repeal the Workers Liens Act.

The members of this association have supported the retention of the Workers Liens Act. Our support is on the basis that the Workers Liens Act is the only effective remedy currently available to subcontractors and contractors where there is a default in payment in the building industry.

At the same time, however, we have devoted considerable time and effort to the development of alternatives to the Workers Liens Act. In August 1990 the report of the select committee on the operation of the Workers Liens Act stated in its recommendations:

> The committee recommends that, in the light of more effective substitutes being available, the Workers Liens Act be repealed . . .

Despite the passage of some 12 months since that report was released, the Government appears no closer to the introduction of an effective substitute. The members of this association have throughout the past 12 months lobbied extensively Government departments, Ministers and other participants in the industry yet, despite this, the Government has still not acted in this matter. We believe that there are some serious questions which should be asked about the manner in which the Government has handled this issue.

The growing list of insolvent building companies in South Australia bears testimony to the importance of this issue. The long-term effect upon subcontractors highlights the need to address this issue. In the circumstances, we seek your continued support for the retention of the Workers Liens Act and, more importantly, we ask that pressure be bought to bear on the government of the day to take action in the immediate future in respect of this issue.

That reflects the views of many other associations representing subcontractors in the building industry. We acknowledge that there are many difficulties in the building industry which do need to be addressed by the Government. They are numerous and these difficulties become more evident in difficult economic times. They relate particularly to building companies going into liquidation without payment of either their subcontractors or accounts for materials.

A submission made by the Building Industry Specialist Contractors Association of SA Inc. to the Minister of Consumer Affairs and Minister of Small Business in December 1990, identifies the present undesirable practices and consequences. I think that, in the context of considering the Bill before us, it would be helpful if I were to relate the undesirable practices which are summarised in that submission. They are as follows:

1. Some developers and builders deliberately structure themselves as two dollar companies so they are able to walk away from insolvent companies and debts.
2. Substantial deficiencies are being reported in liquidator reports of affairs, suggesting that insolvent companies continue to trade and incur further debts long after they are insolvent.
3. Terms of payment usually have the effect that specialist contractors have to fund three months unpaid work before they have the right to suspend work or determine their contract.
4. Only a limited number of specialist contractors can withstand this level of liability.
5. Substantially higher liabilities can arise if the contract does not provide for payment for work executed off-site.
6. Bank guarantees are being cashed when there is no legal justification or when the right to cash the guarantee is disputed.
7. Some architects, clients and contractors undercertify or are late in certifying progress claims and variations.
8. Trusts in respect of retention funds have been breached by many builders.
9. Some builders have falsely stated they have paid subcontractors when seeking progress claims from proprietors.
10. Some clients obtain the benefit of subcontractors' services, goods and materials and do not pay builders on the edge of insolvency, leading to insolvency of the builder and non-payment of the subcontractor.
11. Other clients having paid an insolvent builder are being asked to pay the unpaid specialist contractor amounts already included in the payment to the builder.
12. In the industrial sphere, members of organisations which have played a major role in conceding the need for skills formation, and have agreed to career path proposals, put in place contracts which are likely to result in subcontractor employees having less security of employment than they deserve, as a failure of the head contractor may lead to the failure of their employer.

13. From the clients' head contractors' point of view, clients and head contractors insist on bank guarantees being provided as security for performance but refuse to give any security for payment, when the greatest risk of non-performance by contractors and specialist contractors may well be the threat that they will be affected by insolvency of other clients or contractors.

That is a fairly comprehensive catalogue of the problems that many contractors and subcontractors in the building industry face. They will not all necessarily be addressed by the repeal of the Workers Liens Act or by the scheme that is put in its place. But I think that, with that list of problems, it is only to be expected that the subcontractors feel that one prop—that is, the Workers Liens Act—is being pulled away from them. Even though in many instances it may not be as effective as they would like, we can understand their feeling that there is insufficient resolve on the part of the Government to develop an alternative to the Workers Liens Act that provides a greater level of protection while at the same time proceeding to remove the Workers Liens Act.

It is in that context therefore that the Liberal Party is not prepared to support this Bill. We gave some consideration to doing what we did on the last occasion when this Bill was before us, namely, to move that the second reading of the Bill be taken six months hence, which would have the effect of further deferring consideration beyond the end of this session.

However, we do not see that that will achieve anything. It is preferable in our view to take the action to throw out this Bill at the present time—but when we and those who have made representations to us are reasonably satisfied that an effective alternative is in place we will then be more than happy to reconsider our position on the Workers Liens Act.

So, the Government has the resources and the control of the negotiations leading to the development of an alternative scheme. It is really in its hands as much as in anyone else's hands to bring this matter to a head. Although we oppose the second reading at this stage, I indicate that we are prepared to review that decision when an alternative is in place. We urge the Government to diligently endeavour to try to resolve the delay in finding an alternative. It is now eight months since the matter was referred to the Construction Industry Council, and we would have thought in that time that some proposals for change, as part of a comprehensive package, could have been at least exposed for public comment with a view to either enactment or acceptance by the industry at a time not too far away. At this time we oppose the second reading of this Bill.

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

ADDRESS IN REPLY

The PRESIDENT: I remind honourable members that Her Excellency the Governor will receive the President and members of the Legislative Council at 4.15 p.m. today for the presentation of the Address in Reply. I therefore ask all honourable members to accompany me to Government House.

[*Sitting suspended from 3.58 to 4.43 p.m.*]

The PRESIDENT: I have to inform the Council that, accompanied by the mover, seconder and other honourable members. I proceeded to Government House and there presented to Her Excellency the Address in Reply to Her Excellency's opening speech adopted by the Council on Thursday 22 August, to which Her Excellency was pleased to make the following reply:

Thank you for the Address in Reply to the speech with which I opened the third session of the Forty-Seventh Parliament. I am confident that you will give your best consideration to all matters placed before you. I pray for God's blessing upon your deliberations.

FAIR TRADING (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 August. Page 140.)

The Hon. K.T. GRIFFIN: The Opposition indicates that it will support this Bill. It was first introduced at the end of last session and because it was not finally dealt with it has now been reintroduced. It does four things. First, it amends section 22 of the principal Act. Section 22 allows consumers to rescind contracts within six months of the date of the contract if the supplier or dealer commits an offence in the course of or in relation to negotiations leading to the formation of the contract, or if the contract contains certain prohibited contractual terms. The cooling off period in the Bill is proposed to be extended to those cases where the contract may not comply with either form or procedure requirements as set out in the Fair Trading Act.

The Bill also repeals section 39. Section 39 prohibits the practice of offering goods for sale only on condition that other goods are first purchased, unless the Commissioner for Consumer Affairs has given approval for such a practice. According to the Minister, in the years that that provision has been in operation, the Commissioner has approved all but one application, and there were special circumstances in relation to that application. The Liberal Party agrees that no harm is done by repealing section 39 which is used by retailers and manufacturers of consumer goods in various forms of promotional activities. The Liberal Party believes that the administrative work involved in the approving of these by the Commissioner for Consumer Affairs on each occasion, in the light of the history of the section, is work which could well be dispensed with.

Section 58 of the principal Act is in terms similar to section 53 of the Federal Trade Practices Act. The State Act applies duties and obligations to persons, whereas the Federal Act applies them to corporations. At present, section 58 provides that, in relation to the supply of goods or services, or the promotion of the supply or use of goods or services, a person must not falsely represent that the goods are of a particular standard, quality or grade, or that services are of a particular standard, quality or grade. The Federal Act adds to those characteristics the characteristic of value, and this Bill seeks to include that also, to bring it in line with the Federal Act.

Section 81 is essentially procedural. It provides the offence provisions of the principal Act but provides that an offence may not be prosecuted except by the Commissioner or a person authorised by the Commissioner. The Bill makes relatively minor changes to this to allow evidence of the authorisation by the Commissioner for Consumer Affairs of the prosecution to be tendered, or evidence that some other person authorised by the Commissioner has approved the prosecution being brought. That evidentiary provision is subject to there being no other material which can provide adequate proof to the contrary that the authorisation was so given. The Liberal Party is prepared to support these four areas.

I did have information from the Retail Traders Association which indicated that it supported the Bill. Quite obviously its members are more likely to be affected by this than are other persons in commerce or industry, so the Retail Traders Association supported it. However, in so doing, they drew my attention to one particular anomaly where the standards imposed in South Australia with respect to the leather goods industry are higher than those imposed on importers and retailers in other States.

Apparently, South Australia is the only State that has regulations providing for the labelling of leather goods and to the identification of the type of leather from which the goods are made. In all other States, and at the Federal level, that is not required to be identified. I understand the difficulty which is created is that when leather goods are imported from overseas, the nature of the leather is not necessarily identified and, when those goods come into Australia, they must be marked separately and the leather identified to satisfy South Australian requirements. I cannot see that in the scheme of things that is a necessary additional restriction on South Australian industry.

At some stage, could the Minister identify what approach will be taken by the Government where the requirements upon industry under something such as the Trades Standards Act might set standards which are higher in South Australia than for the rest of Australia, and whether there is to be any program to seek to rationalise those standards, if not to bring other States in line with South Australian standards, then for South Australian standards to be brought in line with other States?

Of course, the argument could be made that, if the standards in South Australia are less than those required in other States, they ought perhaps to be brought up to those of other States. However, one has to take a look at these matters on a case by case basis. But, in this difficult economic climate, where there are very significant economic restraints upon all business, be it large or small, any requirement placed upon that business which might be different from the standards which apply in other States and which require additional work to be undertaken in South Australia, particularly where goods are imported, must be viewed with concern.

At the appropriate time, I would like the Minister to address that issue which has been raised by the Retail Traders Association and which I undertook to raise in the context of this debate. Subject to that matter, as I said earlier, the Opposition supports the Bill.

The Hon. T. CROTHERS secured the adjournment of the debate.

WRONGS ACT AMENDMENT BILL

The Hon. Anne Levy, for the **Hon. C.J. SUMNER (Attorney-General):** I move:

That the Wrongs Act Amendment Bill be restored to the Notice Paper as a lapsed Bill, pursuant to section 57 of the Constitution Act 1934.

Motion carried.

ADJOURNMENT

At 4.55 p.m. the Council adjourned until Wednesday 28 August at 2.15 p.m.