LEGISLATIVE COUNCIL

Wednesday 29 April 1992

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

ASSENT TO BILLS

Her Excellency the Governor, by message, intimated her assent to the following Bills:

Acts Interpretation (Commencement) Amendment,
Acts Interpretation (Crown Prerogative) Amendment,
Criminal Law Consolidation (Rape) Amendment,
Industrial Relations (Declared Organisations) Amendment,
Real Property (Survey Act) Amendment,
South Eastern Water Conservation and Drainage,
Statutes Repeal (Egg Industry),
Survey,
University of South Australia (Council Membership) Amendment.

QUESTIONS

WORKCOVER

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister representing the Minister of Labour a question relating to WorkCover claims.

Leave granted.

The Hon. R.I. LUCAS: On 14 April I raised in this Chamber claims that inadequate training of WorkCover staff had led to a situation where a staff member had broken down while processing a claim on behalf of a worker suffering stress, and had subsequently had to use the professional services of the psychiatrist who had accompanied the worker lodging the stress claim. My claim was subsequently confirmed by WorkCover, with a spokesman for the corporation saying that the staff member had been off work for five days. However, the spokesman attempted to downplay the seriousness of the problem by claiming there had been only two stress claims from within WorkCover during the past six months. The spokesman also denied there were any concerns with the adequacy of staff training by WorkCover.

I have since received information from someone who clearly has intimate knowledge of the operations of WorkCover that challenges that statement. My informant says that in fact WorkCover staff have lodged with the corporation numerous notices of disability, many of which relate to stress claims. In fact, the number lodged is now 'in the high 30s', according to my informant. It is interesting to note that this figure represents about 6 per cent of the total number of WorkCover staff. The informant points out that it is important to differentiate between an active claim (of which the WorkCover spokesman said there were only two) and these notices of disability, which is advice to the employer—in this case WorkCover—that the staff member is suffering a disability that is compensable.

I am informed that the cause of many of these claims is WorkCover's deficient training and assessment process for staff. I am informed, for example, that WorkCover decided that claims officers would become case managers after undergoing intensive training and completing examinations that would test their knowledge obtained from these training sessions. Anyone failing these examinations would either be redeployed or demoted if they were permanent staff or, if they were contract staff, have their employment terminated.

Staff have argued that the shortcomings of this system are apparent as it places too much emphasis on tests and the process ignores the actual performance of staff on the job: competent staff can be failed purely on the results of a test, whilst poor performing staff could pass purely on the basis of a few exam results. My questions to the Minister are:

1. Will the Minister confirm that WorkCover Corporation has received more than 30 notices of disability from its staff in recent months and, therefore, the claim in the press on 15 April 1992 that WorkCover had received only two stress claims in six months is misleading and gives a false impression of the extent of staff stress within WorkCover?

2. Will the Minister confirm that the cause of these stress claims or notices of disability within WorkCover is linked to the corporation's deficient staff training and assessment methods and, if not, why not?

3. If the answer to question 2 is 'yes', will the Minister detail what measures the Government has put in place to remedy this appalling situation?

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

WORTHINGTON INQUIRY

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question on the subject of the Worthington inquiry guidelines.

Leave granted.

The Hon. K.T. GRIFFIN: In the terms of reference for the inquiry to be conducted by Mr Worthington, QC, in each of the three areas Mr Worthington is required to inquire into and report on 'what actions did she (the Minister) take in respect of any conflict of interest she perceived she had', I suggest that this necessarily involves Mr Worthington ascertaining whether or not she disclosed an interest in Cabinet in relation to any of those areas and, presumably, whether or not she participated in discussion in Cabinet and voted. That, presumably, also would require him to be given access to Cabinet records and allow him to inquire as to what occurred.

With this obligation placed upon Mr Worthington by the terms of reference, it was somewhat surprising to see that, in the letter the Premier wrote to Mr Worthington setting out the procedures he should follow, paragraph 2 states that Mr Worthington is to be given access to 'Government documents (excepting Cabinet submissions)'. How does the Attorney-General explain this apparent contradiction? For what reason would Mr Worthington be denied access to Cabinet submissions, particularly as they are essential in determining whether or not the Minister of Tourism actually made a Cabinet submission in any of the three areas and, if she did, what she argued for or against: or whether in any Cabinet submission, not necessarily from the Minister but relating to the three areas identified in the terms of reference, some information would be useful in assisting Mr Worthington to establish facts? It is not as though this is a judicial inquiry; it is an inquiry into facts. It is for that reason that I ask the Attorney-General to explain why in the circumstances Mr Worthington is not to be given access to Cabinet submissions.

The Hon. C.J. SUMNER: Because, as the honourable member will know, there is a general rule of practice, which

is used in this Parliament and before the courts, that the Crown claims privilege in relation to Cabinet documents. The reason for that is quite clear, namely, that Cabinet discussions, as they lead to recommendations often for decisions in Executive Council, are confidential. There is also the principle of Cabinet collective responsibility, so that individual views within Cabinet are not usually made known to the public, to the courts or, indeed, to the Parliament. The honourable member knows that that is a well established rule, and the Government was concerned to ensure that that rule was not avoided in this case. There is no need to avoid the rule. There is no need for Crown privilege in this case to be waived. I think that is quite clear from the correspondence which has been sent to Mr Worthington.

What the honourable member says about the terms of reference, namely, the provision as to what actions the Minister of Tourism took in respect of a conflict of interest that she perceived she had, is correct, because Mr Worthington will need to know what declarations were made, and he will be informed of them. That is why the procedure which is set out in the letter from the Premier to Mr Worthington in paragraph 2—the paragraph referred to by the honourable member—says that Government documents, except Cabinet submissions, will be made available; and, in relation to Cabinet, a summary of Cabinet activities in relation to relevant matters will be made available. I understand that is being done, if it has not already been done, by the Premier. I am aware that such a summary was in course of preparation.

I do not believe that there is a contradiction. We have followed the normal rules relating to privilege attracting to Cabinet documents, which, for the reasons outlined, is important. It is certainly a point that is taken before the courts by Governments of all persuasions. If it were necessary for the Cabinet submissions to be made available to Mr Worthington, the privilege could have been waived, but obviously it is not necessary for Mr Worthington to have the full Cabinet submissions. As the Premier said, he will be provided with a summary of Cabinet activities that will include the document dealing with the declaration of interest, a copy of which the honourable member already has. It will detail submissions made in relation to the three matters in issue and the Cabinet approvals in relation to those matters. It will indicate who was responsible for sponsoring those matters before Cabinet, and there will be details of any declarations which the Minister made in relation to the relevant matters.

In the Government's view, that is adequate for Mr Worthington to conduct his inquiry. I repeat that the Premier's letter says that, if Mr Worthington has any difficulties in relation to any of the procedural steps which have been outlined by the Premier, he is free to contact the Premier to discuss them. However, I do not envisage that there will be any difficulty in this respect. In other words, the purpose of the inquiry can be fulfilled without waiving the traditional Crown privilege.

As an aside, I would say that I do not think it is really relevant which way the Minister argued on a particular topic. Of course, the way in which a Minister argues a particular case is not something that is normally revealed publicly because of the rules of collective Cabinet responsibility. To my way of thinking on the matter, the way in which a Minister argues in relation to something is not really relevant to that. What is or may be relevant is whether a declaration was made in relation to the matters that have been raised in the Parliament, and whether or not there was will be made known to Mr Worthington through the procedure which I have outlined.

The Hon. K.T. GRIFFIN: As a supplementary question, surely the Attorney-General would acknowledge that, in the terms of reference, not only the question of what actions the Minister took in respect of any conflict of interest she perceived she had but also what role the Minister played in relation to each matter may be identified by reference to Cabinet submissions. If that is the case, I ask the Attorney-General whether the Cabinet considered waiving Cabinet privilege and, if it did not, will he arrange that it do so in the light of the matters which I have raised?

The Hon. C.J. SUMNER: The Cabinet did not specifically consider whether to waive Crown privilege but, obviously, in accepting the procedure which is outlined in the Premier's letter and in the terms of reference, it has decided that Crown privilege ought not to be waived in this case. That is clearly the decision of Cabinet, as was the decision to set up the inquiry, and the procedures which I recommended be followed in relation to it have been approved by Cabinet. Quite clearly, I will not interpret Cabinet's mind as to whether it specifically directed its attention to this issue, but it is quite clear from paragraph 2 of the Premier's letter that it was envisaged that Crown privilege would not be waived.

I do not think it is reasonable for an inquiry of this kind or, indeed, a judicial inquiry, a royal commission or a court inquiry to go behind the Cabinet proceedings and be in a position to ask the members of Cabinet what particular discussions occurred within it on a particular issue. I think that would be a major breach of Crown privilege and, if established as a precedent in this case, it could be used in another case.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Just a minute. I think that is an undesirable situation, unless the honourable member is advocating that Crown privilege in relation to Cabinet discussions has outlived its usefulness.

The Hon. K.T. Griffin: I am not saying that at all. You have a special circumstance.

The Hon. C.J. SUMNER: Just a minute. I do not think that it is appropriate for Mr Worthington to be given the power to investigate what was said in Cabinet about these matters. That is why we have claimed Crown privilege in this case. I think it is a reasonable approach to adopt. I do not think the honourable member would find it palatable or in accordance with the usual practice or, indeed, the practice of the Government for Mr Worthington to be in a position to question 12 Cabinet Ministers about what the Minister of Tourism did or did not say in Cabinet in relation to these matters. However, in so far as the Minister was responsible for sponsoring or placing documents before Cabinet in relation to any of these matters, that information will be made known to Mr Worthington, and I think that will serve the purpose of a full inquiry. I do not think the inquiry should go that extra step and be given the power to question Cabinet Ministers about what was said in Cabinet on particular matters.

Obviously, what was said outside Cabinet is not covered by the privilege. Discussions the Minister may have had with other Ministers outside the Cabinet in relation to the issues that have been identified, including discussions with public servants, are relevant and are not covered by the privilege that has been claimed for Cabinet discussions. So, in effect the Government is claiming privilege for Cabinet submissions and discussions that went on in relation to those matters in Cabinet.

The Hon. K.T. Griffin: That latter part, discussions in Cabinet, does not come within the Premier's letter, does it?

The Hon. C.J. SUMNER: No, but I think it is fairly clear that, if the suggestion is that the inquiry would get into what particular Ministers said in Cabinet, the Crown privilege would be claimed. I think that is implicit in paragraph 2 which provides that for the reasons I have outlined we will not make available to Mr Worthington Cabinet submissions. I think the same consideration would apply to discussions within Cabinet. However, I repeat: if Mr Worthington has difficulty with those matters, he is perfectly at liberty to discuss them with the Premier. I do not believe that it is necessary to waive the traditional Crown privilege in relation to Cabinet submissions or the discussions in Cabinet for the purpose of this inquiry.

However, the material from Cabinet that is necessary for Mr Worthington to properly conduct his inquiry will be made available to him, and that is in the process of being done. A summary of Cabinet activities, which will include any declarations that have been made, the guidelines that I have provided already to the honourable member, proposals put before Cabinet in relation to the matters that are the subject of the inquiry, the decisions of Cabinet in relation to those matters and who was responsible for proposing those matters to Cabinet will be made available to the inquiry. I think that is adequate. I do not think there is a need to go further and, as I said, waive the traditional Crown privilege, which I think is an important privilege in the functioning of the Westminster system of government.

MINISTER OF CONSUMER AFFAIRS

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Minister of Consumer Affairs a question about a conflict of interest.

Leave granted.

The Hon. L.H. DAVIS: Since serious conflict of duty and interest allegations were first made against the Hon. Ms Wiese on 19 March, the Liberal Party has raised a stream of concerns about the Minister's role in three projects in which her partner, Mr Jim Stitt, had a close involvement. After four weeks of probing the Attorney-General on Easter Eve established an independent inquiry to examine these numerous allegations. At that time the Hon. Ms Wiese agreed to stand down as Minister of Tourism. However, the Hon. Ms Wiese remains as Minister of Consumer Affairs.

The Liquor Licensing Commission comes within the jurisdiction of the Minister of Consumer Affairs. The commission has a critical role in the gaming machine legislation now before the Parliament. The commission handles licence applications, approves sites and machines, approves management, oversees purchases and is responsible for revenue collection.

The Bannon Government had two options for the important role of monitoring authority in the gaming machine legislation. The monitoring authority provides a centralised multi-million dollar computer, monitoring and control system. The authority will also provide ongoing administrative advice and maintenance services to venues operating machines. These two options were the Lotteries Commission and the Independent Gaming Corporation. The Bannon Government's legislation has opted for the Independent Gaming Corporation, which was formed by the hotel and club industry associations last year.

In December 1990, the hotel and club industries engaged the services of Mr Jim Stitt's company IBD Public Relations Pty Ltd and subsequently also retained International Casino Services to provide technical advice on gaming machines. Between 19 March and 7 April of this year, the Minister denied Liberal Party claims that there was any link between International Casino Services and IBD. However, a document obtained by the Liberal Party and made public established a very clear link between the two companies. In fact, the prospectus for International Casino Services stated:

> International Casino Services further strengthened its consultancy service base by establishing a relationship with International Business Development Pty Ltd.

The same prospectus contains a page detailing Mr Jim Stitt's background. The Liberal Party has now established that not only was there a link between International Business Development and International Casino Services, but that in fact International Casino Services was introduced to the hotels and clubs by Mr Stitt. There is a clear alliance between the two companies.

While Mr Stitt's IBD received $4 000 per month from the hotels and club industries for his consultancy, the really big money would flow if the Independent Gaming Corporation were recommended as the monitoring authority. The hotels and clubs installing gaming machines would require advice on an ongoing basis as to the most appropriate machines, the best mix of machines, the rates of return and maintenance packages. I believe there are people who are prepared to give evidence to the independent inquiry that Mr Stitt boasted about the potential income which would flow from the appointment of IGC as the monitoring authority.

A figure of $1.2 million per annum has been mentioned. I believe there are also people prepared to give evidence that Ms Wiese had more knowledge of the work that Mr Stitt was doing than she has indicated to the Council. Notes in Mr Stitt's handwriting obtained by the Liberal Party—which have been presented to the Attorney-General and which are now in the possession of Mr Worthington—have indicated that Mr Stitt had an interest in gaming legislation as early as February 1989. Mr Stitt has clearly been a key player in the manoeuvring for the introduction of gaming machine legislation and, in particular, the monitoring authority.

The Hon. Ms Wiese has already admitted to Parliament that she did not declare her interest when the gaming machine legislation was discussed in the Cabinet. Indeed, she was forced to do so because the Liberal Party heard from members of the Labor Party that this was the case.

The PRESIDENT: Order! I am a little concerned about this line of questioning, as I think the honourable member is starting to trespass on what will eventually be the inquiry.

The Hon. L.H. DAVIS: Well, my question to the Minister—

Members interjecting:

The PRESIDENT: Order! I think the honourable member should get on with the question.

The Hon. L.H. DAVIS: The Liberal Party continues to receive serious allegations and information that will be passed on to Mr Worthington. The Minister has stood down as Minister of Tourism. Will she now stand down as Minister of Consumer Affairs and, if not, why not?

The Hon. BARBARA WIESE: The answer to the first is 'No, I will not.' The matter has been discussed with the Premier, and the Premier and I have agreed that it is quite unnecessary for me to stand aside from my position as Minister of Consumer Affairs. There is currently no operational role whatsoever in the area of gaming machines. The legislation has not yet passed the Parliament. It is likely to be some months before it is proclaimed, and the Liquor Licensing Commissioner and his staff will then fulfil any obligations bestowed on them by the Parliament should that

be the way the Parliament decides to go. At this stage what the Parliament will do has not yet been determined. Therefore, there is no role at all in the matter for members of staff within the Department of Public and Consumer Affairs.

This question today from the Hon. Mr Davis confirms in my mind—and I am sure confirms in the mind of anyone else who has been following this grubby, slimy debate that has been going on during the past month—that Mr Davis is a man of very little integrity. Through the course of the past month he has raised all sorts of issues based on pieces of material that, standing alone, mean nothing. He has drawn his own conclusions from the pieces of paper that have been given to him by most unreliable sources—and I know who they are. He has come into this place and has woven his own fanciful stories around the pieces of paper that he has brought in.

The issues he has raised today have been raised by him in this place before. There is absolutely nothing new in one single word that he has put before us. They are all issues that are coming before the inquiry. That is why the inquiry has been established. This is a grubby, low but very predictable and typical action on the part of the Hon. Mr Davis in continuing this campaign against me in this way in Parliament, when an inquiry has been established already. One can only assume that his actions during the past few weeks, and this action, are all part of his preselection campaign for the State seat of Hartley.

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: We can only hope that the preselection ballot is conducted soon because then the Hon. Mr Davis might get back to being a reasonable human being, if that is at all possible, although I am starting to wonder. Having sat opposite the Hon. Mr Davis in this place for 13 years, I must say that any hope I had of that being part of his character has certainly escaped me now. The Hon. Mr Davis is a man with very few principles and very little integrity. His questions today amply demonstrate that, and I suggest to him that he crawls back into his hole and just lets the inquiry go about its business, and we will all be very interested to see the outcome of it.

AIR QUALITY BRANCH

The Hon. M.J. ELLIOTT: I seek leave to make an explanation before asking the Minister for the Arts and Cultural Heritage, representing the Minister for Environment and Planning, a question in relation to the Air Quality Branch.

Leave granted.

The Hon. M.J. ELLIOTT: In the middle of last year the Air Quality Branch of the Department of Environment and Planning had released from it an internal document outlining problems in the branch's ability to regulate the Clean Air Act. The document was not an official release, or even compiled by the branch as a whole. It outlined the effects of an insufficient budget on the branch's operations and the consequences of deteriorating air quality on the community. The authors were frustrated employees of the branch who were driven to go public by the increasing inefficiency in their section. It was pointed out in the document that only two inspectors exist to cover the whole of South Australia 24 hours a day. Part of their work is to undertake regular inspections of licensed air emitters and investigate complaints from the public. At the time the document was written there was a backlog of 60 public complaints. The authors warned against any further funding cuts in the upcoming budget and advised that, unless funding was dramatically increased, the prospect for industry self-regulation would become a reality. The budget did not increase funding but, in real terms, reduced it against that of 1990-91.

In September, Greenpeace wrote to the Minister asking her to justify the continued existence of the Air Quality Branch under its current circumstances. It took her seven months to reply. During that time the manager of the branch took early retirement and was not replaced. His functions were added to the duties of an existing staff member. When the Minister finally replied to Greenpeace's letter she said in relation to the more than 60 cases waiting to be followed up by inspectors:

> More efficient work practices have enabled the branch to absorb cuts in recurrent funding. Current backlog of complaints on air quality is about 30, which represents less than two weeks work for air quality inspectors.

I have been contacted by people who, on a regular basis, have complained of air pollution to the Air Quality Branch and have had to wait up to 10 weeks to have that complaint serviced, if it is dealt with at all. One member of the public told me that an officer of the Air Quality Branch had informed him that the branch currently had some 90 to 100 complaints outstanding. That was in early March this year—within three weeks of the Minister's reply to Greenpeace which said the number had been reduced to 30.

I have been told from within the Air Quality Branch itself that the reduction in the backlog of outstanding cases was not due to increased inspection time in the field or to the number of inspectors. In fact, the two inspectors are still overwhelmed by the daily amount of complaints they are required to process—a fact confirmed by the current manager of the Air Quality Branch on ABC radio last week. The sort of criteria used to reduce the backlog of cases on computer were determined by the length of time that an individual case had been recorded and not followed up. In other words, the oldest uninvestigated cases were dropped off the list or, put another way, they were simply erased from the computer. Another technique has been to employ routine visits by inspectors as a justification for servicing previous complaints on that licensed premises, regardless of the fact that the complaints may have been recorded months before the visit. My questions to the Minister are:

1. How can the Minister justify the above measures as more efficient work practices, given the legal obligations of branch personnel under the Clean Air Act?

2. Given the evidence of the branch's inefficiency, both officially and from internal sources, when will the Minister give the branch the level of resources it needs to competently carry out its legal requirements under the Clean Air Act?

3. Are the above measures of achieving what the Minister calls efficiency in the Air Quality Branch—in other words, erasing files—an indication of how the Minister plans to deal with other budget restrictions in her portfolios?

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

OUTER HARBOR CONTAINER TERMINAL

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Marine, a question on the subject of the Outer Harbor Container Terminal.

Leave granted.

The Hon. DIANA LAIDLAW: On 21 January this year the Solicitor-General issued a notice to the operator of the Outer Harbor Container Terminal that, pursuant to section 82 of the Harbors Act, the Minister requires possession of

the land and improvements within three months of the date of the service of this notice. The move to resume the terminal lease four years prior to its expiry is part of the Government's transport hub proposals. As the three months notice to resume the lease fell due on 21 April last week, I ask:

1. Does the Minister now intend to move in and take possession of the container terminal and, if so, when?

2. Are the negotiations being conducted by the Department of Marine and Harbors to lease the site to another company—said to be the internationally based intermodal operator, Sealand—being frustrated by the inability of the Government to give a guarantee on the date that they can take possession of the site?

3. What is the status of negotiations with the current operator for financial compensation under the terms of section 82 (4) of the Harbors Act?

The Hon. C.J. SUMNER: I will refer the questions to my colleague and bring back a reply.

COUNCIL AUTHORITIES

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

Leave granted.

The Hon. J.C. IRWIN: My question relates to the intention of the Local Government Act which provides that council controlling authorities set up under sections 199 and 200 of that Act may borrow money without the direct approval of the council. This matter has been brought to my attention by a number of sources including councils, joint council development boards and auditors. Section 199 (4) of the Local Government Act states:

> The council may, subject to conditions determined by the council, delegate to the controlling authority:
> *(a)* the power to receive and expend revenue; and
> *(b)* any other of the council's powers that are reasonably required to enable it to carry out the functions for which it was established.

Section 200 authorities established by two or more councils do not have this exact delegation. Section 41 of the Local Government Act relates to delegation and subsection (2) *(b)* provides that a council may not delegate power to borrow money or to obtain other forms of financial accommodation. One opinion is that, if an authority chooses to lend on a resolution of a prescribed body, it may do so bearing in mind that a controlling authority is in fact controlled by the council. There appears to be no requirement to have the council's specific approval for a lending scheme. As the council has the right to deal with and on behalf of the controlling authority (assuming section 199 applies), the acceptance of a controlling authority's resolution as opposed to a council's resolution would not necessarily be improper. This means that a council may not necessarily know that one of its authorities is borrowing money or indeed how much money it is borrowing. My questions are:

1. Does the Minister believe it is the intention of the Local Government Act that a council controlling authority administering a project for a council can borrow money or obtain other forms of financial accommodation without the specific approval of the council?

2. Has the matter of a section 199 council authority borrowing money without specific council authority been brought to the attention by council auditors?

The Hon. ANNE LEVY: The answer to the second question is 'No' but, with regard to the general question, from what the honourable member was saying it seems that legal interpretation is involved. Not being a lawyer, I would not like to make off-the-cuff comments in this regard without consulting and getting considered legal opinion on the matter. I point out to the honourable member that all controlling authorities established under section 200, that is, those established by more than one council, must have their rules approved by the Minister. Obviously, the rules must be agreed to by the two or more councils concerned and approval must be given by the Minister both for the rules and for any changes to the rules which may occur. If a council feels that the rules of the statutory authority are not adequate in controlling that authority by the council, they need only suggest a change in the rules and put it to the Minister.

I point out that it is nearly two years since the Government received a request from the councils of Mitcham and Unley regarding the Centennial Park authority, which is a controlling authority set up under section 200. At the request of the two councils that set up the authority, the Government, assisted by the CEOs of the two councils, conducted an inquiry into Centennial Park Trust, as a result of which the inquiry recommended a change to the rules of that controlling authority.

That change to the rules has not yet occurred. Unley council agreed to the change in rules one month after the report was promulgated. Mitcham council still has not agreed to the change in the rules, although it is now over 18 months—I think it must be nearly 20 months—since it received the report. I think it very odd that, having requested the inquiry in the first place, 20 months later Mitcham council still has not decided on changing the rules of the authority, despite correspondence from me and from the Unley council. I understand it was about 15 months before the item made the agenda of a Mitcham council meeting, and the matter is still not resolved.

If councils wish to alter the rules of their controlling authorities so they can have more control over these authorities, they need only put forward the suggested rules for the Minister's approval, and I can assure members and the public of South Australia that I will not be hesitant at all about granting approval for such changes in rules and I would very much welcome a joint request from Unley and Mitcham to change the rules of the Centennial Park Trust as recommended by the inquiry 20 months ago.

AUTOMOBILE INDUSTRY

The Hon. G. WEATHERILL: Has the Minister of Consumer Affairs a reply to a question I asked on 16 October about the automobile industry?

The Hon. BARBARA WIESE: The Minister of Industry, Trade and Technology has provided the following response to the honourable member's question:

During the Industry Commission's inquiry into the automotive industry, the South Australian Government argued for a reduction in tariff to not less than 25 per cent by the year 2000. However, we must now accept that the 15 per cent tariff is a *fait accompli* and devise strategies to ensure the industry develops under this scenario.

The South Australian Government has made its position clear in public commentary and in writing to the Federal Government; namely, that support is needed for the industry if it is to achieve the reforms sought. We have suggested, therefore, that the Federal Government take a lead in helping to formulate a realistic vision for a competitive automotive sector in our region of the world, in creating skill and career development opportunities, and in encouraging

stronger networking and active collaboration between assemblers and suppliers.

Through these proposals we are striving to increase all aspects of efficiency so as to enable the industry; to compete within ports at lower levels of Government assistance; provide better quality products for consumers at reduced prices; and minimise disruption to production and employment during the transition to a more efficient industry.

Specific initiatives for which the South Australian Government requested Federal funding included:

- an institute and a chair of automotive manufacturing to be established at the University of South Australia in 1992 ($1 million);
- ongoing NIES funding for 'lean manufacturing' programs designed to increase companies' competititveness to a world standard ($3.8 million);
- increased support for industry restructuring along the lines of the $120 million provided for the textile, clothing and footwear industries. This support would contribute towards the development of Australian technology, design, research and skill acquisition;
- low interest loans as an incentive to invest in plant and equipment and to expand production for export ($85 million);
- more effective depreciation and taxation treatment of investments in manufacturing and other productive activity, including infrastructure development.

As members are aware, the Federal Government included the accelerated investment allowance in the industry statement and also reduced the sales tax on vehicles below $45 000 from 20 per cent to 15 per cent, thus providing some assistance to the automotive industry. Whilst the other recommended measures were not announced, we will continue to work towards their ultimate implementation. The South Australian Government has also established an automotive task force to advise on measures to achieve the Federal Government's objectives for the industry, and has suggested that a similar body be established by the Federal Government.

ROAD MAINTENANCE

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Transport a question about road maintenance responsibility.

Leave granted.

The Hon. I. GILFILLAN: On 22 October last year I asked the Minister a question concerning a proposal to haul up to Adelaide 500 000 tonnes of limestone from a Barossa Valley quarry owned by Penrice Soda Products. Currently, this load is carried by Australian National on a rail line from the quarry to Port Adelaide but there are plans to transfer that load to road. When I first raised this issue I said that road maintenance costs in the Barossa Valley would rise by several million dollars, a financial burden that would be largely carried by local councils in the area. On 13 November last year the Minister finally replied to my questions stating:

> . . . the councils in the Barossa area will not be responsible for paying any additional road maintenance costs because the roads that the road hauliers will use are the responsibility of the State Government.

I have a copy of a letter sent to the Minister for Local Government Relations on 9 December last year by the district clerk of the district council of Angaston, Ms Judith Jones. In that letter Ms Jones says that the answer by the Minister of Transport about road maintenance responsibility is not correct. Ms Jones writes:

> Penrice Soda Products which own the quarry is situated on Penrice Road between Angaston and Nuriootpa. Penrice Road is a fully council maintained road. For the road hauliers to get to Sturt Highway (a State Government maintained road) they must travel over Penrice Road, and either Old Kapunda Road or Stockwell Road. Both these roads are fully council maintained.
>
> It will therefore be a great burden on the Angaston council to maintain these roads if the additional 500 000 tonnes of limestone is carted over our roads each year, and council is most concerned at this. Are you suggesting that the State Government will take over the maintenence of these roads?

The Angaston council got a reply from the Minister (Hon. Frank Blevins) on 4 February this year, in which he said:

> Dear Ms Jones
>
> I refer to your letter of 9 December 1991 addressed to the Honourable the Minister for Local Government Relations, in relation to statements made in *Hansard* on 13 November 1991 regarding Barossa Valley heavy road traffic.
>
> I acknowledge with apologies that the statement in *Hansard*, 'the councils in the Barossa area will not be responsible for paying any additional road maintenance costs because the roads that the hauliers will use are the responsibility of the State Government,' is incorrect.
>
> The bulk of the haul would be on the arterial road network; however, as you point out there is also a local road component involved.
>
> It is certainly acknowledged that cartage is also over local roads for which your council is responsible. Furthermore, the State does not plan to take over the maintenance of those roads.

It is clear from these statements and this letter that the Minister of Transport either misled the Parliament and the councils concerned in relation to this issue or that he simply did not have a clear grasp of the true facts of the matter. Since that time, the District Clerk of Angaston council has received from reliable sources (and I can verify that) renewed warnings of the pending closure of the rail line servicing the quarry. My questions to the Minister are:

1. Now that the Minister has acknowledged that his answer in relation to this issue was wrong—I point out that it still stands as wrong in the record in *Hansard*—and in the light of renewed fears of line closure, will he give an undertaking to re-examine this issue and present the correct information to the Parliament and to the councils concerned?

2. Given that his original answers were incorrect, will the Minister now undertake as a matter of urgency to convene a conference with Australian National, Penrice and the affected councils, namely, Angaston, Tanunda, Barossa, Gawler and Light, to discuss the impact that this will have on their road system, the increased costs and the reimbursement of those costs to the councils?

3. Does the Minister agree that it is desirable to keep the rail line open and used and that the 500 000 tonnes of limestone should continue to be carried by rail?

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

MINERAL FIBRES

The Hon. T.G. ROBERTS: I understand that the Attorney-General has a reply to a question that I asked about mineral fibres on 25 March.

The Hon. C.J. SUMNER: I have the answer, and I seek leave to incorporate it in *Hansard* without my reading it.

Leave granted.

The Minister of Labour has provided the following response:

> Worksafe Australia issued a technical report on the subject of synthetic mineral fibres in 1989, followed by a standard and code in 1990. A regulation and approved code based on the Worksafe Code came into force on 1 May 1991 in South Australia. The issues have been and are incorporated in general publications from the Department of Labour and of the South

Australian Occupational Health and Safety Commission, which will continue to be updated and therefore workers kept informed.

WORKPLACE REGISTRATION

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Labour, a question on workplace registration.

Leave granted.

The Hon. J.F. STEFANI: On 4 April 1989 the Attorney-General introduced a number of amendments to the Occupational Health, Safety and Welfare Act 1989 which provided for the registration of employers and the collection of a workplace registration fee based on a percentage of the amount of any levy payable by employers to WorkCover. Registration fees were previously based on the number of employees engaged by a particular employer and were collected by the Department of Labour on an annual basis. In July 1990 the Department of Labour advised employers that workplace registration would be collected by WorkCover and would be set at .64 per cent of WorkCover levies. In many instances registration fees have also been loaded by the penalty payable to WorkCover reflecting an even higher amount being charged by the Government to register a place of work. My questions are:

1. Will the Minister confirm or deny his intention to increase the workplace registration formula from .64 per cent to .84 per cent from 1 July 1992?

2. Will the Minister advise what was the number of employers who were registered from 1 July 1991 to 31 March 1992 and what was the amount collected by the Government for workplace registration fees during this period?

3. Will the Minister explain why a percentage formula has been used for registration of workplaces in lieu of the fixed fee as intended by the legislation passed in this place?

The Hon. C.J. SUMNER: I will refer those questions to the appropriate Minister and bring back a reply.

HAEMOPHILUS INFLUENZA TYPE B

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health a question about haemophilus influenza type B.

Leave granted.

The Hon. BERNICE PFITZNER: Haemophilus influenza type B disease is recognised as a leading public health problem and is the most frequent cause of meningitis, or inflammation around the brain, in the USA, where the annual incidence and death rates are similar to polio during the 1950s.

In Australia the annual rate of the infection is one in 300 for under five-year-olds; 50 per cent of cases of HIB lead to meningitis; 30 per cent of cases lead to epiglottitis or inflammation of the throat; and 66 per cent of the disease occurs in children over 18 months of age. In Aboriginal children the incidence of HIB meningitis is higher. In the Australian general community the death rate for HIB meningitis is 5 per cent, and 20 per cent of children who survive the meningitis will have neurological handicaps or handicaps caused by damage to a nerve. Of further concern is the emergence of strains of HIB resistant to antibiotics and the fact that child-care centres are high risk areas for developing and spreading of the disease.

With these statistics and the recent advent of HIB vaccine available but costing $24, plus doctors' fees, which amount to nearly $50, and the knowledge that this present vaccine is effective for 18-month-olds, my questions are:

1. Will the Minister inquire why this vaccine is not available through the pharmaceutical benefits scheme?

2. Will this vaccine be included in the children's routine immunisation schedules, and, if not, why not?

3. If the rationale is that this present vaccine is only for those over 18 months old and they ought to wait for the other vaccine which is effective from two months, how will the Minister respond to this rationale as 66 per cent of the disease occurs in children over 18 months old?

4. What is the public health policy for children who contract the disease in a child-care setting, particularly in relation to the follow-up of the contacts?

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

LEAVE OF ABSENCE: Hon. J.C. BURDETT

The Hon. R.I. LUCAS (Leader of the Opposition): On behalf of the Hon. Dr Ritson, I move:

That three weeks leave of absence from Friday 1 May be granted to the Hon. J.C. Burdett on account of overseas commitments.

Motion carried.

SELECT COMMITTEE ON THE PENAL SYSTEM IN SOUTH AUSTRALIA

The Hon. I. GILFILLAN: I move:

That it be an instruction to the select committee that its terms of reference be amended by adding the following paragraph:

IV. Should the committee determine not to disclose or publish any evidence taken by the committee, the Council will not require such evidence to be tabled in the Council.

It is not a matter that requires a lengthy argument or justification. It is a precedent that has been used in other select committees, where the committee has been convinced that the tabling or publication of details of names of certain people who have either given evidence or are mentioned in evidence would be against their interests and, in some cases, quite dramatically against their interests. This dilemma is posed because, as members know, the transcripts of evidence taken in select committees, even that taken *in camera*, eventually becomes publicly available. This amendment perhaps should have been foreseen, bearing in mind the nature and the delicacy of some of the matters with which the Select Committee on the Penal System would be dealing. However, because we did not foresee that, it is now necessary that this motion be dealt with and I urge the Council to support it.

Motion carried.

MINISTER OF TOURISM

The Hon. I. GILFILLAN: I move:

1. That a select committee of the Legislative Council be established to inquire into and report on—

(a) whether the Minister of Tourism has or had a conflict of interest in relation to gaming machine legislation in South Australia, the Tandanya tourism development

on Kangaroo Island, the Glenelg ferry/foreshore redevelopment and any other related project;

(b) the role played by Mr Jim Stitt in relation to activities undertaken by Tourism SA and his involvement in the proposed introduction of gaming machines into hotels and clubs in South Australia;

(c) whether any impropriety exists on the part of the Minister of Tourism and Mr Jim Stitt in relation to tourism projects and proposals in South Australia in particular, but not exclusively, the Tandanya tourism development on Kangaroo Island and the Glenelg ferry/foreshore redevelopment;

(d) the activities of companies Nadine Pty Ltd, Geographic Holdings, Paradise Development Pty Ltd, International Casino Services Pty Ltd, Customs Construction Pty Ltd (formerly Ausea Pty Ltd), International Business Development Pty Ltd, I.B.D. Public Relations Pty Ltd and any other companies involved with the Minister of Tourism, Tourism SA and/or Mr Jim Stitt in relation to terms of reference *(a)*, *(b)* and *(c)*;

(e) Whether the Minister contravened generally recognised standards of ministerial propriety by continuing as Minister of Tourism while Mr Stitt, friends and associates were engaged in lobbying and other business activities with projects connected with the Minister and Tourism SA.

2. That Standing Order 389 be so far suspended to enable the Chairperson of the committee to have a deliberative vote only.

3. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence presented to the committee prior to such evidence being reported to Council.

At the outset I want to contribute to the supporting argument for this motion, laying to rest the allegation that is made to me from time to time that this is a witch-hunt.

Members interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: The fact is that, from time to time, the ethics of behaviour of members of Parliament and the general procedure of members of Parliament—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Gilfillan.

The Hon. I. GILFILLAN: —are brought into question so that guidelines can be established. There is apparently, at least by the Cabinet of this Government, a sense of divine authority that it can determine and decide what are its codes of ethics, entirely on its own, answerable to no other entity. The Attorney-General may recall, if he has a reasonable memory—and it may have been as recently as yesterday—that he indicated that the questions of codes of ethics and procedures were to be reviewed. I quote no higher authority than himself. Therefore, a committee of this Parliament to consider such matters would basically be along the lines of the general direction which the Attorney-General has indicated should be investigated.

Those members who take note of the reading list will have been encouraged to read a selection from the *Public Law Review*, March 1991 edition, which examines the issue of parliamentarian responsibilities in relation to conflict of interests in an article entitled 'The Duty of Parliamentarians to make Ad Hoc Disclosure of Personal Interests', written by an Associate Professor of Law at Bond University, Gerard Carney. Having gone through the barrage of predictable misunderstanding of what I intended to say in support of this motion, I think it is quite important that I establish beyond dispute, for those who seriously read *Hansard*, that the issue is one for the Parliaments of South Australia; it is not an issue of victimising or picking up one particular culprit in a set of circumstances which unfortunately are the subject of an inquiry at this stage. Professor Carney writes:

It is the duty of all public officials elected or not to ensure the integrity of office is maintained at all times—

The Hon. Carolyn Pickles: What has this got to do with it?

The Hon. I. GILFILLAN: Interjections such as 'What has this got to do with it' will keep me going for a long time. If this is not the basic issue, then we are purely in a mud-slinging exercise, and we have claimed over and over again that that is not our purpose.

Members interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: If honourable members are so petty that they are unable to see that there are bigger questions than the petty sniping across the middle of this Chamber, they have no respect for the institution which we should all be upholding, and that is the integrity of this Parliament.

The Hon. Anne Levy: Sanctimonious.

The Hon. I. GILFILLAN: 'Sanctimonious' is another interjection from people who are apparently not interested in a debate on an issue to ensure something that other Parliaments of this country and the world have spent a lot of effort establishing.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Gilfillan has the floor.

Members interjecting:

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

The Hon. I. GILFILLAN: Professor Carney writes:

Public integrity is an ideal that must be nurtured and safeguarded, describes the obligation of all public officials to act always and exclusively in the public interest and not in furtherance of their own personal interests.

Public officials are in a sense the trustees of the public interest. The most serious breach of this trust occurs when public officials engage in corrupt practices. Other conduct less heinous than that of corruption may also betray this trust . . . an example of this latter conduct is when a public official acts in the course of carrying out official duties in a way which also promotes his or her personal interests . . . it taints the decision and the decision maker with allegations of impropriety.

Professor Carney believes that members of Parliament must follow a strict course of disclosure of personal interest whenever they conflict or appear to conflict with the duties of public office. He advocates the use of codes of conduct, registers of interests and divestment of interests as ways to resolve potential conflict of interest situations.

However he states that '. . . if, despite these preventative mechanisms, a conflict of interest does arise, it is imperative that there be some well established procedure to ensure that the conflict is removed and that any decision made is not tainted by it.' He recommends three ways to ensure this:

1. divest the member of the personal interest;

2. divest the member of his or her public duty or decision-making power; or

3. authorise the member to perform his or her public duty despite the personal interest.

In 1974 the House of Commons adopted a resolution to deal with conflict of interest for members of Parliament which read:

That in any debate or proceeding of the House or its committees or transactions or communications which a member may have with other members or with Ministers or servants of the Crown, he shall disclose any relevant pecuniary interest or benefit of whatever nature, whether direct or indirect, that he may have had, may have or may be expecting to have.

By adopting this resolution the House of Commons upgraded what had been a custom to a rule, attaching to it at the same time the penal sanctions of contempt if the rule was breached.

In 1969, a report was tabled in the House of Commons entitled 'The 1969 report from the Select Committee on Members' Interests (Declaration)', which became known as the 'Strauss report'. The Strauss report recommended that:

An interest should be declared whenever a specific and relevant financial connection exists which might reasonably be thought to

affect the expression of a member's views on the matter under debate or other activity.

According to Professor Carney this second recommendation, also adopted by the Commons as a rule, covered all areas of potential conflict of interest such as remunerated employment, real estate holdings, shareholdings, financial investments, hospitality and sponsored travel. This rule applied also to '... any discussions between the member and other members, Ministers and even civil servants'.

In Australia the Federal Parliament requires a declaration of personal interest only by members of the House of Representatives, based on the first rule of the House of Commons, while Senators must simply adhere to Standing Order 292 which disqualifies a Senator from sitting on a committee of the Senate if personally interested in the inquiry. Although generally regarded as being deficient, the rules that apply to Federal members of Parliament are seen as a step in the right direction to a more open and accountable form of Government and Parliament. Federal Cabinet Ministers, on the other hand, are required to declare to Cabinet any private interests whether or not of a pecuniary nature, of themselves and their families, which may conflict or appear to conflict with their ministerial duties.

In most State Parliaments the first rule of the House of Commons has also been adopted, but the Victorian Parliament is the only legislature where there is a statutory requirement for *ad hoc* disclosure of personal interests. Professor Carney claims that in relation to Ministers there is a clear ethical obligation on them to disclose personal interests to Cabinet, ministerial colleagues and other public officials where these interests appear to conflict with their public duties. He says:

> In some States there is a custom requiring such disclosure, while in at least New South Wales and Queensland such an obligation is prescribed by a ministerial code of conduct.

In New South Wales that code of conduct imposes on Ministers an obligation of *ad hoc* disclosure not only in Cabinet but also generally in the exercise of their public duties. Paragraph 3.4 of the code requires Ministers to disclose any actual or apparent conflict of interest which arises or is likely to arise in any matter before Executive Council, Cabinet or any committee or subcommittee of Cabinet. After making the disclosure, the Minister must abstain from voting on the matter, and under paragraph 3.3 the Minister must also abstain from acting in the matter unless divested of the interest. The Premier is also empowered to appoint another Minister to act in the matter.

In Canada, every provincial legislature has introduced, by legislation, mechanisms to deal with conflict of interest by using codes of conduct, public registers and obligations to divest vulnerable property interests that may exist. In Manitoba the Legislative Assembly and Executive Council Conflict of Interest Act 1983 states:

> Members are obliged to disclose the general nature of any direct or indirect pecuniary interest or liability, which they or their dependents have in any matter which arises at a meeting of the Legislative Assembly, a committee thereof or a Crown agency.

Again, according to Professor Carney a 'direct pecuniary interest' is defined to include payment received by members for representing the interest of others. An 'indirect pecuniary interest' is presumed to exist where a member is sufficiently connected to a person, corporation, partnership or organisation which, or a subsidiary of which, has a direct pecuniary interest in the matter. I hope members have paid attention to what I have just said.

Carney argues that in Australia there is an urgent necessity for an effective obligation of *ad hoc* disclosure to be imposed on members and Ministers and that as long as it is drafted in sufficiently wide terms to cover the conflicts of interest which may arise in public office it does not matter whether the obligation is imposed by House resolution, Standing Orders, ministerial code of conduct or an Act of Parliament.

In relation to the special role played by a Minister, Professor Carney suggests that a mechanism is essential to avoid the situation arising where Ministers are seen to make decisions in relation to their departments which appear to promote their interests or the interests of parties directly connected with them. He also says there must be an obligation on a Minister to reveal any relationship requesting non-pecuniary interests which arise in assisting or promoting the interests of a relative or friend.

Finally, it can be argued that in relation to the role of Ministers, the mere disclosure of their interests to Cabinet colleagues is not enough of a safeguard. A better approach is arguably to deny the right of participation both in the consideration of a matter under question and its determination unless Cabinet decides that withdrawal from the matter is unnecessary on the basis that there is not even the appearance of a conflict of interest.

So, that analysis of the situation puts the question into what I regard as its proper perspective, that is, this whole issue, this whole sorry incident, serves as a pattern that can be followed through so that, in future, Ministers will be protected from the sort of situation to which the Hon. Barbara Wiese has been exposed. Clear guidelines will be established and, if we have to have a select committee, so be it.

The matter of the terms of reference of the Government inquiry has been the cause of some public comment by me and conversations with the Attorney-General in public and in private. On 28 April this year I wrote to Mr Worthington. I had written to him earlier asking whether my colleague the Hon. Mike Elliott and I could meet him. He replied that he wanted to know what we wanted to discuss with him before he could make a decision. In my letter I state:

> Dear Mr Worthington,
>
> Thank you for your letter 27.4.92 in which you ask details of the concerns which we wish to raise with you to determine whether it would be appropriate for you to meet us.
>
> Enclosed is a copy of a statement sent to Mr Sumner and Mr Griffin. It contains some observations which we would wish to raise with you.
>
> Our principle concerns are firstly the extent to which you intend and/or have powers to discover the extent of involvement by Mr Stitt and his associates in projects under the ministerial responsibility of the Hon. Barbara Wiese.
>
> Secondly, the extent to which your findings can be assured of reaching Parliament.
>
> Thirdly, that you are not required to assess the propriety or otherwise of the situation as regards a Minister of the Crown.
>
> When do you intend to have discussions with us regarding our evidence provided to you via the Attorney-General?
>
> We believe as principal complainants and advocates of an independent inquiry, it is reasonable for us to have a discussion with you.

Mr Worthington responded on the same day as follows:

> Dear Mr Gilfillan,
>
> Thank you for your letter of 28 April 1992 and the copy of your statement dated 23 April 1992.

My statement was as follows:

> The Government/Wiese Inquiry: The Democrats find serious flaws in the terms of reference and directions to the inquiry.
>
> 1. In Mr Sumner's letter to Mr Griffin, dated 22 April 1992, he says:
>
> > It is a two stage inquiry, the first stage is for Mr Worthington and the second stage is for the body to whom the duty is owed. In these circumstances that body is the Cabinet.
>
> We do not accept that the duty is to the Cabinet. It is owed to the Parliament and the public.
>
> 2. Mr Sumner says that 'This examination will no doubt cover all the relevant aspects of Mr Stitt's activities'. We believe all Mr Stitt's activities relating to the areas of concern should be investigated but there is no direction to the inquiry that this be done; therefore there is some doubt that it would be done.

3. Mr Sumner makes this extraordinary judgment that 'It would be an improper and inappropriate use of public moneys to conduct a fishing expedition to discover whether or not any improprieties on the part of the Minister were revealed'. We believe it would indeed be proper use of public moneys to investigate and/or reveal possible improprieties of a Minister.

4. The restricted nature of the inquiry is made clear by Mr Sumner as regards Mr Stitt's securing the services of a firm of consulting engineers at Tandanya (K.I.) and/or Glenelg. He says:

> Should this issue become relevant to the state of mind of the Minister in relation to the two projects then Mr Worthington could investigate this aspect.

We do not believe the relevance of the issue should depend on its relevance to the state of mind of the Minister. It is relevant regardless of the state of her mind.

This highlights the major deficiency in the terms of reference, namely that all matters are confined to what the Minister knew or claims not to have known. The issue goes wider than that. It is the extent of the involvement of the Minister's partner in life (for example, spouse) in areas under the Minister's portfolio.

The terms of reference refer to 'any further facts' . . . 'should be brought to the attention of the Premier'.

It is the Parliament and the public who are the most concerned in this. The Premier and the Government did not even want the inquiry at all!

In the Premier's letter to the inquirer, Mr Worthington, dated April 1992, he indicates he will have no special powers:

> There will be no special powers of compulsion in relation to the giving of oral evidence or the production of documents.

Therefore, it is a fair question to ask 'how thorough the inquiry can be'. And further when the Premier is instructing the inquirer regarding proven facts, he says:

> You will find a fact proven if you are reasonably satisfied after paying due regard to the serious nature of the allegations and the gravity of the consequences for the Minister that the fact is made out.

That is, a fact is not a fact in its own right. It has to be referred to the nature of an allegation and its consequence before it becomes a 'fact' for the purpose of this inquiry.

Mr Worthington commented on that as follows:

There are two matters which, consistent with my function to conduct an independent inquiry, I am able to address.

First, the standard of proof to which the instructing letter from the Hon. the Premier refers in summary form is the standard of proof which was applied by Mr M.E.J. Black QC in his 'Report of an inquiry into the circumstances surrounding the making of a customs declaration' dated 17 August 1984. It is a summary reference to the law laid down by the High Court of Australia in *Briginshaw v. Briginshaw*, which is reported in Volume 60 Commonwealth Law Reports commencing at page 336. I thought it would be helpful to enclose copies of pages 343-344 (Chief Justice Latham) and 362-363 (Mr Justice Dixon) on which I have indicated the passages most commonly cited by Australian courts when explaining the required degree of proof. The report of the case itself is lengthy (39 pages) and thus I have not copied the whole of it but, if you would like to have the full report, please advise me and I shall send a copy.

Secondly, you have asked when I intend to confer with yourself and Mr Elliott concerning the material which you have supplied. The inquiry is still in an early stage which includes the collection and inspection of files and documentation from various Government departments and other authorities. Once that stage has progressed sufficiently to enable me to settle the procedures that I have provisionally in mind, I shall make contact. In that regard I should be grateful if you would advise me of the person through whom I should arrange for contact to be made with both yourself and Mr Elliott.

I turn to the other matters raised in your letter and the statement. Because of the duty imposed on me as chairman of the inquiry to be both independent and impartial, I am unable to enter into discussion on matters which are part of the function of the executive Government of the day. It is of course, a well established legal principle that, subject to the canons of construction, terms of reference must speak for themselves and clearly I shall inquire into all matters which bear upon those terms. However, apart from saying this, it would be inappropriate for me to discuss the other matters you have raised since they are matters within the province of executive Government. I am therefore unable to accede to your request to meet for that purpose.

Yours sincerely,

The Hon. C.J. Sumner: Are you going to read my response?

The Hon. I. GILFILLAN: I think your response has had some fairly substantial publicity.

The Hon. C.J. Sumner: It has not been read into *Hansard*. Read it out!

The Hon. I. GILFILLAN: No, you can read it out yourself.

The Hon C.J. Sumner: Come on! You're prepared to read your criticism and not my response to it.

The PRESIDENT: Order!

The Hon. I. GILFILLAN: I acknowledge that there was a substantial reply made by the Attorney to the letter that I sent to him with the statement. In that regard, the points he made are clearly argued, but I believe they are open to further discussion.

The Hon. C.J. Sumner: Read them out!

The PRESIDENT: Order! The honourable Attorney will have his opportunity to enter the debate.

The Hon. I. GILFILLAN: The select committee is not our preferred course of action. We have said consistently from the beginning of discussions on this issue that it was our desire that an independent inquiry be established. We sought adequate terms of reference for that inquiry and a certainty that its findings would be adequately available to this Parliament.

The Hon. C.J. Sumner: Why do you keep making that complaint? You insist on deceiving the Parliament with misleading information.

The PRESIDENT: Order!

The Hon. C.J. Sumner: It is true.

The PRESIDENT: Order! The Attorney-General will have an opportunity to enter the debate.

The Hon. C.J. Sumner interjecting:

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

The Hon. I. GILFILLAN: It is unfortunately clearly apparent from the intemperate interjections by the Attorney how difficult, if not impossible, it is to have a reasonable discussion with him about the matter. He just proved the point. We would far rather have an adequate independent inquiry. The motion to establish a select committee is the fall-back position. I had, and still have, a small hope that we can see the structure of the independent committee adequate enough for safeguards and guarantees that disclosure of all important matters will be made to this Parliament, in which case the motion for a select committee need not proceed. However, to this point, and with the intemperate, illogical shouting of the Attorney, it is very difficult to see that we will achieve a rational compromise through conversation.

However, the Chairman of the inquiry has made plain that he believes he serves separately from the Government under the terms of reference and he has indicated that on certain matters he is prepared to have some conversation with us. I also believe that there is some dialogue between him and the Opposition. So, the situation is fluid and open and, on that basis, I seek leave to conclude my remarks.

The PRESIDENT: Is leave granted?

The Hon. C.J. Sumner: No!

The PRESIDENT: Leave is not granted.

The Hon. I. GILFILLAN: I have concluded.

The PRESIDENT: You have finished your contribution?

The Hon. I. GILFILLAN: Yes.

The Hon. C.J. SUMNER (Attorney-General): It is quite clear that the honourable member's seeking leave to conclude was a subterfuge to prevent me from speaking today because—

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: Well, it is clearly on the Notice Paper that I intended to speak.

An honourable member interjecting:

The Hon. C.J. SUMNER: Well, it should be; it is on mine, I can assure you. The honourable member sought leave to conclude his remarks and one would normally assume that he had something further to say. But he did not. As soon as I refused him leave to conclude he sat down and said that he had nothing more to say. In other words, it was a subterfuge to stop other members speaking and replying to the nonsense that he has outlined in the Council today.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: It was a subterfuge; you had nothing more to say. It was an attempt to stop members on this side of the Council making a contribution to the debate. Allow me to say also that the Hon. Mr Gilfillan consistently during the debate has accused me of some intemperate behaviour, and I completely refute that. The fact is that he has continued publicly, and again in this Council today, to suggest that the findings of the inquiry will not be made public to this Parliament. That is rubbish and he knows it to be rubbish. He has read the terms of reference and the Premier's letter. The Premier's letter quite clearly states—and I repeated it yesterday—that the report of the inquiry will be made public.

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: It will be made to the Parliament. To suggest that it will not be made public is wrong and mischievous. To suggest that when I react to his continual misrepresentation of the position in public and in this Council that my behaviour is intemperate is ridiculous. The fact is that I wanted to put on the record, by way of interjection, what is the situation, namely, that the report of the inquiry will be made public. That was in the original letters sent by the Premier to Mr Worthington. I can only ask the Hon. Mr Gilfillan and his compatriot the Hon. Mr Elliott to desist from misrepresenting those issues to this Parliament and the public.

The Hon. M.J. Elliott interjecting:

The PRESIDENT: Order! The Hon. Mr Elliott will have a chance to enter into it.

The Hon. C.J. SUMNER: That is not what he said. He said it would not be made public. He said it publicly—he said it in this Chamber. Frankly, he is misrepresenting the position. If he is suggesting that there will not be a running transcript made public, then he is quite right. If he wants that done, he can establish a royal commission, because that is the only way you will get the necessary protection for that material to be made public. Never in the course of this debate have the Democrats or the Opposition suggested that a royal commission is an appropriate course of action in this matter, so we have established what other procedures are available to the Government, and that is the independent inquiry headed by Mr Worthington.

If you want a royal commission, come out and honestly say that you want it, but do not use these sorts of arguments and misrepresent to the public and to Parliament the situation in relation to the making public of the report. Do not misrepresent and say that the terms of reference are inadequate because there can be no compulsion for people to attend. There cannot be compulsion for people to attend unless a royal commission is established. That has never been suggested by the Hon. Mr Gilfillan or members opposite.

The motion did not call for a royal commission; it called for an independent inquiry, and that is what the Government has established. The Government opposes this motion. Despite the Hon. Mr Gilfillan's protestations, it does reveal the Democrats' agenda in this matter, which is to achieve as much political capital as they possibly can out of the issue while denying the Minister of Tourism the basic principles of natural justice—

The Hon. I. Gilfillan: Are you saying it is not an important issue?

The Hon. C.J. SUMNER: —to which she is entitled. I am not saying it is not an important issue. Clearly, the fact that the Government has established the independent inquiry and that we have said we will table in Parliament details of the principles relating to conflict of interest and the Cabinet response to the terms of the inquiry indicates that the Government is treating the issue seriously. However, the Hon. Mr Gilfillan is interested in political capital, upstaging the Opposition and denying the Minister the principles of natural justice, and certainly that latter aspect has been consistent in your behaviour on this matter right from the start. Do not come into this Parliament and bleat about ethics and principles when your own behaviour in this matter has been quite appalling.

The Hon. I. GILFILLAN: On a point of order, I ask that the Attorney-General addresses the Chair instead of using direct and somewhat abusive language.

The PRESIDENT: The point of order is taken that the Attorney should address the Chair.

The Hon. C.J. SUMNER: I will certainly address the Chair, Mr President. I am not using abusive language. I am using language that I think needs to be used in this particular debate to expose what the Democrats are about. The history of this matter is that issues were raised principally in relation to the gaming machine legislation, the Tandanya development and the Glenelg foreshore development. After the initial raising of these matters, that is, in relation to the gaming machines issue, I was asked to look at certain papers. At the request of the Hon. Mr Gilfillan, I undertook to look at whether or not an independent inquiry was necessary. While that was going on, other issues were raised by the Liberal Opposition and the Democrats. Again at the request of the Hon. Mr Gilfillan, I imposed upon myself a deadline of Tuesday 14 April, by which time I intended to give a statement to Parliament. In the meantime, the Minister called for an independent inquiry. The Government considered that and set up the inquiry, full details of which have been provided to Parliament.

During all this time, the position of the Liberal Opposition and the Democrats has been that they wanted an independent inquiry. The motion moved by the Hon. Mr Lucas, and supported by a speech from the Hon. Mr Gilfillan, calls for an independent inquiry.

The Hon. M.J. Elliott: What about the terms of reference?

The Hon. C.J. SUMNER: That motion is still on the Notice Paper. Having announced the inquiry on 16 April, and its having been the subject of a ministerial statement in the Council yesterday, I find that the ground has shifted. No longer is an independent—

The Hon. M.J. Elliott interjecting:

The PRESIDENT: Order!

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: The Hon. Mr Elliott is bleating away at interjections because he knows that the—

The Hon. M.J. Elliott interjecting:

The PRESIDENT: Order! Honourable members will stop interjecting on one another.

The Hon. C.J. SUMNER: —behaviour of the Democrats in this matter has been appalling. He also knows that, if he uses any decency and honesty—

The Hon. M.J. Elliott interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: —and looks at the terms of reference and at the correspondence I have had with the

Hon. Mr Gilfillan and the Hon. Mr Griffin, the terms of reference are adequate. If they are not adequate, we have asked Mr Worthington to feel free to come back to the Premier and discuss it. As far as I am concerned, they are adequate to address the issues. The independent inquiry was announced by the Government, and all of a sudden the ground shifts. It is no longer satisfactory to the Democrats—they want a select committee with the sort of witch-hunt outlined in the terms of reference that the Hon. Mr Gilfillan has moved today.

Regrettably, what we have is a fairly grubby political competition between the Liberals and the Democrats as to who can achieve the most political capital out of this issue. The Hon. Mr Gilfillan is clearly miffed that the Liberals took the lead on the issue in the initial situation and moved the motion for an independent inquiry. So, what we have had is the upstaging represented by this motion. It is nothing short of—

The Hon. Barbara Wiese: What about the leadership struggle going on between the Democrats?

The Hon. C.J. SUMNER: I don't know about that. If there is one, I don't know about it. That probably means I keep my head down and get on with my job. What we have is an attempt by the Democrats to upstage the Liberals. It is simply an act of political bloodymindedness; it has no rational basis. I have dealt comprehensively with the terms of reference and I refer to the correspondence which I tabled yesterday. I have mentioned the three significant issues that were raised: the gaming machines legislation, the Tandanya development and the Glenelg foreshore development, and the question of a conflict of interest which may have arisen in relation to those matters. They are the issues that have been raised in Parliament, and the terms of reference address those issues. The terms of reference refer to pecuniary or other interest and they refer to a catch-all, 'any further facts found in the course of the investigation' which are to be made known to the Premier. Furthermore, the Premier's letter, which was sent to Mr Worthington, deals with the question of whether or not there are other matters that Mr Worthington feels that he needs to bring to the attention of the Premier. I will read that paragraph of the letter, as follows:

> Should you wish to discuss the terms of reference or these procedural steps, I will be available to meet with you prior to the commencement of the investigation. Similarly, should difficulties arise during the course of your investigation because of the terms of reference or the procedural steps to be followed, you could contact my office and consideration will be given to making any necessary changes.

What could be fairer than that as far as the terms of reference are concerned? It was never envisaged, at least not on this side of the Chamber, when the terms of reference were established—and I did not think it was envisaged by members opposite, but I was clearly wrong, at least as far as the Democrats were concerned—that what the Democrats had in mind was a general witch-hunt into the Minister's private life or Mr Stitt's business activities, unless they were relevant to the question of conflict of interest. The proposition that there ought to be a general witch-hunt into the Minister's private life and into Mr Stitt's business activities, whether or not they relate to conflict of interest, is abominable. It is an abominable proposition that the Hon. Mr Gilfillan is putting to this Council. I think perhaps we should have an inquiry into his private life; perhaps we should find out who he lives with, what his interests are and what motivates him.

The Hon. I. Gilfillan: I am not a Minister of the Crown.

The Hon. C.J. SUMNER: The stuff you just read when you moved this motion did not refer just to Ministers; it referred to members of Parliament, so do not get out of it by saying you are not a Minister of the Crown. How would you like to have an accusation made and have a select committee into your private life, whom you live with, what your *de facto* wife's interests are—

The PRESIDENT: Order! The Attorney-General will address his remarks through the Chair.

The Hon. C.J. SUMNER:—what organisations you are a member of, what influence that has on the decisions you make in this Council; is that what you want? This is the sort of track you are going down if you persist with this proposal.

The Hon. I. Gilfillan: If you think it important for Parliament, you set that up.

The Hon. C.J. SUMNER: You obviously would find that abhorrent, and most members would find that procedure abhorrent, but that is exactly what you are suggesting here—an open-ended witch-hunt into the private life of the Minister and the business interests of her partner, whether or not they are relevant to how the Minister conducted her ministerial duties. That is not acceptable to the Government.

At this stage, the proposal for a select committee is clearly a waste of time and a waste of money, but, what is more serious (and I really do not think it has been considered by members opposite, particularly the Hon. Mr Gilfillan), is the procedure that would be followed by a select committee. Had there not been an independent inquiry, perhaps there would be a justification for Parliament using its ultimate sanctions or methods to inquire into issues, which it has done on occasions. Obviously, Parliament has to maintain its right to appoint select committees in appropriate circumstances. However, in this case an independent inquiry is looking at the facts.

What is astonishing—and let us all in this Chamber think about this—is that the Australian Democrats and the Liberal Party spent the past three or four weeks in Parliament condemning and prosecuting the Minister of Tourism with daily allegations about conflict of interest, in the most condemnatory of terms. In the first week, accusations were made and documents were referred to, but it was a political ambush: none of those documents were made available to the Government, none of them were made available to the Minister and she was not accorded even a skerrick of natural jutice in the first few days.

The Hon. Barbara Wiese: More than a week.

The Hon. C.J. SUMNER: Yes, more than a week. It was only when I wrote to members opposite and to the Democrats that they finally came good and provided the documents. For a week they used documents to attack the Minister in this Chamber without even doing her the courtesy or giving her the natural justice of providing the documents to her. That is appalling. They did not provide the Minister with what I would have thought are the basic courtesies of natural justice, which should be accorded to her.

Having done that for one week and continued the accusations for another two or three weeks, they now want to continue the process of prosecution. Their accusations were made during this period by the Hon. Mr Davis, the Hon. Mr Lucas, the Hon. Mr Gilfillan and the Hon. Mr Elliott in the most condemnatory of terms. They were allegations of conflict of interest and they were purportedly supported by documents and statements. Now, having prosecuted the Minister for three or four weeks in this Chamber through Question Time, through motions which they spoke to and so on, they now want to continue the prosecution. Chief counsel for the prosecution for three or four weeks in this Chamber, the Hon. Mr Gilfillan, now wants to turn into

the judge and the jury. That is an appalling situation, and I would have thought that any honourable member with any sense of decency, fair play and consideration for the principles of natural justice would reject that out of hand. Under his motion, the chief prosecutor for three or four weeks now turns into the judge and jury; having condemned the Minister during that period he now wants to turn around and make the formal decisions through this select committee on the issues he has raised. I think that is totally unacceptable and should be—

The Hon. Barbara Wiese: And made by a political opponent.

The Hon. C.J. SUMNER: Yes, a political opponent, the Hon. Mr Gilfillan. He has spent three or four weeks trying to destroy the Minister's career. In the circumstances where an independent inquiry has been established, the notion of that sort of select committee is completely untenable, it is unacceptable to the Government and it will be seen to be grossly unfair by the public and should be rejected by Parliament. It is motivated by political bloody-mindedness and a desire to be seen to be upstaging the Liberal Party. I hope that on this occasion the Liberal Party will not fall for what the Hon. Mr Gilfillan is up to.

The correspondence I have tabled covers the criticisms of the terms of reference and my reply to them. I will not repeat them all, because it is unnecessary. However, I am forced at least to reply to the Hon. Mr Gilfillan, because the letter he says he sent to Mr Worthington was in similar terms to one that he sent me but, while he used Mr Worthington's reply in the debate, he did not, despite my suggestion by way of interjection, refer to my reply—again, hardly the actions of someone who is concerned to put before Parliament the issues surrounding this matter in a fair-minded way. My reply to the Hon. Mr Gilfillan was as follows:

> I refer to your letter of 24 April 1992, in relation to the investigation into allegations of conflicts of interest by the Minister of Tourism. You have raised several issues which I will deal with in turn. First, you say that you do not accept that the Minister's duty was to the Cabinet. You are of the view that the duty is owed to the Parliament and to the public. It has always been the convention that Ministers are responsible to the Premier in the performance of their portfolio duties and they are also responsible to the Premier for their actions in Cabinet. Any declaration they are required to make is to Cabinet and if the Minister fails to make any such declaration then it is a matter for the Premier and the Cabinet to decide on the appropriate sanction. This is not a convention which has been developed in response to the matter at hand but is a matter of practice in all jurisdictions in Australia and has been so for a considerable period of time. Of course, the Minister and the Government are ultimately accountable to the Parliament for the performance of their duties.
>
> If you are unhappy about the discussions made by the Premier, Minister or Cabinet, then you have the well-established procedures of the Parliament available to you. As a result of the establishment of this investigation, any action will be based on facts established independently.
>
> Secondly, you say that you believe that all of Mr Stitt's activities relating to the areas of concern should be investigated. As stated before I believe that Mr Worthington has adequate powers to investigate any relevant activity of Mr Stitt. In addition, I remind you of the Premier's letter to Mr Worthington where he said 'should difficulties arise during the course of your investigation because of the terms of reference or the procedural steps to be followed you should contact my office and consideration would be given to making any necessary changes'.
>
> Thirdly, you say that it is extraordinary that I have said that it is an inappropriate use of public moneys to engage on a fishing expedition to establish whether the Minister has behaved improperly. This is clearly correct. If this were not so then any member of Parliament could be investigated for improper behaviour at any time in the absence of any evidence that such inappropriate behaviour had in fact occurred.

That is exactly the point I was making during the debate when I suggested holding an inquiry into the Hons Mr Gilfillan, Mr Stefani, Mr Griffin or Dr Ritson: let us try the lot of them. No allegations have been made, but let us have a witch-hunt into all their activities and see where that ends up.

If allegations have been made, as they have in this case, they should be investigated, but we are certainly not, and neither should we, going on a general witch-hunt into the Minister's private life or Mr Stitt's business affairs unless they are relevant to the issues that have been raised. I should have thought that was crystal clear to anyone with any sense of fair play in this matter. I go on with the letter:

> Whether Mr Stitt engaged a firm of consulting engineers at Tandanya or Glenelg can only be relevant in so far as it impacts on the decisions made by the Minister. Any such relevance will be determined by Mr Worthington, and if it is necessary for him to follow up that aspect he can do so under the terms of reference as they currently stand.
>
> Fourthly, you complain that the terms of reference enable further facts to be brought to the attention of the Premier, but you want those facts to be brought to the attention of the Parliament. It is cleary set out in the Premier's letter to Mr Worthington that he is to prepare a report which will be tabled in Parliament.

I interpolate that this is the same point that the honourable member tried to raise during his speech in support of his motion, namely, that somehow or other matters will not be made public. He raised it in his letter to me, and I responded to it. He knew I had responded to it; he knew what was in the Premier's letter to Mr Worthington; yet he continues to insist on trying to say that somehow or other the relevant matters will not be made public. The letter continues:

> The procedure to be followed by Mr Worthington is that which was adopted by Mr Black QC in his inquiry in 1984 into the circumstances surrounding the making of a customs declaration. There was no power of compulsion in that inquiry and I do not believe that there will be any need for such powers in this inquiry as the parties are anxious to cooperate. The only way to clothe the investigation with such coercive powers would be by the establishment of a royal commission. It has not been suggested by anyone that it was appropriate in this case.
>
> Finally, you complain about the standard of proof to be adopted by the investigation. This statement of the standard is that which is used for all inquiries of this nature and is the standard which would be required by a court. As the report is to be made public, there is a possibility that the investigation could become the subject of judicial review proceedings. I trust that this letter clarifies the issues raised by you in your letter.

It is obvious that it did not clarify the issues, because he has returned to the Parliament with this motion repeating the same nonsense and trying to clothe what is a witch-hunt into the issues contained in the terms of reference into some kind of high minded concern for principle. If he had high-minded concern for principle, he would not be involved in this sort of attack by moving for a select committee; he would accept what he originally asked for, namely, the establishment of an independent inquiry that will look at the facts and that will be made public, that work on the question of principles applicable in this area will be done and able to be made public, and that the Cabinet's response to the Worthington report will also be made public. If the honourable member was being fair about the issues in this matter, he would accept that as being quite adequate to deal with the issues, with the rider that in any event, if it is not, we have invited Mr Worthington to tell us.

There has also been correspondence between the Hon. Mr Griffin and me on the terms of reference. I tabled them yesterday and I will not read them into *Hansard*. I hope that, at least in the Hon. Mr Griffin's case, he has felt some comfort from my response to his concerns about the terms of reference. I commend honourable members who are interested in the topic to look at that correspondence.

Since then there has been some correspondence between the Leader of the Opposition (Mr Baker) and the Premier. I should like to refer to that correspondence so that when

honourable members consider their position on this matter they are fully informed and up to date with the relevant discussions. I will not read the whole of the letter dated 29 April to the Premier from Mr Baker, However, I will refer to the last two or three paragraphs, as follows:

My concern is that Mr Worthington may decide that his terms of reference are narrower than Mr Sumner has said they are and that this may preclude legitimate inquiry into matters relevant to issues raised in Parliament within the three broad areas identified in the terms of reference. To overcome that concern, it would be helpful if you could undertake to request Mr Worthington to inform you, during the course of his inquiry, of matters raised with him which he regards as outside his terms of reference but which properly would be the subject of an inquiry under the interpretation of the Attorney-General.

The alternative is for you to give Mr Worthington a direction that he should construe the terms of reference broadly in the light of the statements of the Attorney-General in his correspondence and in statements in the Parliament. This latter course would be the preferable course. I would appreciate it if you will let me know what you are prepared to do by noon tomorrow.

That is Thursday. The Premier has been very efficient and on the ball and has dealt with the matter in the following terms, which I trust will be sufficient to allay any concerns that the Opposition has about the matter. The letter from the Premier to Mr Baker, dated 29 April, is as follows:

Dear Dale,

I refer to your letter of today's date concerning the terms of reference for the inquiry by Mr T.A. Worthington QC into allegations about the Minister of Tourism.

As you know, in my letter to Mr Worthington commissioning him to undertake the inquiry I asked him to contact my office if difficulties arise during the course of the investigation because of the terms of reference or the procedural steps to be followed.

In effect, that answers the first matter which Mr Baker referred to the Premier and which I read. But, more importantly, the Premier goes on:

Further, I have been advised by the Attorney-General that he has arranged to send to Mr Worthington correspondence between the Hon. Trevor Griffin, the Hon. Ian Gilfillan and himself and copies of questions asked of the Attorney-General yesterday in Parliament by the Hon. Trevor Griffin and the Hon. Legh Davis.

It is clear that Mr Worthington will construe the terms of reference in the light of these matters.

I have sent a copy of your letter and this reply to Mr Worthington.

I also have before me a copy of a letter signed by the Premier to Mr Worthington doing just that. I have, at the time that this correspondence has occurred between us, made it available immediately to Mr Worthington. He already has copies of the correspondence. By now he should have the questions that were asked in the Parliament yesterday by honourable members and my replies, and I will send to him, immediately it is available, the transcript of this debate about the terms of reference.

The Hon. R.I. Lucas: Does that require him then to interpret it in that way or do you speak to him and say, 'This is what I think'?

The Hon. C.J. SUMNER: No. He will. The Premier has said that it is clear that Mr Worthington will construe the terms of reference in the light of these matters. We have not given him any further specific direction to do so, but I do not think that is necessary.

The Hon. I. Gilfillan: He says that the terms of reference stand alone.

The Hon. C.J. SUMNER: Of course they stand alone.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: The Premier could amend the terms of reference if he wanted to do so. We have consistently said, for reasons I think very comprehensively outlined in the correspondence, that the terms of reference do not at this stage require any amendment. The correspondence expands on the arguments for that, which I think the Opposition may be prepared to accept. We have made it clear by the Premier's correspondence to Mr Baker, which I have repeated, that Mr Worthington will construe the terms of reference in the light of these matters. We have sent that correspondence to him, and he has all the material. If he says, 'I am not going to construe it that way,' he will obviously write back, in the light of the political debate about it, and say, 'I am not going to construe it in that way.' It belies commonsense to suggest that he would construe it in any other way but that which has been the subject of the correspondence between the Government, the Opposition and the Democrats.

I hope that at least the terms of reference which have been made public, and the correspondence between the various parties which has been made public and made available to Mr Worthington, make it clear that my explanations of the terms of reference are such that that is how the terms of reference will be interpreted by Mr Worthington and are such, I would hope, for honourable members opposite, at least in the Liberal Party, to accept the bona fides of the inquiry and to reject this motion moved by the Hon. Mr Gilfillan.

Obviously, what happens in the future is for the Parliament. The Government cannot fetter the Parliament in what it might want to do in the future. As I have already said, if the Parliament is not happy with the Government's response to the report, it can consider what else it may wish to do with it. However, I believe that the Government has done the right thing by establishing this independent inquiry at the request of the Minister, that it is adequate to address the issues involved with the interpretative additions that arise out of the correspondence which has been tabled, and that the Council will see that there is no need for this select committee, as proposed by the Hon. Mr Gilfillan, and will emphatically reject it.

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

MOUNT LOFTY RANGES

Adjourned debate on motion of Hon. Diana Laidlaw:

That this Council calls on the Environment, Resources and Development Committee, as a matter of urgency, to investigate and report on the number of property owners suffering losses arising from the Mount Lofty Ranges Management Plan and Supplementary Development Plan; the nature and extent of losses; the options available for redeeming losses; and the alternative technologies available to minimise disruption to land owners resulting from the Management Plan and the Supplementary Development Plan,

to which the Hon. M.J. Elliott has moved the following amendment:

1. Leave out the words 'as a matter of urgency,';
2. Leave out the words 'number of property owners suffering losses arising from the';
3. Leave out all words after 'Mount Lofty Ranges Management Plan and Supplementary Development Plan';.

(Continued from 15 April. Page 4306.)

The Hon. DIANA LAIDLAW: The Liberal Party was very keen to see that, in respect of the management plan and the supplementary development plan for the Mount Lofty area, more attention was given to the matter of property owners suffering losses arising from those plans, the nature and extent of those losses and the options available for redeeming them. We were also keen that alternative technologies be available to minimise disruption to landholders arising from both plans.

Since I moved this motion, I have continued to be overwhelmed by individuals corresponding with my office, indicating support for the motion and highlighting further examples of distress arising from both plans, as proposed by the Government. However, the Democrats have moved amendments which no longer seek to confine this reference to the Environment, Resources and Development Committee to the matters of loss, as outlined in my motion, and they now wish to refer the whole of the Mount Lofty Ranges management plan and the supplementary development plan to the committee. To my surprise the Government has agreed to that through their spokesperson on this issue, the Hon. Terry Roberts.

I believe very strongly, as do my colleagues, that the Environment, Resources and Development Committee has a great deal on its plate. It is keen to address a lot of subjects, and that is to be applauded, but it has enormous responsibilities arising from yesterday's conference in respect of the MFP. It looks at all supplementary development plans. I know that there is some interest in the committee looking at the River Murray from the border with Victoria, New South Wales and South Australia to the Murray mouth at Goolwa. I understand that the transfer of land from Northfield to the Waite Institute has been proposed. Coastal protection and water resources generally in the Patawalonga, effluent disposal matters and wood lotting are all issues which I know the committee has either agreed to investigate or is keen to investigate.

In those circumstances I believe that it is absolutely foolhardy for this Parliament to pass this reference on to the committee. The reference as proposed by the Democrats and supported by the Government, is very broad and in these circumstances I think it would have been much better to confine the reference as the Liberal Party initially proposed. It seems to me that the Democrats and the Government are seeking to re-invent the wheel. This management plan and SDP have already taken four years of discussion, and for the reference to be made to the committee in this very full form suggests that this matter will be under discussion for another four years.

Having been a member of the Select Committee on Country Rail Services in South Australia, which was set up on 17 October 1990, I know how frustrating and exasperating these committees can be in terms of the slowness of the work undertaken and the goodwill of the people who make early representations, but who then find that the committee does not meet or make a finding, and that their information is out of date. I have a fear that that will happen in relation to the references proposed by the Democrats and supported by the Government. That is particularly disappointing when all members of Parliament are well aware that there is this immediate matter of loss and adequate recompense policies, which should be addressed in terms of natural justice.

Certainly we have had a lot of discussions in this place about natural justice in the past hour. Natural justice is certainly a matter that we should see as critical to the Mount Lofty Ranges management plan and the SDP, but it does not appear that that will now be the focus of the reference to the committee; it will be just one of a range of matters which I think will become an exercise in futility, and I find that disappointing. Nevertheless, I see that the Government and the Democrats have their numbers to amend the motion and, in these circumstances, the Liberal Party has no real option but to accept that decision, even though it does not accept it with a great deal of goodwill or confidence.

Amendments carried; motion as amended carried.

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SHEEPMEAT

Adjourned debate on motion of Hon. G. Weatherill:

That this Council notes that a Voluntary Restraint Agreement (VRA) on the export of sheepmeat to the European Community (EC), entered into in 1980 and codified under the Australia-EC Agreement on Trade in Mutton, Lamb and Goatmeat which restricts Australian exports to the EC at only 17 500 tonnes per annum, is due for renegotiation in 1992 and strongly urges the Federal Government to press for the abolition of the VRA to allow free access to the EC for Australian sheepmeat.

(Continued from 8 April. Page 3993.)

The Hon. J.C. IRWIN: The Hon. George Weatherill moved this private member's motion to press for the abolition of the Voluntary Restraint Agreement (VRA) to allow free access to the European Community (EC) for Australian sheepmeat and other meats. The Opposition is happy to give bipartisan support to this motion. The VRAs entered into in 1980 and codified under the Australian-European Community Agreement on Trade in Mutton, Lamb and Goatmeat, which restricts Australian exports to the EC to only 17 500 tonnes per annum, is due for renegotiation this year. VRAs would be changed if the Uruguay round of multilateral trade talks on the general agreement on tariffs were successful. Ireland and France are the main opponents to changing the VRAs.

In his motion, the Hon. Mr Weatherill provided export tonnage figures for Australia and New Zealand. New Zealand has a higher export quota because of its greater historical dependence on the British market. New Zealand was more successful than Australia in the negotiations prior to the formation of the European common market, an argument that many members would obviously remember taking place some years ago.

In 1990 alone, $US300 billion was spent on subsidising agriculture world-wide, an increase from $US270 billion in 1988. European consumers pay as much as $100 million a year extra for food because of the common agricultural policy of the European Community. The Institute of Economic Affairs in London has estimated that the common agricultural policy costs each European family $1 900 extra per year for food. As the Opposition has frequently claimed, someone has to pay for subsidies. I do not think that very many Australian families would be willing to pay this amount. Our per family subsidised price would undoubtedly be much higher than the $1 900 estimated by the Institute of Economic Affairs in London.

Quite simply, if we compare our population of 16 million plus with the European Community's population of 200 million to 300 million, it is easy to see that any calculation on subsidising Australian exports to anywhere near the same extent as exists in Europe for the price of food would be well in advance of $1 900. In 1988, the United States provided 36c out of every dollar of US agricultural profits. By comparison, the Swiss Government guarantees 75 per cent of its farmers' income; Norway, 74 per cent; and Japan, 72 per cent.

It costs the European Community about $10 billion each year just to store the growing mountains and lakes of food products. The European Community began its export subsidy program to reduce these stockpiles, yet we see them increasing year by year. Colleagues may remember the comment by the Queensland Senator, Mr Ron Boswell, regarding the plight of sugar growers in Queensland that they were in trouble because of the sugar mountains in Europe. One must ask why there is a sugar mountain in Europe. The simple answer is that the production of sugar is subsidised, and if there is a guaranteed subsidised price for a product people will grow it.

I will not deviate into a great discussion about the tariff argument, but it is a very simple exercise for anyone who is doubtful about the use of tariffs or subsidies to look at the mountains of food in Europe. Members will remember the dairy arguments of some years ago and the disadvantage to Australian dairy farmers with their high production costs of having to export to countries that had these huge mountains of subsidised butter. I think there has been some rationalisation of that in recent years, but there is a huge stockpile of sugar. People are producing it because it gives them a good return, but eventually someone will have the problem of selling it or tipping it down the drain.

Prime Minister Keating has come under fire from our Federal colleagues for completely ignoring the most important trade negotiations for Australia since the second world war. It was unforgivable for the nation's political leader to spend nine-tenths of his time attacking his political opponents and none of his time concentrating on the Uruguay round of multilateral trade talks which were, and are, so central to Australia's long-term economic future. Australia has to ensure that the United States, all the members of the Cairns Group and a range of developing countries all work on applying pressure on the Europeans. The reality is that the first world cannot go on asking the developing countries of Asia and South America to implement our standards on environmental protection while the pursuit of policies such as the EC's common agricultural policy continues to keep them impoverished because it deprives them of important markets in an area in which they are competitive with the first world.

I acknowledge the persistent and hard work of the Hon. Neal Blewett when he was responsible for the Commonwealth Hawke Government in trade negotiations and the bringing down of trade barriers to allow Australian agricultural products access to Europe. In my view, it was a philosophical quantum leap for the Hawke Government to acknowledge that anything other than sunrise protection for a new fledgling industry, whether primary or secondary, is counterproductive and very expensive. I think it was the Garno report which finally convinced the Hawke Government to fight for the reduction of world tariff barriers. That report quantified how much it cost Australia through the Government and then through taxation to keep those tariff barriers in place.

Another matter linked to agricultural trade that is of great importance to rural South Australia is the live sheep trade with Jordan. The Federal Opposition recently said that the Government's self-proclaimed breakthrough on the live sheep trade with Jordan achieved too little too late. The Government's incompetent handling of the live sheep issue has already cost Australia a lucrative Saudi Arabian market, and the so-called breakthrough with Jordan has provided little compensation for the industry.

While the Australian Government has been dithering on the live sheep issue, New Zealand has made major inroads into the Saudi market, and New Zealand sheep are fetching $35 a head, compared with just $22 to $23 a head for Australian sheep. I have not been fortunate enough to see that $22 or even $23 a head offered in South Australia. You just cannot compare a market of 500 000 to 1 million sheep with the Saudi market of 3.1 million sheep as it stood four years ago before we lost the trade. New Zealand is now exporting nearly 2 million sheep to Saudi Arabia and it will be very difficult to recapture that market even if we sort out our problems in the trade. Problems continue to exist in the live sheep trade because of the Government's ambivalence to it.

The three Commonwealth Ministers responsible for trade are all questionable in Saudi Arabia's eyes as negotiators on this matter. Mr Kerin, the Minister directly responsible, has always made clear that he has reservations about the trade and favours it being phased out and replaced by the export of sheep carcasses. We are familiar with that argument.

The Foreign Minister, Senator Gareth Evans, has publicly called for the $250 million trade to be stopped. That is a pretty useful comment coming from a senior Minister. That leaves the Minister for Primary Industry as the only other Minister who might be able to negotiate a solution, but alas Mr Crean was no friend of live sheep trading during his time as Assistant General Secretary of the Federated Storemen and Packers Union, which destroyed Australia's credibility as a reliable supplier of live sheep.

Australia's management of live sheep trade has been woeful for some years, and the attitude of the Labor Government to the trade has given the Saudis every reason to want to diversify their supplies as quickly as possible. The only way to restart the trade before it is too late is to send a private sector industry delegation led by someone of the calibre of Doug Anthony, who still has close contacts with the Saudi leadership, to sort out the problems. Doug Anthony is respected in Saudi Arabia as the Australian Trade Minister who started the trade and as someone who remains committed to it. If the Government is serious about negotiations with the Saudis on this matter, it should ask Doug Anthony for his assistance.

A *Bulletin* article dated March 1992 refers to the export of live cattle to Asia, and particularly to Indonesia. It states:

> Ironically the only real obstacles to the industry stem not from the Asian market end but from Australian Governments. Exporters who have established a reputation for high health and safety standards (the North Australian Cattle Company has lost 11 beasts out of 44 000 exported) are subject to what they see as outrageous fees and cost restrictions by the Australian Quarantine Inspection Service. It is also under fire for redundant practices that increase the exporters' costs. It tests for stock diseases that are not found in the export areas and its interpretation of Asian import restrictions are not required by the importers themselves. The demands translate into real costs, which make the product less competitive, threatening a growth industry that puts welcome revenue in the pockets of beleagured pastoralists.

I highlight that last comment. The motion of the Hon. Mr Weatherill is designed to free up the trade of sheep meats into Europe and, in a very direct way, to put some wealth into the pockets of those people who breed that meat in Australia and, in an indirect way, that flows through to the whole community, making it much more prosperous.

Obviously, the whole point of talking about Saudi Arabia and this live cattle trade with Asia, particularly Indonesia, is to link it to the Hon. Mr Weatherill's very commendable motion to free up and give some advantage to Australian exporters. I do not care what the product is, but in this case it happens to be sheep meat. I have expanded it to refer also to live sheep and live cattle. However, we obviously have to tidy up our own backyard and clear up matters with our own near neighbours, as well as arguing strongly for the European Community to give us free access.

As I said at the outset, the Opposition welcomes the motion and gives it bipartisan support in the interests of rural producers in this State. The spin-off effect for the rural community and the South Australian economy would be very positive if, under the umbrella of voluntary trade agreements, quotas for South Australian mutton, lamb and goat meat could be lifted. I do not know whether or not the voluntary restraint agreement will stay as it is the subject of negotiation. The motion requests that it be removed altogether. Even if it is under the umbrella of the voluntary restraint agreement, if the quotas are lifted that would be a good thing. It would be better still if, as the motion suggests,

the VRA were abolished altogether to allow free access for Australian mutton, lamb and goat meats to the European Community. I have pleasure in supporting the motion.

The Hon. I. GILFILLAN: On behalf of the Australian Democrats I congratulate the Hon. George Weatherill for introducing this motion and indicate our support of it. As a sheep breeder of many years standing, I realise the difficulty we have had in competing in the world markets with New Zealand. By successfully moving for the elimination of the voluntary restraint agreements, the game is not necessarily won. The New Zealanders have been expert marketers of top quality product throughout the world for as long as I have been involved in sheep farming. Australians, to the contrary, have tended to lament that fact, and have not learnt the lessons. I hope that if we are to look at marketing our meat products we do more than press for the abolition of the VRA to allow free access. Free access may well mean that the New Zealanders and other marketers sell more because we have missed the bus—we have not picked up the quality of our product and marketed it aggressively and effectively.

It was quite alarming to find that a beef export product to Japan was found to have a buckshot pellet in it. That caused national uproar in Japan. That sort of unfortunate slip-shod marketing puts at risk any marketing of Australian meat products overseas. I indicate again that the Democrats support the motion. It is a step in the right direction, and I congratulate the mover on having the initiative to put it to this Chamber.

Motion carried.

TOURIST ACCOMMODATION

Adjourned debate on motion of Hon. M.J. Elliott:

That the regulations under the Planning Act 1982, concerning tourist accommodation, made on 5 December 1991 and laid on the table of this Council on 11 February 1992, be disallowed.

(Continued from 1 April. Page 3753.)

The Hon. DIANA LAIDLAW: It is with mixed feelings that I speak to this motion. This issue raises many questions that are important to the community at present. It addresses the issue of development and the need for development in this State, particularly in the tourism area, which is one of the fastest growing industries in this country.

I spoke at great length during the Supply Bill to indicate the Liberal Party's concern about how we were falling behind on almost every major indicator provided by the Australian Bureau of Tourism Research. The Liberal Party feels that a great deal more must be done in this State in terms of promotion to encourage visitor numbers and visitor nights in this State. Much infrastructure has already been provided in this State which is not attracting the occupancy that we believe is necessary to put Adelaide on the map and also to warrant the investment in tourism accommodation to date. However, not much more is going on at the present time in terms of tourism accommodation, and that is of great concern.

I have received a copy of a development acitivity report, which was a survey of traveller accommodation developments in South Australia to June 1991. That is being updated at the present and should shortly be available for December 1991. It is very disappointing in terms of the number of projects which, by status, are indicated only as 'mooted' or 'likely', but certainly not confirmed. There are 46 developments listed in this survey, but only two have been completed. The rest are mooted or likely. That is a very bleak record for South Australia in terms of development and that is a major consideration with respect to this motion.

The other consideration is the input by the community into planning applications, not only in respect of tourism as indicated in this motion but generally. It is important in terms of tourist accommodation that people feel they have some ownership in their communities of a development if they are to be supportive of tourism within their community. So, the Liberal Party has sought to weigh up those important issues in deciding our course of action on this motion. In the final analysis, we have decided not to support the disallowance motion.

The regulation that the Government has seen fit to introduce exempts from public notification, and hence third party appeals, development applications seeking to establish tourist accommodation and ancillary development in tourist accommodation zones. In South Australia at present there are 23 zones in 20 council areas, including Kimba, Coffin Bay, Port Lincoln, Tumby Bay, Port Augusta, councils in the Flinders Ranges area, the District Council of Dudley (on Kangaroo Island), Henley and Grange, Noarlunga areas, West Torrens, Woodville, Willunga, Burra Burra, Port Pirie, Meningie, Lake Albert, District Council of Light, Port Elliott and Goolwa, Victor Harbor, Yankalilla and Kingscote.

Increasingly, the Opposition wants to see more tourist accommodation zones established in South Australia under the Planning Act. It is our wish also to see that, in the establishment of those zones under the supplementary development plan, there is strong community input into the development of those plans. I am not confident that that community input has been evident to date, in part because the community is not adequately familiar with the supplementary development plan procedure. I also believe that many have thought in respect of tourism accommodation zones and the principles to be established within those zones that there has been an understanding when the application was lodged, and the community may not have been comfortable about the whole application or aspects of it, that there was an opportunity at that stage for public notification, public input and possibly third party appeals. Over the past few years, very few third party appeals have been lodged in respect of development applications, including tourist accommodation applications. I suspect there have been 200 appeals out of 10 000 applications each year, which is not a large number and, in my view, it should not be seen as a forbidding part of the planning process.

There are strong arguments in support of the exemption as proposed by the Government. One of them is that a wide variety of developments is already exempt from public notification when the proposed use is specifically allowed for by the zone. This list includes the majority of residential developments; some land division; shops in several zones; petrol filling stations in commercial and industrial zones; banks, offices and consulting rooms in commercial zones; industry in industrial zones; and schools in education zones. This exemption will extend that list to include tourism projects in tourist accommodation zones.

Another argument in support of the exemption is that to require all development to be notified is a duplication of the supplementary development plan which can lead to long delays in consent procedures. As I said earlier, it is my belief that many people do not take an interest in the accommodation principles outlined in the tourist accommodation zone in the supplementary development plan until an application has been lodged. So, in some senses for the community, it is not a duplicated process but, for the councillors and planners, and possibly for the developers themselves, it would be seen as a duplicated process.

There have been accusations that the third party appeal process can be mischievously applied to create unacceptable delays for potential developers. I am not aware of that matter, but certainly that is a claim in support of the exemption. It is also claimed that development proposals must still receive the consent of the relevant planning authority, and this can be given only when the proposal is not substantially at variance with the development plan.

So, it is with mixed feelings that I indicate the Liberal Party has agreed not to support the disallowance motion. I indicate also that there are views that this exemption does pre-empt the Government's own '20-20 Vision' planning review because the initial documents that are available for consultation at the present time suggest that one of the final recommendations from the planning review would be a new halfway house in terms of category of development, so a development application would be subject to notification and public comment and third party appeal.

The situation as is proposed in the Minister's current exemption would see no public notification, public comment or third party appeal. As I understand it, the planning review will suggest a halfway house that would require a council, when receiving an application, to provide public notice of that application and allow some opportunity for public input but not to lodge third party appeals. I believe that that halfway house proposal would be ideal, particularly for tourist accommodation applications and tourist accommodation zones.

In my view, the Government has to do a great deal more if it really wants tourism to blossom in this State in terms of putting resources into the development of tourism strategies. In the past two and a half years Tourism South Australia has funded only three tourism strategies: Kangaroo Island, Kapunda and Robe. They are an excellent initiative, because they involve the local people and identify a community's special character, sense of place and continuity. The strategy is used to ensure that all new tourism product is consistent with the distinctive character of the community. Tourism then becomes a part of the community life, not something foreign or unwanted that is imposed from outside. In my view there has been too little funding from Tourism South Australia and, therefore, the Government for these excellent strategies, because I believe that, when these strategies are developed at the local level and the principles are established for tourism within either a town or a region, a council area or amalgamation of councils, we could claim with much more confidence than we can at present that the community is involved in the supplementary development plan stage. I am not confident that that is the case at present.

I hope the Government will put many more resources into tourism strategies so that, when the supplementary development plans arise from those strategies and in corporate tourism accommodation zones, everybody in the community, including the Conservation Council, the Australian Democrats and others, believes that the community is behind those tourism accomodation zones and fully supports the principles for development within those zones.

Then I think everybody would be happy, including the developers who could plan and lodge their development application with confidence. In the meantime, the Government has sought to exempt these tourism accommodation zones from public notification and comment and the right of third party appeal when applications are received. It is a controversial issue, one that the Liberal Party has discussed at length, and there are many like me who have mixed feelings about the outcome of that discussion.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: No, it runs on democratic lines, and it is hardly—

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: No, that is not so, either, Mr Elliott, because it is a fact that we would very much like to see through—

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: Yes, that is exactly right, and that is what I have said through the tourism strategy process. We wish people at the local level to be very involved, not only people from outside organisations who may take an occasional interest in an area. We wish the local people to be very involved in what will be planned and (they hope) constructed within their area, and for them to feel comfortable with that construction and to believe that it is in their community's interest that that development proceed. So, the Liberal Party proposes a very democratic approach to tourism development, through the development of tourism strategies and the inclusion of those strategies and supplementary development plans.

I note that, when the Government circulated the regulations for comment some time after September 1991, 75 councils out of a total of 120 replied; 72 of those councils supported the move as did BOMA and Tourism South Australia. It seems that three councils had some questions which were subsequently addressed to their satisfaction. The Conservation Council and the Nature Conservation Society opposed the amended regulation or the exemption. They continue to be dissatisfied with the explanation provided by Government representatives or others, and there are members of the Liberal Party who are sympathetic to their concerns. Nevertheless, the Liberal Party has determined that it will not support this motion, and it has fallen to me to be the speaker on this matter. We hope that, with the final resolution of the planning review and the changes to the Planning Act that are mooted for the next session, we see some possibility of providing for tourist accommodation zones to fit into this new halfway house proposal for categories of development, that being the proposal where councils would be required to give public notice and allow public input, but would not provide for a right to lodge third party appeals.

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): Before the vote is taken, I should put on record that the Government does not support this motion, which will hardly be a surprise to members as, of course, the regulations were introduced by the Minister for Environment and Planning. I am delighted to hear that the Opposition also does not support it. I will not take up the time of the Council detailing any reasons, given the hour, but I just indicate the Government's opposition so that it is officially on the record.

The Hon. I. GILFILLAN secured the adjournment of the debate.

PUBLIC TRANSPORT

Adjourned debate on motion of Hon. Diana Laidlaw:

That this Council—

1. Censures the Minister of Transport for his arrogant pursuit of policies and practices that are undermining the quality and quantity of public transport services in the Adelaide area and are repelling South Australians from utilising the system.

2. Demands that the Bannon Government reverse its negative reactive approach to the management and promotion of public transport so that once again regular passengers and prospective users have access to a safe, clean, user-friendly public transport

network in the metropolitan area at a cost that both the travelling and taxpaying public can afford.

(Continued from 18 March. Page 3277.)

The Hon. DIANA LAIDLAW: This motion was moved on 12 February, two weeks after the announcement that the Minister of Transport proposed to introduce a public transport curfew after 10 p.m., five days a week, Sunday to Thursday, and to cut general bus services after 7 p.m. from 106 to 74—a cut of one-third in current services. This decision followed moves last year by the Minister to remove guards from trains, to remove the sale of tickets from trains, and to force people often to travel great distances, sometimes even in the opposite direction, to purchase a ticket to travel on a service.

Those moves alarmed unions, angered the travelling public and agitated the wider community, who did not want Adelaide derided as a city that closed down at 10 p.m. There have been major rallies protesting against those moves since I have moved this motion and there has been editorial condemnation not only in the major newspapers but also in some suburban newspapers and on television programs. There have been meetings of the bus union which have rejected the STA/union leadership deals to reduce bus workers' work conditions.

A major phone-in was organised by the Liberal Party, and we received 670 calls of protest. That is not very fair. I think six or seven said that the Minister was doing a good job, so about 663 calls were very angry with the Minister, many suggesting that he return to the land of his birth and others suggesting things that I should not mention, even under parliamentary privilege.

It is sad that at a major ecological conference in Adelaide over the Easter period Professor Newman, from Murdoch University, saw fit to proclaim loudly before an international audience that South Australia had the worst public transport system in Australia. That public humiliation, perhaps more than any other protest by South Australians, moved the Minister to some action, because last Wednesday we saw him back down in respect of the complete closure of services after 10 p.m. There is to be a limited range of services after 10 p.m. The 74 services that were to operate from 7 to 10 p.m. will be extended, but it is certainly a reduction in the number of services which are available at present.

I am most concerned about the operation of public transport in this State and the Minister's almost blatant disregard of and scorn for public transport. That is certainly reflected in his press release, issued last Wednesday, when he blamed everyone but himself for the low morale within the STA and the low regard in which the STA is held by members of the travelling public in Adelaide and South Australia at large.

A great deal of work is required—certainly more than the unveiling of new 3 000 series rail cars and new MAN buses which took place last week—if we are to win back the confidence of the travelling public in our transport system.

The view of Mike Duffy, writing in the *Sunday Mail* last week, is that if the Minister cannot deliver he should stand aside. That challenge to the Minister echoes the calls for the Minister's resignation which were issued on 7 February by 30 community-based organisations in South Australia.

A major review is to be undertaken by the STA. I understand that the STA has now conceded that there will be market research of customers' needs. The STA is now conceding that one of the causes of the decline in patronage over recent years is that it is not providing the services that people want and need. That recognition and the fact that some market research of customers' needs will be undertaken are steps in the right direction. However, I feel that they are too little too late. It is easy to run down services and let things get out of control, but it is an extremely difficult exercise to rebuild those services and win back public support for our transport system.

I hope that this motion will win the support of the majority of members in this place. The least that we, as trustees and representatives of the needs and interests of South Australians, should be doing in respect of public transport is censuring the Minister of Transport for his arrogant pursuit of policies and practices which are undermining the quality and quantity of public transport services in the Adelaide area and which are repelling South Australians from using the system at a time when environmentally, economically and socially we should be encouraging people—families in particular—to use public transport.

The Council divided on the motion:

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

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

Pair—Aye—The Hon. Bernice Pfitzner. No—The Hon. T.G. Roberts.

Majority of 3 for the Ayes.

Motion thus carried.

BOATING ACT REGULATIONS

Adjourned debate on motion of Hon. R.J. Ritson:

That the regulations made under the Boating Act 1974, concerning hire and drive, made on 26 September 1991 and laid on the Table of this Council on 8 October 1991, be disallowed.

(Continued from 15 April. Page 4310.)

The Hon. G. WEATHERILL: I refer to the *Hansard* reports on hire and drive legislation taken on 8 April 1992. I shall comment on the matters raised in their order of occurrence. The Hon. Dr Ritson raised the question of standards of surveys. The standards of surveys proposed are similar to those which have been adopted in other States and are, in fact, a proposed uniformity of standards. The Hon. Dr Ritson also raised the question of recognition of the Boat Building Code and other codes, provided that the standard is to an agreed level.

The Hon. R.J. Ritson: An officer wrote this for you. You don't even know where to put the commas.

The PRESIDENT: Order! The Hon. Mr Weatherill.

The Hon. G. WEATHERILL: Well, he has plenty of things wrong here, so I can understand his being upset. The standard of the Australian Yachting Federation, as explained by Tim Williams, is for racing yachts, and the system is not used by any other State or by charter yachts. There is no obligation to carry equipment.

The honourable member also raised the question of crewing. This does not concern hire and drive vessels. He raised the question of when we arranged a meeting between the hire and drive committee and the Department of Marine and Harbors, and the Minister said that he finished up in a shouting match. I have checked this out with the people from the department and, indeed, the Minister, and this just did not occur: there was no shouting whatsoever. He also raised the question of the *Island Seaway*, which is a safe vessel and complies with international standards. The honourable member also raised the question of an over-

turned barge. I think the member is referring to a dredge accident.

The Hon. R.J. Ritson interjecting:

The Hon. G. WEATHERILL: You didn't. You said 'overturned barge'. If you read *Hansard*, you will find that it is right.

The Hon. R.J. Ritson: It was a bucket dredge moored down by the—

The Hon. G. WEATHERILL: The honourable member interrupts and says that it was a bucket barge. However, it was not a bucket barge.

The Hon. R.J. Ritson: No, a bucket dredge.

The Hon. G. WEATHERILL: It was not a bucket dredge. It was not one of the new ones; it was one of the old ones, because I happened to be there when it happened.

The Hon. R.J. Ritson: It had a caretaker on it.

The Hon. G. WEATHERILL: That's right.

The Hon. R.J. Ritson: What has that got to do with it, though?

The Hon. G. WEATHERILL: The accident did not result from the Department of Marine and Harbors' survey; that is what it has got to do with it. You indicated that the other day.

The Hon. R.J. Ritson: I indicated that your record was not so brilliant.

The PRESIDENT: Order!

The Hon. G. WEATHERILL: You also talked about the research vessel—

The Hon. T. Crothers interjecting:

The PRESIDENT: Order!

The Hon. G. WEATHERILL: The honourable member also talked about the research vessel sinking. The Department of Marine and Harbors was not negligent in any way, shape or form regarding that and, going by memory, the extensions to the vessel were done by a private company.

The Hon. R.J. Ritson: It was coming out of a refit.

The Hon. G. WEATHERILL: That is right. There is no connection between these vessels and the proposed standards for hire and drive vessels. Revision of the Boating Act will not change the need for hire and drive legislation in its present form. Confusion was created by Mr Haldane, with the refusal to agree to anything except the AYF, for everything.

The Legislative Review Committee received a fax from Mr Ross Haldane on the morning of the meeting, and it states:

> We wish to inform your committee that recent talks sponsored by your committee between hire and drive operators and the Minister of Marine have failed to reach any agreement on the proposed hire and drive regulations.

I was at that meeting, as was Mr Haldane, and I know that this was just not so. We asked the hire and drive vessels committee whether they had agreed to these recommendations. The headings of the recommendations are 'Accommodation standards', 'Construction Standards', 'Charter and Reporting Obligations', 'Yacht Safety Rails', 'Life Rafts', 'Horseshoe Lifebuoys', 'Temporary Motor Boat Operator's Licences', and 'Carriage of Fuel on Houseboats', all of which we agreed to. My understanding of what happened at that meeting is that the only thing to which they would not agree was survey costs. I seek leave to table that fax and the letter from the department in relation to what was agreed to.

Leave granted.

The Hon. G. WEATHERILL: Mr Burdett also asked whether any agreement was reached. Obviously agreement was reached, because we questioned the committee, which said that it agreed to the issue to which I have just referred. The Minister also advised those at the two meetings that it would be all or nothing.

One witness objected to the use of a political system to gain a weak, ineffective alternative. Mr Haldane indicated on that occasion that he was talking about a lot of houseboats leaving South Australia. In 1976, there were yearly surveys of houseboats. Today, we are much better off because we now have two-yearly surveys—so the price for those people is halved. I fail to see what his complaints are about. The proposed regulations are based on standards applicable in other States, so almost uniform standards now apply throughout Australia. I seek leave to table the reasons for the regulations.

Leave granted.

The Hon. R.J. RITSON: Members on this side believe that there is still a need to disallow these regulations. Probably the most significant matter agreed to by the Minister was the recognition of other internationally recognised survey standards so that, for example, imported vessels built according to one of these other standards have at last been recognised. Our talks broke down because of the failure of the Minister to recognise the suitability of the AYF safety regulations if applied to hire and drive keel boats. There was a shouting match at the parliamentary committee meeting, and the constituents still believe the regulations are not more or less safe but inappropriate.

The Hon. Mr Weatherill may correct me if I am wrong, but I thought that he said that the AYF's safety regulations were inappropriate because they applied only to racing yachts. It is not a question of whether or not a yacht is built for racing; the regulations are enforceable only if it is wished to race the yacht, otherwise they are recommended. If the regulations were adopted generally for hire and drive boats they would be equally enforceable under law, so that is no objection at all.

The Hon. Mr Weatherill raised a technical point about the accidents to which I referred. That comment was rhetorical and merely intended to point out that the department's record is not brilliant. It does not matter if *Hansard* records that I called a dredge a barge. I am perfectly familiar with that dredge because I used to see it tied up on the river, but it is not worth pursuing that. The fact is that the constituents remain aggrieved, the conference process has broken down and a shouting match did occur at the committee meeting, so I continue to urge the Council to disallow these regulations.

Motion carried.

COURT FEES

Adjourned debate on motion of Hon. K.T. Griffin:

That the regulations made under the Local and District Criminal Courts Act 1926, relating to fees, made on 15 August 1991 and laid on the table of this Council on 20 August 1991, be disallowed.

(Continued from 26 February. Page 3036.)

The Hon. K.T. GRIFFIN: I want to respond to a few of the observations of the Hon. Mr Feleppa in relation to this motion. The honourable member suggested that the motion to disallow the regulation relating to Supreme Court fees was belated, and most likely promoted only by me and not supported by my Party. I want to correct that impression from the start, because that is not so. Whilst the motion was moved later than one might normally expect a motion for disallowance to be moved there is no requirement that it should be moved early in the piece rather than later, and the notice of motion of disallowance was given within the requisite period under the Subordinate Legislation Act. The

Hon. Mr Feleppa says that the regulation was approved by the Joint Standing Committee on Subordinate Legislation on 28 August 1991. It is my understanding that the committee does not approve; it decides to take no action—and that is what occurred in this instance.

In dealing with the substance of the issue, the Hon. Mr Feleppa compared the provision of services by the courts with plumbers or other people with a trade, and he related the call-out charge of tradespeople to the daily hearing fee for the Supreme Court and the District Court. I do not see that comparison as being particularly appropriate. Plumbers provide a one-off service to fix what in many instances are emergencies. Courts are provided by the State and ultimately funded by the taxpayer as an integral part of the constitutional process and as an independent arm designed to resolve disputes between the State and its citizens as well as between citizens. I do not think there can be any relevant comparison of that important constitutional duty with the service provided by plumbers and other people with a trade.

The Hon. Mr Feleppa acknowledged that the fees served as a barrier to litigation. He made the quite reasonable statement that professional fees are high and frequently act as a deterrent to ordinary citizens going through the legal process. That is acknowledged, but I was arguing in the context of these regulations that this sitting fee—a new fee—adds to the burden imposed upon those who seek to litigate.

As I said, the Hon. Mr Feleppa has noted that the fees act as a barrier, having been enacted for the first time. It is that which has caused concern to a number of practitioners who think about the costs that are imposed upon litigants and who are concerned that this is yet another burden. It was interesting that the Hon. Mr Feleppa observed that the $150 daily sitting fee for the Supreme Court and the $100 daily sitting fee for the District Court is half, one-third or even one-quarter of one's take home pay each week. That is a measure of the comparison that so much of one's take-home pay—if one is litigating—can be applied to propping up the costs of the courts, which ought to be run as a service to the community and a key part of the institutional structure of the State.

It is true that I proposed the disallowance with a view to obtaining a forum to make these points and to try to put into a better perspective the constant criticism that the Attorney-General has made about the legal profession and its high rate of charging, without also acknowledging that if that assertion were correct the State itself is imposing substantial costs upon litigants by virtue of increased fees as well as substantial fees for transcripts, which can run out to about $700 a day on the basis of the cost of transcripts now being recovered. It is in that context, therefore, that I commend the disallowance motion to members.

The Council divided on the motion:

Ayes (10)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, K.T. Griffin (teller), J.C. Irwin, Diana Laidlaw, R.I. Lucas, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

Noes (11)—The Hons T. Crothers, M.J. Elliott, M.S. Feleppa, I. Gilfillan, Anne Levy (teller), Carolyn Pickles, R.R. Roberts, T.G. Roberts, C.J. Sumner, G. Weatherill and Barbara Wiese.

Majority of 1 for the Noes.

Motion thus negatived.

LOCAL AND DISTRICT CRIMINAL COURTS ACT

Adjourned debate on motion of Hon. K.T. Griffin:

That the regulations made under the Local and District Criminal Courts Act 1926 relating to fees, made on 15 August 1991 and laid on the table of this Council on 20 August 1991, be disallowed.

(Continued from 26 February. Page 3036.)

The Hon. K.T. GRIFFIN: I repeat the observations that I made in relation to the motion for disallowance that I have just lost. The response is equally applicable to the argument in relation to this. I indicate that if I lose this on the voices, in the light of that division, I do not intend to call for another division.

Motion negatived.

FISHERIES MANAGEMENT

Orders of the Day, Private Business, Nos 14 to 23: Hon. Peter Dunn to move:

That regulations made under the Fisheries Act 1982 relating to various fisheries, made on 27 June 1991 and laid on the table of this Council on 20 August 1991, be disallowed.

The Hon. PETER DUNN: I move:

That these Orders of the Day be discharged.

Orders of the Day discharged.

HEAVY TRANSPORT

Adjourned debate on motion of Hon. Diana Laidlaw:

That in relation to the agreement signed at the special Premiers Conference on 30 July 1991, this Council—

1. supports the proposed national heavy vehicle registration and regulation scheme.

2. opposes the proposed national heavy vehicle charging scheme based on Inter-State Commission (ISC) mass/distance principles, on the grounds that the charges will have a severe social and economic impact on South Australia's heavy vehicle industry, industry and consumers in general and our rural/remote communities in particular; and

3. calls on both State and Federal Governments to dedicate a substantially larger proportion of revenues already gained from fuel taxes for road construction and maintenance programs.

which the Hon. T. Crothers had moved to amend by leaving out all words after 'Council' and inserting:

1. supports the national heavy vehicle registration and regulation scheme.

2. congratulates the South Australian Government for successfully arguing for a two zone proposal which will provide protection for our State because we will be able to influence the levels of charges on heavy vehicle transport within our zone and therefore will ameliorate severe social and economic impact.

(Continued from 9 October 1991. Page 978.)

The Hon. DIANA LAIDLAW: This motion addresses a very important issue for States such as South Australia, which lie west of Wagga and from the major eastern seaboard markets—both domestic and international. It addresses the issue of road costs and charges and the future cost of getting goods to and from markets. It is of enormous concern for outlying States such as South Australia because we are so distant from the major domestic markets and we do not have demand in this State to ensure that our port is used for the import and export of goods. So, we are very dependent upon the eastern States for import and export trade to and from international markets.

It is most desirable that in the future more and more transport activity is undertaken on rail, and the Liberal Party was pleased to see a commitment to rail in the One Nation package, through a standardised line from Brisbane to Adelaide. However, we do not accept that nearly enough money has been put into that to ensure it is other than a standard standardisation exercise that will be undertaken. All of us in South Australia should be alert to the fact that

the cost of $115 million for the standardisation of the Melbourne-Adelaide line will cause South Australia to suffer heavily in terms of the closure of many intrastate lines that are generally used for freight and, until recent times, some of which were used for passenger transport also.

There is just no question that more and more will be asked of heavy vehicle transporters in taking our produce to and from markets, to the city centre and outlying communities. The viability of many farmers and country towns will depend on what the Federal Parties decide in terms of future road cost charges. The Liberal Party has been very critical of the decision by the Premiers at the Special Premiers Conference in May last year when Mr Bannon ignored the warnings of the Minister of Transport and the road transport industry in general in proposing a two zone system for road use charges, with zone A including New South Wales, Victoria, Tasmania and probably a small part of southern Queensland, and zone B including the rest of Australia. That proposal would have been an administrative nightmare. It was elaborate and would have imposed enormous costs on regulators plus the transport industry, and those costs would have been passed on to consumers.

It seemed quite ludicrous to see the two zone proposal uncosted in terms of its impact, being proposed by Premiers who at that time were responsible for looking at a system that would engender microeconomic reforms and savings. We all know that the rationale for the need to change registration and road charging schemes has been to achieve economic reform and reduce costs. The Special Premiers Conference provided no clear indication of how this was to be achieved; nor did it substantiate the benefits that were proposed to come from the two zone system based on a mass distance charge using a hubometer. There appears to have been a rush to change the process at the Special Premiers Conference in the hope that improvements would result, even though the conference was unable to explain the results and the improvements that were to be the outcome of their decision.

In more recent times Federal Parliament has passed legislation to establish the National Road Transport Corporation. I met with the Chairman and directors of that corporation on one occasion in Adelaide. They will be in Adelaide again shortly. They have met with the Minister and many other people, including Chief Ministers, Premiers, Ministers and shadow Ministers of Transport around Australia, and they have been excellent in communicating with industry representatives. In the past fortnight they have released a summary discussion paper on charges for heavy vehicles, and it is very important in relation to my motion on the Notice Paper, and in particular to the amendment moved by the Hon. Mr Crothers, to note the findings in that paper.

The National Road Transport Commission damn the idea of a two zone system for charging, and yet it is proposed in this amendment by the Hon. Mr Crothers that we congratulate 'the South Australian Government for successfully arguing for a two zone proposal'. I do not believe that one member of the Government would support that amendment today. Certainly they would not do so if they consulted the industry or the Minister of Transport who has indicated in discussions with transport representatives in this State that he will not have a bar of that system because of the costs imposed on the industry and the costs of enforcement.

To save the Hon. Mr Crothers any embarrassment in this issue, because I know he is thin skinned and very sensitive about these matters, I will be seeking leave to conclude rather than putting it to the vote. However, I indicate that this important document, the summary discussion on charges for heavy vehicles, should be compulsory reading by all members of the Government, particularly the Hon. Mr Crothers, so that he can see that a two zone proposal for charging would in fact be a severe disadvantage to all South Australians. On page 2 the document states:

NRTC Model

The NRTC undertook extensive analyses of road expenditure and its allocation to heavy vehicles. The starting point for the analyses was the Inter-State Commission (ISC) model. But this was varied somewhat and improved considerably. The method of allocating construction expenditure was changed in the NRTC model. This had the effect of reducing the share of expenditure allocated to heavier vehicles. Some submissions argued that no construction expenditure should be allocated to heavy vehicles. The commission considers that all vehicles should contribute to construction costs.

Further on the report states that not only vehicles above 4.5 tonnes should be subject to road cost charges but all vehicles, including passenger vehicles, should be so subject, and that would be a matter of interest to people in the environmental movement and also to the Hon. Mr Gilfillan. In terms of cost allocation results, the report states:

The NRTC model was used to estimate costs by State zone and Australia-wide for each vehicle class. The analysis of heavy vehicle expenditures by State did not support the zonal system specified in the Special Premiers Conference (SPC) agreement. A zonal system based on allocated expenditures would possibly include Tasmania, New South Wales, Australian Capital Territory and Queensland in zone A, and Victoria, South Australia, Western Australia and Northern Territory in zone B.

That is a different form of proposal than that put to the Special Premiers Conference. It continues:

Allocated expenditures for heavy vehicles were lower on average in zone A than zone B despite one of the reasons for the existence of zone B being to reflect lower costs. The Australia-wide allocated expenditures lie between the zone A and zone B results as would be expected. Given the accuracy associated with the cost allocation process, the differences cannot be regarded as significant. Annual charges are also produced by the NRTC model. They were significantly lower for the heavier vehicles (B-doubles and road trains) than those suggested by the Overarching Group on Land Transport.

The zonal system is out in terms of cost allocation results. The NRTC report also does not support charges through a fuel price mechanism.

I seek leave to incorporate in *Hansard* a copy of the proposed charging schedule, because when I first moved this motion in October last year I included the proposed charges, based on the Special Premiers Conference and ISC model, which caused enormous agitation throughout the whole of the transport industry in South Australia. The new charges in this schedule indicate that costs will be substantially reduced for B-doubles in particular if this new charging schedule is introduced.

Leave granted.

TABLE 1: PROPOSED CHARGING SCHEDULE ($ per annum)

Vehicle Type	1-axle	2-axle	3-axle	4-axle	5-axle
Rigid Truck					
Light [1]	—	300	600	900	—
Heavy	—	500	800	2 000	—
SCV	—	600	2 100	—	—
MCV	—	—	4 000	4 250	—
LCV	—	—	5 250 [2]	—	—

Vehicle Type	1-axle	2-axle	3-axle	4-axle	5-axle
Prime Mover					
SCV	—	800	3 250	4 250	—
MCV (B-Double)	—	3 250	4 250	4 500	—
LCV (Road Train)	—	—	5 250	5 500	—
Trailer					
Semi	250	500	750	—	—
Pig	250	500	750	—	—
Dog	—	500	750	1 000	1 250
Dolly	250	500	—	—	—
Buses					
Light [3]	—	300	1 250	—	—
Heavy	—	500	1 250	—	—
Articulated	—	—	500	—	—

— not applicable
SCV Short Combination Vehicle
MCV Medium Combination Vehicle
LCV Long Combination Vehicle
Notes: [1] 2-axle less than 12 tonne, 3-axle less than 16.5 tonne, 4-axle less than 20 tonnes.
[2] Same charge would apply to rigid trucks with more than 3 axles and used in LCV.
[3] 2-axle less than 12 tonne.

The Hon. DIANA LAIDLAW: The SPC/ISC scheme endorsed by Premier Bannon in May last year would have seen B-double registration and road cost charges at $17 000. The new proposed fixed charges for a B-double under this scheme will be $4 500, which is an important suggested reform for South Australia. This document is still being investigated by transport representative associations across the country. They recognise as I do that it is a compromise paper that seeks to spread charges across the board. As a compromise it is acceptable, although the transport representatives remain of the view that fuel-based charges would be the most appropriate and would be administratively easy to implement. However, there is no suggestion of a mass distance charge, and I believe that is an exciting and important development in the whole debate about future road cost charges. There remains the concern that the Federal Government has allowed little time for this whole business to be implemented and that it is too rushed. That is not a matter in our control in this place, but it is something that is worth noting for the record. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

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

PROSTITUTION BILL

Adjourned debate on second reading.
(Continued from 25 March. Page 3598.)

The Hon. C.J. SUMNER: I move the following amendment to the motion:

Leave out all words after 'That' and insert 'the Bill be withdrawn and referred to the Social Development Committee for its report and recommendations.'

I do not intend to support the second reading of this Bill in its present form. I do not intend to canvass all the issues that have been raised during this debate on this occasion or previous occasions, but I would like to explain briefly why I do not intend to support the Bill introduced by the Hon. Mr Gilfillan. However, I wish to give the opportunity for the Council to decide whether it wants Parliament generally to consider this issue further through the Social Development Committee, which is probably the most appropriate committee, or one of the other standing committees of Parliament. My proposal is that, before this Bill is read a second time, it be referred to the Social Development Committee or, if members are happier with some other committee, to another committee for important recommendations before the matter comes back for its second reading.

To approve the second reading of this Bill and then send it to a committee, which I understand is the proposal of the Hon. Mr Gilfillan, will mean that the Council is approving in principle the legalisation of prostitution by regulation. The model that is followed in this Bill is the legalisation of prostitution followed by its regulation by a board with a licensing system. That is not a structure for dealing with prostitution law reform that I am prepared to support.

There are other options for reform if the Parliament wishes to pursue this issue. Obviously many members believe that there should not be any change to the law and that probably it is a waste of time doing any further work on the topic given that this matter has now been before this Parliament in one form or another for over a decade. If the Parliament wishes to pursue this issue, in my view, it should do so without giving its imprimatur through this Council to the model of reform as outlined in the Bill.

It is the option to enable further consideration of this matter to be given by an appropriate committee of the Parliament that my motion provides, without this Council, in effect, approving (as it would be doing, I believe, by giving a second reading to the Bill), a reform which involves legalisation and regulation by a board with a licensing system. That is what this Bill does. In my view, those who support second reading need to believe that that is essentially the sort of structure that they want to see for the reform of prostitution law and then, of course, move amendments around that general principle.

Those who do not support the legalisation of prostitition by regulation, but who may support some other form of decriminalisation (for instance, proposals originally put forward by the Hon. Ms Pickles in 1986 or those who go back to the Millhouse Bill in 1980), ought not, in my view, to support second reading of this Bill, because the system proposed in this Bill is a far cry from the Bills introduced by the Hon. Ms Pickles and the Hon. Mr Millhouse. By approving second reading of this Bill, in effect, we are saying that we support a legalisation by regulation model. As I said, I am not prepared to do that, and I do not believe that even those who think that reform of the law by way of decriminalisation is a reasonable option should support the second reading of this Bill, either.

Two things can be said with certainty about the laws relating to prostitution. The first is that they are unsatisfac-

tory. The second is that, even if changed, they are still likely to be unsatisfactory. There are no ready-made easy solutions. If there were, no doubt they would have been implemented satisfactorily by now somewhere in Australia. They have not been.

The recent change in Victoria, while it is said by some to be an improvement on the previous situation, is still unsatisfactory. There have been many criticisms of that planning permit model which have been referred to in the media by learned commentators and by a number of speakers in this place.

Another important general factor is that the culture of the community—in this instance the South Australian community—must be considered when determining the method of reform if it is considered that reform is desirable. I do not believe that South Australians want the legalisation of prostitution by regulation model as proposed in this Bill. My assessment is that, even if passed by the Legislative Council in the form proposed by the Hon. Mr Gilfillan, or indeed at this stage any other decriminalisation model, it is most unlikely to receive anything like majority support in the House of Assembly. If that assessment is correct, but reform is still considered to be a priority by some in the Parliament and they wish to pursue it, there is little doubt in my mind that more work needs to be done. My motion will at least allow this to occur.

No doubt the Hon. Mr Gilfillan will say that if we have not done enough work on this topic by now, seeing that it has been before the Parliament for 12 years, it is unlikely that we will advance the issue by further work. I do not necessarily accept that. If honourable members do accept that, they can vote against doing any further work on it and 'can' the issue for the foreseeable future. However, I do not believe that the Parliament has sufficiently explored the options that are available in a committee structure.

There was a select committee in 1979-80, but in recent times there has been no detailed committee work on prosititution law reform measures here or anywhere else. Indeed, when the Hon. Ms Pickles' Bill was introduced, it did not proceed to the second reading and no committee work was done on it. If the Hon. Mr Gilfillan's Bill proceeds, in effect, we will have approved committee work on a legalisation by regulation model of prostititution law reform. However, I do not believe that in recent times the Parliament has done sufficient work on the Pickles and Millhouse models and what needs to go with them to achieve reform in this area if that is considered desirable. There has been no committee work on that topic in recent times. My motion will enable that work to proceed if the Council, the Parliament and the Social Development Committee are desirous of its proceeding, but it will do it without what I think would be a mistake—that is, to approve this form of regulation of prostitution.

The issue has been extensively canvassed in the Parliament on previous occasions. There was the House of Assembly select committee in 1988, the so-called Millhouse Bill and the Bill introduced by the Hon. Ms Pickles in 1986 which coincided with a background paper prepared by the Attorney-General's Department. Now we have the Hon. Mr Gilfillan's Bill which coincided with the information issues paper of July 1991 prepared by Matthew Goode, now of the Attorney-General's Department, formerly senior lecturer in law at the University of Adelaide, which was prepared in response to the NCA Operation Hydra Report. There has also been an information issues paper prepared by the Criminal Justice Commission in Queensland. That issue was the subject of lively debate, with the Premier, Wayne Goss, taking a strong stand against the legalisation or decriminalisation of prostitution in that State.

We have before us—and it has been referred to a number of times—the Neave report, which prompted prostitution law reform in Victoria, but which did not implement her proposals in their entirety and has therefore been criticised. Nevertheless, we have the Neaves report from Victoria and the practical implementation of prostitution law reform in that State to look at.

Although it has been criticised by some people, I believe that, Mr Mathew Goode's paper, in particular, provides a comprehensive and current analysis of the issues. I believe that it can be used to inform any further reform process. I think that the Hon. Mr Burdett suggested that Mr Goode came down with a conclusion in one way, but that was not my reading of his paper. In fact, in the beginning of the paper he said that he was not there to recommend a particular view, and he did not do that, although the Hon. Mr Burdett may have seen in it a particular trend. Nevertheless, even if that trend was there, it is fair to say that the information issues paper is a comprehensive review of both the philosophical and practical issues surrounding prostitution law reform. I think it is a worthwhile paper to continue to refer to as a basis for further work in this area, if it is desired.

While there are differing views in the community about the morality of prostitution—and I do not intend to enter into that debate tonight because it is not necessary—I believe that there is general acceptance that prostitution is an activity which is based on sexual and economic inequalities and exploitation. While some prostitutes may be completely free agents, most are forced into it for economic reasons. That being the case, having gone into it, they are often exploited because of the activity in which they are involved. It seems to me that that being the case, the overwhelming policy objective should be a reduction in the incidence of prostitution in so far as that is practicable.

I think that would be a common theme running through this Parliament and the South Australian community on this issue. The debate is about how one might achieve that. Criminalisation of the act of prostitution and the imposition of penalties on the client as well as the prostitute might achieve that objective, but it is by no means certain. However, further criminalisation is unlikely to eliminate prostitution completely and can have undesirable effects. The possibility of police corruption, the difficulty of enforcement, the involvement of organised crime because of the greater amounts of money that might be involved in a completely suppressed activity, and the fact that the activity is criminal, place a stigma on people which makes them reluctant to cooperate with health or law enforcement authorities, even though prostitution activity may involve drugs, violence, stand-over tactics, extortion and the like. Complete criminalisation runs the risk of not bringing those matters to the attention of the law enforcement agencies, and it runs the risk of not bringing to the attention of health authorities the health concerns involved in prostitution activity.

At the other end of the reform spectrum is the legalisation by regulation model, which is represented by this Bill. As I have said, this is unacceptable. By a system of licensing or registration, the community or the State is seen to be condoning or supporting the exploitative activities which are in the nature of prostitution. I mentioned the regulation which occurred in Victoria following the Neave inquiry, and I have mentioned that they did not introduce into Victoria the full scheme proposed by Professor Neave. Matthew Goode argued in his paper that, although the Victorian

experience has been presented as a failure, I quote from his paper:

> None of the interested groups, the police, the prostitutes or the planners want to return to the bad old days, that is, a return to the situation now pertaining in South Australia.

That was his conclusion at page 56 of his report. Nevertheless, from the reading which I have done—and I will not canvass it all tonight—there is no doubt that there are severe criticisms of the Victorian model, which relies on planning permits being granted for brothels. As I understand it, that particular system has not led to a reduction in illegal prostitution activity. It has led to the establishment of mega-brothels and monopolies by large groups of people within the legalised system, but it has meant that large numbers of people still operate illegally.

While it can be argued that it is better than the earlier system, it seems to me that no-one is prepared to argue that it is in any way perfect, and the criticisms extend from prostitutes and their representatives through to many other sections of the community.

In relation to the Victorian experience, it is probably worthwhile briefly to refer to the original author of these reforms although, of course, she claims that they were not implemented fully and therefore have failed. On page 59 of Matthew Goode's paper, he refers to Professor Neave's conclusions on the Victorian situation and states:

> To what extent can the reform in Victoria be regarded as a success? The Prostitution Regulation Act 1986 has achieved some improvements. Removal of criminal penalties for those who work in brothels with permits is a step towards decriminalisation. Use of town planning laws to control location of brothels has been more effective in dealing with the public nuisance aspect of prostitution than the old criminal law provision. Brothels which were operating without planning permits in the past have now closed down. Unfortunately, this success has been achieved at a cost. The form of the prostitution industry is changing and it appears that sexual services will increasingly be provided through escort agencies or large brothels controlled by businessmen. The failure of the Prostitution Regulation Act to differentiate between freelance prostitutes, small brothels and large scale prostitution is partially responsible for this trend.
>
> Many of the difficulties in the present law seem to spring from the view that prostitution is inevitable, that the industry must be tightly controlled and all those who sell sexual services must be segregated from the rest of the community. This approach institutionalises prostitution, reinforces male dominance and diminishes the power of people who work as prostitutes, usually women, without affecting those who can afford to purchase land with a brothel permit and invest in large scale prostitution.

In other words, the very author of the Victorian reforms is now critical of a system of regulation. It is interesting that it seems that Professor Neave does not now support a licensing system, although she did so in her report. Her position, as outlined on page 106 of Matthew Goode's report, now seems to be as follows:

> I suspect that licensing provisions will be ineffective in excluding criminals from involvement in the sex industry but will simply push them more deeply into the background. In my view the answer to criminal involvement is the decriminalisation of prostitution. Such decriminalisation should give those working in the sex industry greater opportunity to draw abuse and criminal activities to the attention of police. The introduction of a licensing system will be opposed by both feminists and church groups on the ground that it amounts to State condemnation of prostitution.
>
> The provisions relating to revenue associated with the licensing scheme may lead to the allegation that the Bill makes the State a pimp. I have some sympathy for this view. If a licensing scheme is proposed, negative licensing would seem a better approach. This approach would permit any adult person to own or manage a brothel but would enable police to seek a court order excluding a person from association with prostitution on the ground that the person's record shows that he or she is unsuitable.

The point about that is that there is clear evidence of major difficulties with the Victorian reforms. I will not repeat them as many of them have been referred to by members, including the Hon. Mr Griffin, during the debate, but in addition to the practical difficulties that have occurred with the Victorian reforms we now have the author of the report that gave rise to those reforms being critical of a licensing system for prostitution law reform—and, of course, a licensing system is proposed in this Bill by the Hon. Mr Gilfillan.

The Hon. I. Gilfillan: A different system.

The Hon. C.J. SUMNER: The honourable member says that it is a different system. To some extent, it is different from Victoria's, but I think it is fair to say that the comments of Professor Neave to which I have referred relate to licensing provisions generally, particularly the last quote that I read. All this hardly constitutes a ringing endorsement of a legalisation by regulation model of reform as proposed in this Bill.

The other two main options are, first, to maintain the *status quo* in the law but adopt the policy of police tolerance, which means that action will be taken to enforce the law only when a public nuisance, violence or other criminal activity such as drugs is associated with the prostitution. This is a pragmatic solution, a 'turn a blind eye' solution—institutionalised hypocrisy, some might call it—but it has been adopted in a number of countries in the world. I think this system operates in the Netherlands, and it has operated in Western Australia, although again, to prove the first point that I made when I started my debate, there is criticism of that approach in Western Australia as well. Although something may be said for it—it avoids the issue, leaves it up to the police and does away, by means of selective enforcement, with organised criminal activity associated with prostitution—its main disadvantage, apart from the fact that it does not appeal to people because of its hypocritical nature, is from the point of view of police corruption, because where you get differential enforcement of the law, the potential for corruption is greater.

I suspect that, whilst that is not the official policy of the South Australian Police Department, it probably operates in that way to some extent in South Australia in that the police operate on complaint and complaints occur where there is a public nuisance and the like. Nevertheless, it is not the official policy of the South Australian Police Department, and I doubt whether it would be a policy that, if officially proclaimed, would be acceptable to the South Australian community.

The second option at this end of the scale is to adopt a policy of decriminalisation but without a system of registration or licensing. This was the effect of the 1980 Millhouse Bill and the 1986 Pickles Bill. Basically, this means that sexual activity itself is no longer a crime and participants are not subject to criminal penalties. There may be, of course, other criminal offences surrounding prostitution, such as living off the earnings, etc., but the actual activity of prostitution itself would not be a criminal offence either for the prostitute or the client.

However, the question remains—and I do not think that this issue has been adequately explored by the Parliament—whether there should be other controls in place, even with a decriminalisation model, dealing with such issues as living off the earnings of prostitutes, advertising, recruitment, protection of minors, problems of blackmail or physical violence, the control of soliciting, planning controls and the like. If there is to be prostitution law reform by decriminalisation, it seems to me that those issues have to be addressed and adequately dealt with. Those issues were partially dealt with by the Pickles Bill, but as I said we did not get into the Committee stage of that Bill so they were not fully canvassed. However, if there is to be reform I think this approach has the best chance of achieving change;

that is, decriminalisation with certain controls but with a query about the extent of those controls.

This model, if it is what the Parliament eventually decides should be introduced, will produce law reform in this area with the minimum of adverse side effects, recognising, as I said at the beginning, that in this area it is unlikely that a completely satisfactory situation will ever be achieved. It is also worth noting that if there are other laws or controls surrounding prostitution in place—the sorts of things that I have mentioned, such as living off the earnings of prostitutes, etc.—of course, the possibility of police corruption would continue to exist in the enforcement of those laws that surround the act of prostitution itself.

However, on this point it is probably worth noting that, whether we are talking about decriminalisation with controls or about the Hon. Mr Gilfillan's Bill or, indeed, the current situation, in South Australia at least the NCA's Hydra report did not find any evidence of police corruption in the vice industry. So, it may be that in this State at least the arguments for reform of the law that are based on the actuality or possibility of police corruption are not as strong as they might be in, for instance, Queensland where the Fitzgerald report clearly outlined problems of corruption of the Police Force in the vice industry.

It also needs to be said that if the approach of decriminalisation with some controls is to be adopted in South Australia by the Parliament, it will need to be accompanied by positive action to reduce the demand for and incidence of prostitution through welfare or other measures so that women have a real choice about whether to engage in prostitution. I think that matter needs to be dealt with if this issue is to be examined further by the Parliament. Of course, that issue will be difficult to deal with, particularly in the current economic climate.

With any form of legalisation, such as that proposed by the Hon. Mr Gilfillan, or decriminalisation, I believe there is a real risk of increasing rather than decreasing the incidence of prostitution, particularly in these difficult economic times. If one starts from the base from which I started and which I think is common to most members in this Parliament—that policy objective should be the reduction of prostitution—then one needs to be convinced that if we are going to look at legalisation or decriminalisation we need to be reasonably satisfactorily convinced that the reforms will not lead to a significant increase in prostitution activity. The basis of reform should be the minimisation of this activity, given that I think most people recognise that it will not be eliminated. Any decriminalisation needs to be supported by positive measures to deal with social conditions that force women into prostitution.

The final issue I wish to deal with relates to the United Nations position on prostitution. I suggest that the position I have outlined is probably most consistent with the position that has been taken by the United Nations. Certainly, there is a general view through the instruments of the United Nations—and these were referred to by the Hon. Mr Griffin—that prostitution is undesirable and should be minimised since it is exploitive of women, discriminates against women and should be minimised. Of course, how to do that is the issue. That is not clear by any means.

The Hon. Carolyn Pickles interjecting:

The Hon. C.J. SUMNER: Sure, that is right. I was saying that, if we are to decriminalise prostitution, we need to surround it with positive measures to try to minimise its incidence. Should those measures be directed at women—the potential prostitutes—or to men? Obviously, the measures need to be directed at both areas. Like a lot of other issues, such as gambling and other areas of social activity that are sometimes considered to be immoral, criminal activity itself varies. In the final analysis one has to come back to individual value systems and attitudes to those matters. While those values and attitudes may be formed, to some extent, by the law, many areas of human activity cannot be proscribed or dealt with by criminal law. They must be dealt with by the values and attitudes in the community. That applies equally to prostitution. Some argue that the criminal law can deal with the issue but, obviously, it does not deal with it satisfactorily. Certainly, if we decriminalise it, we have to accompany that with welfare measures and measures that will deal with attitudes in the community that give rise to the activity—attitudes of both men and women.

I was going to refer to the United Nations contributions on this topic. As I said, and as the Hon. Mr Griffin also said in his contribution, it is quite clear that the United Nations instruments on this topic are condemnatory of prostitution. However, there is more debate whether or not the United Nations instruments support a criminalisation regime. The 1949 convention was not signed or agreed to by Australia and therefore I will not refer to it further. However, it is referred to in Mr Matthew Goode's report. In addition, a 1983 resolution of the United Nations General Assembly refers to the importance of full integration of women in the social, economic and political activities of their community and to the essential role of women in the welfare of the family and the development of society. The resolution states that women and children are still all too often victims of physical abuse and sexual exploitation. The preamble does not refer specifically to the prostitution of men. The resolution urges member States to take all appropriate humane measures, including legislation, to combat prostitution and exploitation of the prostitution of others. It appeals to member States to provide special protection to victims of prostitution through measures such as education and employment opportunities.

That issue is referred to in the Neave report of September 1985, at page 217. It is interesting to note that Australia abstained from voting on this resolution for reasons similar to those given for not adopting the 1949 convention to which I refer. In fact, no western State voted in favour of the 1983 resolution. The reason for reservation in relation to the 1949 convention, which applied also to the 1983 resolution, was that Australia should reserve its position on the convention on the grounds that it was unduly moralistic and inconsistent with other international human rights instruments that Australia had already signed.

However, a United Nations instrument to which Australia has agreed, which it has signed and ratified, and which is contained in a schedule to the Commonwealth Sex Discrimination Act relates to the convention on the elimination of all forms of discrimination against women. It is important to note that Article 6 of that convention provides:

> State Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

It is reasonable to argue, as some undoubtedly have, that that is a reasonably clear-cut statement in favour of legislation to suppress traffic in women and exploitation of prostitution of women. Those who support criminalisation of prostitution can gain some support for that proposition from the convention on the elimination of all forms of discrimination against women.

Clearly, there are two parts to the issue. The first part deals with the trafficking in women. Presumably that refers to the so-called slave trade in women. Secondly, it deals with the exploitation of prostitution of women. As with all United Nations instruments and conventions prepared as a

result of discussion and compromise amongst 120 or more countries, they are often not given to precise interpretation because of the compromises that have to be made. In her conclusion, Professor Neave states:

> Like the 1949 convention, the convention on the elimination of all forms of discrimination against women does not require the adoption of criminal penalties for prostitution, but is designed to prevent exploitation.

That view was also expressed by Matthew Goode in his paper. Nevertheless, I think it certainly can be argued that Article 6 of the convention does permit, by legislation, prohibition of prostitution. It certainly permits by legislation and, in fact, requires State parties to take all appropriate action and measures, including legislation, to suppress exploitation of prostitution of women.

So, there is little doubt that the instrument to which Australia has agreed, that it has signed and ratified, contains a very specific statement against the exploitation of women involved in prostitution. It also provides that State Parties should take all appropriate measures, including legislation—and it could be argued that that includes the criminal law. No doubt Professor Neave and Matthew Goode would argue that the legislation should be directed at the exploitation and not necessarily the criminalising of the act of prostitution. However, if it is to be directed at the exploitation of prostitution of women, and that is to be combined with decriminalisation, it seems to me that the controls that have to go with decriminalisation must be looked at very carefully, and that has been the theme that I have been trying to provide to the Council this evening.

The United Nations definitely is condemnatory of prostitution; it is condemnatory of the exploitation of women through prostitution. It is in favour of the minimisation of prostitution, and I believe that ought to be the common theme that runs through prostitution law reform. If we decide on criminalisation, we need to ensure that that decriminalisation is accompanied by measures which deal with the questions of exploitation, and that may involve things like living off the earnings of prostitutes, etc.—the things I have already mentioned. So, I cannot support this Bill in this form.

If there is to be prostitution law reform, it needs to be based on a decriminalisation model, not this Bill. However, even with decriminalisation of the Millhouse or Pickles kind, there remain many questions to be resolved. They have not been resolved yet by this Parliament. My motion gives the option to the Council to do further work on those issues within the parameters I have outlined, without supporting the principles of this unsatisfactory Bill.

The Hon. R.I. LUCAS (Leader of the Opposition): In my somewhat shorter contribution to the second reading debate on the Prostitution Bill, I will commence with a quote:

> The basic argument of those who promote legalisation or decriminalisation seems to essentially be that because prostitution is a problem that the law and society has not been able to deal with legalising prostitution somehow makes it acceptable. This argument is nonsense. The correct philosophical view surely is that prostitution is objectionable. Prostitution is degrading to all those who are involved, both men and women, but it is particularly degrading to women who are in the main the victims of this business victims in terms of their emotional mental and physical health and victims in terms of economic exploitation, usually by men. Practical and administration problems have been demonstrated in other States. The consequence of legalisation or decriminalisation means that we simply add a legal industry to a continuing illegal industry, but the average citizen or taxpayer has to pick up the cost of licensing and regulating.

That quote does not come from a member of the Liberal Party, the National Party, the Festival of Light, the League of Rights or any other conservative group; it comes from the Labor Premier of Queensland, Wayne Goss.

On this issue I find myself in complete agreement with the views that Premier Goss has expressed on the thorny question of prostitution law reform. Together with the Attorney-General and all other members who have spoken in this debate, I concede that we have a significant problem, not only in South Australia but, I guess, in Australia and most other countries of the world in relation to the prostitution industry. Whilst many aspects of the industry give cause for concern, those aspects which are of most concern to members are the relationship with criminal elements and crime and the health-related problems not only for those who are associated with the industry but the by-product health problems that flow to the rest of the community as a result of any unhealthy practices that exist within the prostitution industry.

In my attitude towards prostitution law reform, I operate from a very conservative base. Before we take an extraordinarily significant step such as envisaged by the Hon. Mr Gilfillan and those who support the principles of the Bill, a step which would see the legalisation of brothels in South Australia, we need to be absolutely convinced that the solution will work. In my view, we should not be some sort of State-wide guinea-pig for prospective law reform in this area on the chance that it may or may not be successful. In my view, we need to see—preferably somewhere else in Australia, I guess, or at least in a country with a similar background to Australia—a working model that is successful and can be demonstrated to be successful before we in South Australia take the extraordinary step of significant law reform in this area.

From my reading in this area, which is, I confess, not as wide as others such as the Hon. Mr Gilfillan and the Hon. Ms Pickles, but nevertheless which has been fairly extensive, I am not yet convinced that there is a successful model for us to look at and say, 'There we are, it is working in some other State of Australia or some other country.'

The Hon. C.J. Sumner: That is never likely to happen.

The Hon. R.I. LUCAS: I work from a very conservative base and, if the Attorney-General is right, that it is never likely to happen, my view is that I am not prepared to support a guinea-pig type experiment in South Australia where we take the punt on something being successful, particularly if there is evidence not only from the experts in the area, such as Professor Neave, whom the Attorney-General has quoted at length this evening and who is seen from those quotes as an architect of reform—

The Hon. T.G. Roberts: If that were the case, we would have never got the wheel!

The Hon. R.I. LUCAS: I am not sure of the significance of that interjection; perhaps the Hon. Terry Roberts might be able to explain it to me afterwards. As I said, I am not an expert in this area—perhaps the Hon. Mr Roberts is. I certainly operate, at least in part, from a position of ignorance of the inner workings of the industry. We have experts in the area, such as Professor Neave, who was quoted by the Attorney-General tonight, and who is held up by everyone as an expert in this area. On my reading of the Queensland debate that has raged for the past three or four months, she has been quoted at length as an expert in the area of prostitution law reform.

Certainly she was very active and intimately involved with the changes in Victoria, and she has been intimately involved with the changes in South Australia. She is at least an academic expert in relation to the questions that we are being asked to consider this evening. If, according to these quotes from the Attorney-General, someone like that is

saying, 'Hold on, I might have thought this a couple of years ago but I no longer think that, for a whole variety of reasons—

The Hon. C.J. Sumner: She supports decriminalisation.

The Hon. R.I. LUCAS: We are not discussing decriminalisation at the moment, as the Attorney-General has indicated. According to him, she has indicated that she has moved away from the principles of this Bill. The quote from Premier Wayne Goss which I used at the beginning of my second reading contribution is equally dismissive; even the notion of decriminalisation that the Attorney-General explored this evening in his contribution, he indicated Professor Neave has now moved toward.

As the Attorney-General has alluded to an academic expert's views of the situation in Victoria, I want to place on the record the views of others in relation to the Victorian experience to add to the judgments that Professor Neave and other academic experts have made about the Victorian situation. At least from my reading I think it is fair to say that the general flavour of most summaries of the Victorian experiment is that it has been an unmitigated disaster. I acknowledge that some of the problems that might have been caused in Victoria have evidently arisen as a result of the failure to proclaim some sections of the legislation. However, those sections relating to licensing and the Brothel Licensing Board provisions which have not been proclaimed are areas that experts such as Professor Neave now say they can longer support. So, whilst I acknowledge that some of the problems might have been caused by the failure to proclaim, certainly, it is my view, based upon reading and listening to the views of people such as Professor Neave as espoused by the Attorney-General, that the problems that exist in Victoria cannot be sheeted home solely to the failure to proclaim some sections of the legislation that was passed in the mid-1980s.

I want to refer to some press reports from Victoria over the past 12 months in relation to the prostitution industry in that State. The first is from the *Sunday Sun Herald* of 22 September 1991. It quotes a senior sergeant on duty at the St Kilda police station as follows:

> According to a senior sergeant on duty at St Kilda police station, women are being subjected more often to sex offences in which they are forced to witness gross sexual displays. Information compiled by the Council Against Violence shows that St Kilda has the highest rate of rape in Victoria, averaging a rate of 65 rapes a year over the past three years. (Figures per 100 000 population.)
>
> Melbourne's central business district came in behind St Kilda with an average rate of 64.7 rapes a year, followed by Fitzroy with 43.7. As well as being the suburb with the highest incidence of reported rape, Detective Sergeant Shane Pannell of St Kilda CIB said street violence in St Kilda was also increasing. 'Not a week goes by when we do not receive at least one report of someone being assaulted in the streets', Pannell said. Detective Sergeant Pannell, a police officer for 15 years, said the crimes committed were becoming more violent. He attributes the wave of crime to prostitution, more drugs and lower society values.

A further report in the *Sunday Sun Herald* of 14 April 1991 in an article by A. Altair states:

> In February St Kilda council called for a comprehensive report on prostitution in the suburb. To break the incessant cycle of gutter crawlers, the council has sandbagged the top of tiny Vale Street, at the heart of the present storm. The barricades, now permanent, followed an outcry from the 50 or so beseiged locals for whom life had become a nightmare of noise, car doors slamming, and the sounds of sex in parked cars and outside their front doors.

Further on, the report states:

> Police recently blitzed west St Kilda in response to residents' complaints, netting 100 gutter crawlers whose cases are being heard in St Kilda court this month. Most of the offenders, like the prostitutes are from out of town, says the head of St Kilda police, Senior Sergeant John Donald. He blames the recession, which has slowed business in Melbourne's 60 licensed brothels, for the prostitutes' drift back to St Kilda. Others are drug addicts who cannot get jobs in brothels. Veteran street girl Pam Vale says it takes her a fortnight and eight clients in a brothel to earn less than $400—money she can make in one night in St Kilda.

There are a number of other quotes from people working in the industry which indicate the very strong financial incentive that exists in Victoria, even with licensed brothels, for prostitutes to move out of licensed brothels and back onto the streets or into other forms of prostitution. They do not make enough money in the licensed brothels for a variety of reasons, and that is borne out by the quote from veteran street girl Pamela Vale who says that it takes a fortnight and eight clients to earn less than $400 in a licensed brothel—money she could make in one night on the streets in St Kilda. That is why she is working the streets in St Kilda and why up to 100 others have moved out of licensed brothels to make more money on the streets of St Kilda. Again, that backs the point that Wayne Goss made when he expressed his view, which I share, that all one does with legalisation of an industry is add a legalised section onto the illegal industry which already exists and which in his view would continue.

The Hon. C.J. Sumner: That is what I said.

The Hon. R.I. LUCAS: We have just heard what you said, so I do not have to repeat that. You are quite able to speak for yourself. Premier Wayne Goss is not here to put his views, but he is the most popular Premier in Australia at the moment, I am told.

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: I am told you are the most popular Attorney-General in South Australia at the moment; you hold that without any fear of contradiction. To back the statements the Attorney-General has made—to give him some credit—Professor Neave is reported in this article as follows:

> Professor Neave admits her reforms have failed to clean up the sex industry. She says the law institutionalises prostitution, reinforces male dominance and diminishes the power of prostitutes. It could be a reason why street prostitution is on the rise, she says, questioning the wisdom of conducting police blitzes and eradication campaigns. She believes there will always be some women who prefer to work on the street.

Again, that backs the statements made by Wayne Goss in relation to the legal and illegal industry. Finally, I want to read into the record another quote in relation to the Victorian experience. A story from the *Herald* of November 1989 reads as follows:

> Life as a prostitute even in a legal brothel is not exactly a bed of roses. Consider one woman's recent experience. She got to work late, was docked $100 for that misdemeanour and for being poorly dressed. She then spent the next eight hours waiting for customers who did not turn up. When she went home in the early hours of the morning, she had earnt absolutely nothing. In fact, she was $100 in debt. To her, and many others involved in brothels since they were legalised, the trade has gone to the dogs. The prostitute said, 'It hasn't worked in favour of the girls. We are earning less than ever.' A senior police officer said, 'It is an industry run by low lifes. Now they are legal low lifes.' A spokesman for the Prostitutes Collective of Victoria said, 'Legalisation has created capital intensive monopolies in which the women have lost control of their workplace.'

The article goes on to say:

> There are 53 legal brothels in operation [at this stage], another four have permits but have not yet opened and several others in the planning stages have floundered for lack of funding. Only three years after they were created, Victoria's legal brothels appear to be facing a crisis. AIDS has scared off many customers and even those prepared to take their chances seem to prefer the dial-a-prostitute escort services which have mushroomed, despite their illegality.

Further on it states:

> Today street prostitution continues, illegal brothels exist in many suburbs and the so-called escort services are flourishing as never before. Within the legal brothel trade itself there are reports

that exploitation, particularly of Asian women illegally brought here to work, is rife.

The mood in Victoria is that brothels are like toxic waste dumps—okay if they are in somebody else's backyard.

There are literally dozens and dozens of other quotes from press and magazine reports and journal articles which have described the Victorian situation since the legalisation of prostitution in that State. I do not intend to go through all those. I think those three give the flavour of what workers in the industry, the police in Victoria, academic experts like Professor Neave and a whole variety of other people think about the changes that have taken place in Victoria, changes of a type—I concede that there are some differences—similar to those, at least in principle, that the Hon. Mr Gilfillan has introduced in this legislation.

I guess that in this context it is also worth while to note that the estimate of the South Australian Commissioner of Police is that only 40 per cent of the prostitution industry might be covered by the Hon. Mr Gilfillan's Bill. I take it that he is estimating that 60 per cent of the industry—whether illegal brothels, escort services or other sections of the industry—would still not be covered by legalised brothels.

Working from my admittedly conservative base, in my view it is clear that the Victorian experiment has not worked. Whether one talks to academic experts, workers in the industry or the police, there appears to be a generally united view that the experiment has not worked.

The Hon. C.J. Sumner: But they say that it is better than it was before.

The Hon. R.I. LUCAS: Matthew Goode says that.

The Hon. C.J. Sumner: He made inquiries over there.

The Hon. R.I. LUCAS: Matthew Goode may have claimed that. Certainly from the quotations that I have read into *Hansard* by those who work in the industry and the police, that is not the flavour of their assessment.

The Hon. I. Gilfillan: Would you say that was a thorough survey?

The Hon. R.I. LUCAS: I guess it is as thorough as any member of Parliament can be in an attempt to canvass the literature on this matter. If the Hon. Mr Gilfillan wants me to say that I have read every piece of material on prostitution, I would say that it is a good cross-section. It is certainly indicative of the flavour of the journal articles that I have read in relation to the Victorian experience. If one reads the speeches of other members in this Chamber relating to this Bill who have quoted from other work that has been done in this area, it will be found that the flavour of those quotations is not dissimilar to the flavour of the quotations that I have put on the record. I do not want to go into the detail of the Gilfillan Bill. I have indicated my general position.

I want to conclude with where we go from here if this attempt at prostitution law reform is unsuccessful. I would be interested in some committee of the Parliament canvassing other options for prostitution law reform. As I shall indicate shortly, I shall be supporting one particular proposition in relation to that. I am interested in some aspects of Queensland Premier Wayne Goss's prostitution law reform proposals. For example, the Hon. Mr Burdett has canvassed on a number of occasions that the client as well as the prostitute ought to be equally guilty of an offence if there is to be an offence at all. The Hon. Mr Griffin indicates his support for that. From my discussions with members in this Council there seems to be fairly wide support for that proposition to be further explored. There are other aspects of Premier Wayne Goss's prostitution law reform proposals that may well merit further consideration by a committee and for the Legislative Council finally to decide upon.

It will be obvious from what I have said that I shall be voting against second reading of this Bill. I do not intend to support the Attorney-General's motion. The Attorney-General, from my recollection—he can correct me if I am wrong—argued that if members were to support the second reading they would in effect be giving some form of support for the principles outlined in the Bill for the legalisation of prostitution.

The Hon. C.J. Sumner: By regulation.

The Hon. R.I. LUCAS: By regulation. I think he further argued that those who supported the Pickles model of 1986 for decriminalisation ought to oppose the second reading of this Bill. I think that is a fair summary of what the Attorney-General was saying.

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: I am glad that I got that correct. The Attorney-General argued therefore that the Bill should be withdrawn and referred to the Social Development Committee for its report and recommendation without a vote on the second reading. I will explain why I intend to vote against the Attorney-General's motion. If the Attorney-General's motion is successful, in effect, this Bill will be referred to the Social Development Committee for that committee to report and recommend thereon. For the same reasons as the Attorney-General argued that if someone were to support second reading they were, in effect, endorsing the principles of legalisation, it is my view that if one accepts the Attorney-General's motion—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: We are referring—

The Hon. C.J. Sumner: It says 'withdrawn'.

The Hon. R.I. LUCAS: Yes. The Attorney-General's motion reads:

That the Bill be withdrawn and referred to the Social Development Committee for its report and recommendations.

My preference—and I indicate how I shall vote—is that we oppose the Attorney-General's motion and vote on the second reading. The Attorney-General has indicated that he opposes second reading of the Bill, as indeed I do. Then, if the Bill is defeated—it would appear that the Attorney-General and several other members may well oppose it—with a suspension of Standing Orders, we then refer not only this Bill but all other proposals for prostitution law reform to—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: With respect, we are not. I suggest that we refer not only this Bill, with the principles inherent in it, but all other propositions for reform in this area.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: The Attorney-General argued that members should not support the second reading, because, if they do, they support the principles of the Gilfillan Bill for legalisation.

The Hon. C.J. Sumner: I am not supporting it.

The Hon. R.I. LUCAS: That is the Attorney's argument. I am saying that, building on that argument, I will oppose that and the second reading, and that we then refer to the Social Development Committee not just this Bill with the inherent support for legalisation that exists within it but all other propositions for law reform such as the Pickles-type model that was introduced earlier—

The Hon. C.J. Sumner: That's exactly what I said.

The Hon. R.I. LUCAS: It might be what you said, but it is not what the motion says. We could also refer the proposals which the Hon. Mr Burdett canvassed, both on this

occasion and previous occasions and in that way we would not be endorsing the principles of the Gilfillan Bill by referring it to the committee.

The Hon. C.J. Sumner: It will be withdrawn. Don't misrepresent that I said.

The Hon. R.I. LUCAS: I am not misrepresenting what you said. Let me read what the Attorney-General said:

The Bill be withdrawn and referred.

What is referred is the Bill. What else is being referred? It is that the Bill be referred to the Social Development Committee for its report and recommendations. What will go to the Social Development Committee, if this is successful, is the Gilfillan Bill, with its inherent support, as the Attorney-General said, for the principle of legalisation of prostitution.

Building on the Attorney-General's arguments, it is my view that what ought to be referred is not just this Bill—I am not objecting to that—but a variety of other propositions for reform: the Pickles propositions, the Millhouse propositions, which are similar, the Goss propositions and the Burdett propositions; and perhaps there may be others of which I am not aware at the moment. In my judgment, all those ought to be referred to the Social Development Committee for consideration. All I can do, as this is obviously a conscience issue, is indicate that that is what I intend to do. I indicate my opposition to the amendment and to the second reading of this Bill.

The Hon. BARBARA WIESE (Minister of Consumer Affairs): I want to make a very brief contribution to this debate. For many years I have believed that the prostitution law in South Australia should be reformed. As it stands, it is grossly inadequate, unjust and hypocritical in that it seeks to penalise one participant in an activity which requires two participants to be successful. I have placed my views on this matter on the record previously during other debates that have taken place in the Parliament. I do not intend to canvass those issues in any detail this evening because I believe that this Bill will not reach the Committee stage, and I therefore do not think that it is appropriate to take up the Council's time in canvassing issues which I have addressed previously.

However, I want to place on the record what I intend to do when this matter is voted on. I do not favour the method of reform which is outlined in the Gilfillan Bill. I do not think that regulation of the type proposed by Mr Gilfillan is the appropriate way to reform the law, and I understand that this view is shared by people who work within the industry. I favour a decriminalisation model for reform of the law in this area, and I was one of those members who supported the Bill that was introduced some years ago by the Hon. Ms Pickles. That is the model of reform which I think is more appropriate. I believe that the Bill introduced by the Hon. Mr Gilfillan would be very difficult to amend in order to bring it into line with the model of reform that I would find acceptable. Therefore, I support moves that are being made to refer this matter for further consideration by members of the Social Development Committee, and I will support the motion that has been moved by the Hon. Mr Sumner in this respect.

I take the view that, by supporting the Attorney's motion, it will be possible and appropriate for members of the Social Development Committee to take into account not only the Bill which has been introduced by the Hon. Mr Gilfillan in putting forward recommendations and views on the matter of prostitution, but also to look at other options for law reform. Should the motion being moved by the Hon. Mr Sumner not be successful, I will support the second reading of Mr Gilfillan's Bill, not, as I have already indicated, because I support what is in his Bill, but because I want to keep the matter alive for further discussion. I believe that that will be the second option for keeping that matter alive and ensuring that members of the Social Development Committee have an opportunity to consider it and any other options that they consider appropriate for law reform. In a nutshell, that is what I intend to do when this matter is voted on, and I want to place those views on the record.

The Hon. M.J. ELLIOTT: I rise to support the second reading of the Bill. I do not intend to speak at length because it is a matter that I have addressed in this place on other occasions. There are undoubted problems with prostitution, and I will very briefly address some of them. The first one is the posed question about morality. I ask the question: what is the moral problem that people are really putting forward in relation to prostitution? Is it the question that there is sex outside of marriage, or is it the question that that sex is being paid for? If indeed it is the former, then I ask: what are we going to do about the literally hundreds of thousands of enthusiastic amateurs in South Australia who engage in sex outside of marriage every week? If that is the moral question, that is something we wish to address.

If it is the fact that money happens to be involved as well, that is the second question. It is a moral question which I think is worth addressing. What is it about the transfer of money which makes prostitution worse than what is happening throughout this city, where money does not exchange hands and where sex is occurring outside marriage? Perhaps we really should be getting the police to work on all those people and lock them up. I think that would be the solution to that problem.

The most severe problems we have in relation to prostitution, aside from the obvious moral one on which people will disagree, concerns the people themselves who are involved. We must ask ourselves what options are being offered to people who are being caught, and some of them are indeed being caught in prostitution. If our society honestly wants to stop prostitution, it must look beyond criminal sanctions to achieve it. I think we may also have to acknowledge that there are people who make a willing and positive choice to be involved, but if innocent victims are being caught in prostitution, it is about time that the people who take these high moral stands start to take a high moral stand on the way we structure our economy: on the fact that we have so many poor people, particularly single women, often with children, who get trapped in poverty created by the sorts of economies that we are producing. There indeed is a moral issue which some people are not willing to address.

If people are fair dinkum about prostitution, they should ask themselves why some people are caught in it who do not want to be caught in it. Usually, it is for financial reasons beyond their control. So, some of these high moralists are, in fact, extremely narrow because they are not willing to address the real issues in relation to prostitution. Because it is a criminal activity, women engaged in prostitution are involved with pimps, demands are made on them and they are treated badly. The way in which the whole prostitution racket is run takes what is perhaps already a difficult situation and makes it far worse.

It is worth noting that evidence suggests that the level of prostitution has varied little through periods of repression and relative liberalisation. Studies suggest that the level of prostitution does not change, although sometimes its visibility changes. As people seek to use criminal sanctions, do they in fact liberate the women involved in prostitution or do they achieve the exact opposite? Do they drive prosti-

tutes further into the underworld and further into the hands of pimps, closer to the problems of drugs and all the other problems associated with prostitution?

Some of the biggest problems with prostitution are created by criminal sanctions that do not work. It is about time that people were honest with themselves because, as I have said, the level of prostitution does not change. We actually make it worse rather than better for people involved in prostitution by using the criminal sanctions, despite the good motivations that people might have by wishing to apply them. They have to live in the real world. Like so many problems in our society, there is more than one way of tackling this problem. Repression is one, but I argue that that invariably fails.

What happens if we have a more enlightened attitude? I will take as an example the question of AIDS. Relative to other western nations, Australia has taken a very enlightened approach. By comparison, other countries have been very repressive. It is interesting to note that the rate of increase of AIDS cases has levelled off in Australia much more rapidly than in other nations, and this enlightened attitude in the long run appears to be having positive results. I am not saying that what we are doing in Australia is perfect, but I argue that if we had attempted a far more repressive regime, which might have made some people feel better in a narrow sense, we might in fact have achieved the exact opposite of what we set out to achieve. I do not argue by any means that we should encourage prostitution but, if we wish to tackle problems such as communicable disease, youth prostitution and so many problems associated with prostitution, I believe that this could be done more easily in a decriminalised but regulated environment than in the repressive environment that some people say we should have.

A very common furphy that we have heard again today is to draw a comparison between the Bill before us and what has happened in Victoria. Such a comparison is totally unreasonable and absurd for a number of reasons which I believe the Hon. Mr Gilfillan will touch on further, but I will give one example. In Victoria, it was decided to issue a limited number of licences, the effect of which was that more prostitutes went to work in licensed brothels. This meant that the illegal street trade would continue. The fact that there was a limited number of licences meant that there were rather glorified pimps operating and setting conditions for their workers. They had total control and could set conditions that the workers would rather not have had. Eventually, that is what sent the prostitutes back to the streets in exactly the same way as the Hon. Mr Lucas talked about. In Victoria, the scheme did not go quite far enough. In fact, it did not solve the problem at all. As I have said, I think that the Hon. Mr Gilfillan will probably tackle that point further. A comparison with the Victorian system is an extremely inaccurate and very misleading thing to do, and I think people should study very carefully what Victoria has done and the differences with what is proposed here because they would then realise that those differences are quite significant.

As I have said, there are serious problems in relation to prostitution. However, I argue that criminal penalties make so many of those problems worse. What is even sadder is that they do not even achieve their original objective of stamping out prostitution (in fact, they do not even decrease it), so they do not achieve their original aim. There has to be another way. I think this Bill is the sensible approach, and I support it.

The Hon. T.G. ROBERTS: I move to amend the amendment of the Attorney-General as follows:

After 'referred' and before 'to' add the words 'together with other issues relating to prostitution'.

From listening to the debate, the Council has certainly moved forward from the 1987 contributions where every member was in a basically fixed position. I suspect that members were not too far away from a general consensus on how to proceed but, like the Hon. Mr Lucas' contribution, they were quite conservative and not prepared to move or to break new ground in case there was some sort of social backlash in relation to the impact of what we would have put together in this place. So, the responsibility became too great and members ducked for cover

The debate has now taken us to the point where we are almost unanimous in our position in relation to social issues relating to prostitution, although some differences of opinion have been expressed. There seems to be the view that the matter before us could be referred back to the Social Development Committee for its report and recommendations so that the issues can be more broadly canvassed and a more expert opinion gained in the hope that some of the differences noted in members' contributions can be brought together and we can come away with some collective recommendations. Who knows? Those recommendations may be for the sort of legislation outlined by the Attorney, that is, decriminalisation as we cannot reach agreement on legalisation, although I would not like to preempt the deliberations of the Social Development Committee.

The reason for moving my amendment is, to some degree, pedantic. The Hon. Mr Lucas has been pedantic in not accepting the Attorney's motion, and I think that the way in which the Social Development Committee operates under its guidelines has been underestimated by the honourable member. Had the motion been referred to a select committee, it would be obvious that the guidelines set by the Council are quite restrictive, and we have to conform to some degree to the guidelines set for the select committee by this Council.

My understanding of the Social Development Committee is that it can certainly canvass more broadly the issues related to the recommendations of referral. The intention in setting up those committees was that issues could be canvassed more broadly without restrictive guidelines, and that the committees themselves can agree about the guidelines they set, the way in which they canvass those issues and the witnesses they call. The consensus is drawn out of those committees. I think to some extent time has overtaken the Hon. Mr Lucas's understanding of the way in which the committee system operates. I am sure that when he does get reports back from the Social Development Committee, the Economic and Finance Committee and so on he will see that their briefs are quite general but, hopefully, quite specific in the areas that they broach. For those reasons it is a pity that the contribution made by the Attorney was devalued, to some extent, by the Hon. Mr Lucas not being able to accept the motion. The hair splitting that did occur was more of a legalistic challenge to an argument than a logical challenge.

Members interjecting:

The Hon. T.G. ROBERTS: I will explain the interjection to which I responded. The Hon. Mr Lucas said that from a conservative viewpoint he was not prepared to examine progressive reforms that might bring him into conflict with the community. Conservatives tend to be that way; they are not prepared to push back barriers; they tend to wait and see. By that time circumstances run right over the top of them. My response was that the wheel would never have been invented. The hair splitting that then followed suggested that not only would the Hon. Mr Lucas not have invented the wheel but if he had invented anything to do

with the wheel it would have been the brake and it would always have been on.

The Hon. I. GILFILLAN: I thank members for their contributions to the debate. I am somewhat overwhelmed by the volume of contributions in the latter stages, this issue having been drawn out over 12 months. It has been like dragging reluctant teeth with a speech every two months. It has been quite exciting to have some constructive and vigorous debate after dinner as we get towards the twilight of this session.

I appreciate the general feeling of *bonhomie* and good natured approach to the matter at this stage. That has stopped me proceeding with an observation I was going to make that this Council was, in fact, evading its responsibility by not taking this matter through to a vote and addressing the issue in a second reading debate. However, I am resisting the temptation to say that.

An honourable member: You just said it.

The Hon. I. GILFILLAN: No, I just told you what I was resisting saying. The Bill, which has been referred to in many cases more in ignorance than in knowledge, is actually designed as a legislative vehicle to protect people who are unfortunate enough to be trapped into prostitution from the very exploitation, intimidation and coercion to continue in the industry that I believe everyone in this place vehemently opposes. The Bill is designed to minimise that risk.

It is dramatically different from the Victorian model; it is designed to overcome the major deficiencies in the Victorian experience. A brothel is not licensed in my Bill; a person considered to be appropriate to manage a brothel is licensed. The Victorian Act, deficient though it was, was only partially proclaimed. And that Act did not take up several of Professor Neave's recommendations and for that she criticised it. So, we have a mish-mash which is bound to produce the sort of unfortunate consequences that have occurred in Victoria. My Bill was designed to avoid that. My Bill is an empowering and emancipating piece of legislation for people who are in prostitution. As my research assistant Kym Dewhurst observed, were the prostitutes—the victims of prostitution—to have been male we would not be having this debate in 1992. Law reform and structured protection would have been in place generations ago, if not centuries ago, because it is just the continued tradition that has felt that women have had a certain role in society and that has become perpetuated in thinking. Therefore, the issue has been evaded in genuine legislative reform.

I still believe the move for decriminalisation would leave the major issues unaddressed. It may go part-way to having some effect on the deplorable legislation that currently applies, which I have heard no-one in this place defend—not one. So, if that is the case, one can assume that we are unanimous in this place that there should be law reform.

How does that law reform progress? Do we hypocritically say that we will now structure a law to abolish prostitution? Morning by morning in the daily paper—the only paper we have—one sees advertisements for prostitution. Escort agencies flagrantly sell prostitution and there is advertising of it in the Telecom *Yellow Pages*.

The Hon. J.C. Burdett: What does your Bill say about escort agencies?

The Hon. I. GILFILLAN: Escort agencies are prostitution. If they are not prostitution, they are not covered by my Bill. If they are prostitution, they are covered. It is as simple as that. The hypocrisy of our society is compounded when we know that the Taxation Department will hound and prosecute a prostitute who does not declare her or his earnings and pay tax on it. That is tax on an illegal activity that this Parliament to its shame—and to their shame many other Parliaments in Australia—will not address. However, we have this double standard.

Much has been made of the social need to protect those people who are forced through economic, social and, perhaps, physical pressure to go into prostitution. We must deal with that situation on a social footing. Where is the energy and drive to do that? Where have we seen the emergency steps taken to protect those people who could be drawn or pushed into prostitution to survive? We sit in this place pretty comfortably saying piously and sanctimoniously that we know the way to cure the problem so that people will not need to go into prostitution and therefore we should not tinker with legislation that might preserve some of those unfortunate people from police victimisation or the farce of being busted and then recycled into the same business again. It is a sick joke that we as a society sit not only in this place but elsewhere and say that we should leave the sitution as it is or make the penalties tougher, but we really do not do anything that will recognise this malaise and this activity in our society which none of us admire and which needs some legislative reform.

There is one other point to which I would like to refer. It is of paramount importance that we consider the people who are forced into prostitution. There is another aspect, which relates to free choice. Who are we to say individually in judgment that all those people who become involved in prostitution do so against their will? If perchance there are some who go into it freely, is that to continue to be a criminal offence?

Where is our sense of freedom of choice? When we talk about morality, are we as a society hell-bent on legislating on every aspect of morality? Why do we not have laws on greed? Why do we not have laws on waste? Why do we not have laws on the failure to recognise the needs of charitable organisations in our society? If we are to legislate in every area where morality is involved, we would have a host of laws and the thing would become an absolute farce and counteract the principle of morality.

There are some double standards in the way this Bill has been dealt with widely across the community and in debate. With respect to the United Nations' position in article 6, to which the Attorney-General referred, no-one could question that we are all unanimously opposed to the trafficking of women or any human beings. I am vehemently opposed to the exploitation of prostitution, and that is why my Bill is designed to minimise the impact of exploiters, corruption, pimps, madams, and overlord structures which would exploit the activity of prostitution. However, it is stretching the interpretation a long way to say that that covers a voluntary, willing activity of prostitution, however much one may not desire that or disapprove of it. I do not believe that a sensible reading of article 6 would go to that extent.

In earlier discussions on this Bill, when it appeared as if it would reach the Committee stage, I indicated that I would move for the deletion of references in the Bill to small brothels and to include amendments which would clearly specify that prostitution would be subject to the full range of planning legislation. I do not believe that that is now necessary, because it is reasonable to predict that the Bill will now not reach the Committee stage. However, it is important to discuss the small brothel briefly before concluding my summing up.

Without doubt it is the most emotionally disturbing aspect of the words in the Bill. In the cases of women who from time to time may have been pushed into a financial need to practise prostitution and to avoid being caught in traps—and traps are illegal brothels where the exposure to financial,

drug and other forms of exploitation is very real—the ability to practise prostitution away from that environment and on one's own private premises is regarded by Professor Neave as one of the major safeguards to minimise exploitation and to enable people who, from time to time, may be drawn into prostitution, to get out of without having to break out of a locked in position. In the fullness of discussion and committee investigation, we may well find that, under a different name and under a more tolerant form of wording, the aim of what was called small brothels will be judged to be desirable.

I am pleased to acknowledge the contribution by the Attorney-General (Hon. Chris Sumner), although somewhat late in the scene. I appreciated the substance and extent of his remarks and I am encouraged by what are obviously indications of how seriously he is taking the issue of prostitution. It would be insensitive of me not to realise how difficult it has been, with the experiences of the past 12 to 18 months, for the Hon. Mr Sumner to treat this subject objectively. I believe he has done that, and it is to his credit, although I may have disagreed with some of his remarks. I pay a very strong tribute to my colleague in this move for law reform, the Hon. Carolyn Pickles. I believe that she has been quite self-effacing in the fact that she has been prepared to throw her weight into supporting my Bill, although disagreeing quite strongly with some of its contents, but she has determined that she will continue to fight a campaign for law reform in this desperately needed area.

With respect to those members who have supported the Bill in their second reading speeches, namely the Hons Diana Laidlaw, Anne Levy, Barbara Wiese, Mike Elliott, Mario Feleppa—who had a qualification on his support which I accepted and understood—and with respect to those who spoke against it, I acknowledge their serious and earnest contributions to the debate. My desired program would have been for a successful second reading of the Bill in which the amendments in the Committee stage may well have been quite profound. Although I believe I have the best proposed piece of legislation at this stage, the main fight is to at least decriminalise prostitution so we can get some justice into an area which is grossly and embarrassingly unfair at the moment.

I welcome the move of the Attorney that it be referred to the standing committee, because it appears unlikely that the Bill would have been successful at the second reading stage. Although the standing committee is only young in its history, I am convinced that its structure and the energy that can be applied to the analysis of subjects—and in this particular case with some useful guidance from the Chair who one can say is not totally disinterested in the subject—will enable the standing committee to investigate thoroughly not just this Bill but all matters related to prostitution. Quite obviously, that must embrace the social reasons and economic pressures that compel people into prostitution.

As the motion is amended by the Hon. Terry Roberts, I am convinced that it will be a satisfactory step. Although it may draw out the process a little longer, I am optimistic that the law reform issue in prostitution is well and truly alive. For that, again I express my gratitude to the Attorney for moving this motion, and I will not be disappointed if it is successful. This is not a popular political move. It is one where emotions ride higher than logic. When any issue has so much personal involvement, it is very difficult for people to be objective in matters of sexual morality; but it has been a healthy debate generally, not only in the media but also in the churches and in the community at large. I look forward to recommendations from the standing committee in due course which this place and the House of Assembly will find satisfactory, and that South Australia will in fact lead Australia in proper, constructive law reform in the area of prostitution.

The Hon. T.G. Roberts' amendment carried; the Hon. C.J. Sumner's amendment, as amended, carried.

STATUTES AMENDMENT (ILLEGAL USE OF MOTOR VEHICLES) BILL

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

Clause 3, page 2,—

Line 21—

After 'premises' insert 'unlawfully and'.

Line 23—

Leave out 'Division 3 imprisonment' and insert 'Imprisonment for 2 years'.

The Hon. DIANA LAIDLAW: I move:

That the Legislative Council do not insist on its amendment No. 3 but agree to the alternative amendments made by the House of Assembly.

The Hon. C.J. SUMNER: The Government opposes this motion. I believe we should insist on the amendment that we made previously. The reasons are still valid. The provision is unnecessary, as section 17 of the Summary Offences Act provides that it is an offence for persons to enter or be present on premises for an unlawful purpose or without lawful excuse. The penalty imposed for this offence is $2 000 or imprisonment for six months. Sections 17 and 17a of the Summary Offences Act were inserted in 1984 after extensive debate which took into account the recommendations of the Mitchell committee with regard to the offence of trespass. It is not necessary or desirable to have an additional offence dealing with unlawful entry on to premises. The Government has also consistently opposed this provision on the basis that it would be extremely difficult to prove. We dealt with this when, for the benefit of Mr Gilfillan—

The Hon. I. Gilfillan: Would you explain that?

The Hon. C.J. SUMNER: That is what I was doing.

The Hon. I. Gilfillan interjecting:

The Hon. C.J. SUMNER: I was just about to remind the Hon. Mr Gilfillan that on the previous occasion he voted with the Government on this matter, and I would expect that he would do so again.

The Hon. I. Gilfillan: Just run quickly through it.

The Hon. C.J. SUMNER: All right, I will run through it. As the honourable member will recall, this was a Bill dealing with the increase in penalties for illegal use of motor vehicles. That was the principal issue, and the honourable member will recall that we dealt initially with that issue as a Government Bill. That measure went to the House of Assembly but it was blocked there, for reasons relating to its Standing Orders, so it cannot go any further in the House of Assembly. At the same time as we were considering the Government Bill in this place, a Bill was introduced by Mr Brindal in another place dealing with the same issue. We considered that Bill in private members' time last week and placed it in substantially the same form as was the Government Bill when it left this Council; that is, we removed the provision relating to the entering onto land or premises with the intent to commit an offence, because we argued that the Summary Offences Act already provides that it is an offence for a person to enter or be present on premises for an unlawful purpose. In other words, there is already in the existing law a provision penalising people being on premises for an unlawful purpose, therefore, there was no real justification for repeating an offence in relation to being

on premises for the purpose of illegally taking a motor vehicle. That was the argument we had before, and the Hon. Mr Gilfillan has supported us on those previous occasions. It is obvious that the Government is having some difficulty with some of its colleagues in another place.

The Hon. K.T. Griffin: The Government did not speak on it in the other place. There is nothing in *Hansard*; the Government did not even oppose it.

The Hon. C.J. SUMNER: Obviously, the Government did not know what it was doing.

Members interjecting:

The CHAIRMAN: Order!

The Hon. C.J. SUMNER: If what the honourable member says is correct, namely, that it went through on the voices and the issue was not discussed, it is quite clear that the Government did not know what it was doing, and it should have known. It may be that the Government was aware that it did not have the numbers. That might be a more rational explanation than my jumping to the conclusion that I did. The other explanation is that the Government knew too well what it was doing, namely, that it did not have the numbers, and therefore let it pass on the voices without making any contribution.

On reflection, I think that is by far the most likely explanation: that the Government knew very well what it was doing, namely, that it was not likely to get any support from Mr Martyn Evans or Mr Groom in relation to this matter. However, it is bad legislation, in my view, to double up by including an offence which is already covered by the existing law. For that reason, I ask the Committee to oppose the motion.

The Hon. DIANA LAIDLAW: I do not agree with the Attorney-General's explanation, but it is of interest considering the debate in the other place. Whether the Government did not know what it was doing or whether it was too clever by half, I am not sure; but no contribution was made and there was every reason for members in the other place, and certainly for members in this place, to believe that the Government was accepting this proposition on the basis that it had suddenly become aware of what was being demanded by the electorate. I find it of interest that the conscience of the Labor Party in the House of Assembly, the Independent Labor members, should support this matter, because they are in touch with their electorates. It is interesting to note also that, where the Government is seeking to meet the expectations of the electorate in other legislation, there are references to a person's intent to commit an offence. That seems to be the major concern of the Attorney-General in this matter. We see in other legislation presently before the Parliament that the Government is prepared to use the word 'intent' or 'intention'. In the Summary Offences (Prevention of Graffiti Vandalism) Amendment Bill, in respect of the posting of bills and marking of graffiti, there is a reference to—

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: Well, it passed the House of Assembly. Clause 4 provides that where a person carries a graffiti implement with the intention to mark graffiti—

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: It is under the clause dealing with posting bills and marking graffiti. This has always been part of the Government's Bill. It refers to a person carrying a graffiti implement with the intention of using it. I should have thought that the legal argument in terms of proving intent would be just as difficult in the graffiti vandalism Bill as it would be in this matter.

The Hon. C.J. Sumner: The other point I am making is that there is already in the law an offence that covers this. Why are you repeating it?

The Hon. DIANA LAIDLAW: My advice from Parliamentary Counsel, if I am allowed to refer to this in debate, is that this is not the same as the Attorney pretends it is. It addresses the problem of a person who moves on to private property with a wish, an inclination or an intention to steal a vehicle. The Executive Director of the South Australian Victims of Crime Service, Mr Andrew Paterson—and the Attorney is generally a champion of victims of crime—talks about this very issue of young people moving on to property and not understanding the trauma that they cause to a victim in such instances. They may not actually steal a car, but they may be involved in tampering with it with the intention of stealing. Mr Paterson, as recently as 20 April in the *Advertiser*, talks about those matters at great length. I am sorry that the Attorney-General is more hung up about some of the legal issues in this matter than he is about community demands and the rights of victims.

The Hon. I. GILFILLAN: I support the Government.

Motion negatived.

GOVERNMENT INSTITUTIONS

Adjourned debate on motion of Hon. M.J. Elliott:

1. That a select committee be established—
   (a) to examine the financial position of the State Government Insurance Commission, South Australian Superannuation Fund Investment Trust, South Australian Financing Authority and the State Bank of South Australia;
   (b) to determine the cause of any losses, shortfalls, or discrepancies that are found during that examination;
   (c) to examine the inter-relationships of those institutions;
   (d) to examine any irregularities, improper, inappropriate or illegal behaviour of those institutions, employees or boards;
   (e) to examine any other related matters.
2. That Standing Order 389 be so far suspended as to enable the Chairperson of the committee to have a deliberative vote only.
3. That this Council permits the select committee to authorise the disclosure or publication as it thinks fit, of any evidence presented to the committee prior to such evidence being reported to the Council.

(Continued from 28 August. Page 535.)

The Hon. R.I. LUCAS (Leader of the Opposition): I move:

Paragraph 1—Leave out all words after 'select committee' and insert 'on Statutory Authority Review be established to examine and report on—

(a) all aspects of the operations of the South Australian Superannuation Fund Investment Trust and the South Australian Finance Authority and to determine the cause of any losses, shortfalls, or discrepancies that are found during that examination, and to examine any other related matters;

(b) the role of the South Australian Timber Corporation in the administration, management and marketing of the scrimber project and the circumstances surrounding the closure of the Scrimber plant at Mount Gambier.'

During private members' business the Legislative Council had before it four motions on a variety of related and interrelated topics, including three separate propositions for committees of the Legislative Council. One select committee to be moved by the Hon. Mr Elliott was going to look at SGIC, SASFIT, SAFA and the State Bank of South Australia. Another select committee to be moved by the Hon. Mr Davis would look at Scrimber and related matters, and a motion that was to be moved by me was to establish a standing committee of the Legislative Council on statutory

authority review. I do not intend to go over my arguments for a standing committee of the Legislative Council on statutory authority review, nevertheless, it remains our view that that is the more appropriate way to go but, in discussions that we have had with other members in this Chamber, at this stage there is not support for that.

The amendment that I have moved to the Hon. Mr Elliott's motion is, in effect, an attempt to put together those four motions and propositions for three separate committees into one committee. This is a move for a select committee to look at a review of statutory authorities, and it would be given the specific terms of reference to look at some aspects of those three other proposals, but obviously not all aspects.

Its first term of reference will be to examine and report on all aspects and operations of the South Australian Superannuation Fund Investment Trust, the South Australian Financing Authority and some related matters and terms of reference which are part of the original motion moved by the Hon. Mr Elliott. Secondly, it will look at the role of the South Australian Timber Corporation in the administration, management and marketing of the Scrimber project and the circumstances surrounding the closure of its plant at Mount Gambier. That is a small section of the motion of the Hon. Mr Davis for a select committee into SATCO and a whole variety of other areas that he had as a notice of motion No. 26 in the Council. We have also not proceeded at this stage (it has been adjourned on motion) another motion from the Hon. Mr Davis that refers to the need for an independent inquiry assessment of some aspects of the property investment strategy of the State Government Insurance Commission.

In summary, this motion collapses into one particular committee with the responsibility to look at the matters to which I have referred. We accept that the arguments of the Hon. Mr Elliott and the Hon. Mr Davis are important matters. It will obviously be for the select committee to decide on its priorities. Speaking as a potential member of that committee, and given a variety of other reasons, it is my view that perhaps the reference to the South Australian Timber Corporation may need to be made after the other references in relation to the South Australian Financing Authority and the South Australian Superannuation Fund Investment Trust, which were parts of the original motion moved by the Hon. Mr Elliott.

Given the lateness of the hour and the fact that we have much legislation to be debated this evening and this week, I do not intend to extend my comments much beyond that. I urge members to support my amendment. My final comment is that we are hopeful that if we can, through this select committee—which will have some quite specific and limited terms of reference in relation to just three authorities—demonstrate to the Legislative Council the worth of this concept, in due course the Council and, in particular, the Australian Democrats may well see the value at some stage in the future of establishing a standing committee of the Legislative Council for the review of all statutory authorities.

The Hon. C.J. SUMNER (Attorney-General): I think honourable members have contributed to the four motions on these topics, which have now been compressed into one, and we have expressed our view on them. I spoke on the motion relating to a general statutory authority review committee, and the other members have spoken on other aspects of other motions. This motion is at least an improvement in the sense that it does not establish a statutory authorities review standing committee; it deletes the State Bank from its consideration on the basis that the royal commission is looking at the State Bank; and it deletes the SGIC from its consideration on the basis that there has been an inquiry into SGIC, and we have legislation before the House at the moment on that topic. However, it picks up the other matters that were referred to in the motions: the South Australian Superannuation Fund Investment Trust, the South Australian Financing Authority and the South Australian Timber Corporation in relation to Scrimber.

For the reasons that have been stated, I indicate for the record that the Government opposes this motion, but at least one has the benefit of being somewhat more reasonable and rational than in relation to the previous issues which were contained in the four motions before us. However, the Government does not see the need for the committee to be established at this stage. Obviously I am saying that for the record because the Liberals and the Democrats have agreed to its passage, and I will not call for a division because of that indication.

The Hon. M.J. ELLIOTT: In effect, we are really addressing the four motions at once. First, I would like to touch on the matter of the standing committee. Late last year we indicated that we saw the setting up of a standing committee on statutory authorities as a real likelihood. I still express the viewpoint that it is a likelihood in the longer term. I want to see how the standing committee system settles in and the demands that it will make on members. I am a member of one standing committee. It is a question of the other load that members have on them. I know that at this stage there are still a large number of select committees. I know that my parliamentary colleague is a member of five select committees. I have a relatively light load of two select committees and one standing committee. I feel some caution in recommending the setting up of another committee. I know that a committee was urged on us recently by the Hon. Dr Pfitzner, one that I did not support because I was concerned about the workload falling on members and, obviously, on staff who have to support committees.

So, I am not willing to support a standing committee at this stage, but if we set up a select committee to look at several statutory authorities, with its limited terms of reference it will have a limited life and at the end of the process we will be in a position to judge whether or not there is merit in such a committee being formalised and becoming a standing committee of the Upper House or whether or not for whatever reason we do not want to proceed along that path. So, that is why at this stage I prefer the setting up of a select committee.

The next question concerns the specific terms of reference to be given to the select committee. About 15 months ago I first moved a motion calling for the setting up of a select committee to look at SGIC, SAFA, SASFIT and the State Bank. I think I moved the motion on the first sitting day, which was immediately after the State Bank losses had been announced. At that stage I had grave concern that the State Bank was not the only institution having difficulties. It was not long before the degree of trouble with SGIC came to light. I have had and still have reason to believe that SASFIT and SAFA have matters that deserve attention. For that reason, I think it will be prudent for the Legislative Council to ask a committee to look at the exact position of those two institutions to see whether or not there are difficulties and, if so, what should be done.

So, instead of the four institutions that I had asked to be referred to a select committee, at this stage we are looking at only two of those institutions. I note that the State Bank

is now under review by the royal commission, and I hope and expect that that is a thorough investigation and that all relevant matters will be covered. I would like to comment—and I will certainly go into this matter in more depth during the SGIC Bill debate—that I do not believe that the SGIC has been adequately investigated. I think the two inquiries have been carefully instructed in the way they should go about their work so they have not got to some important issues, and some stones have not been turned over. We do not know what sorts of slugs and other things are underneath them, and in fact we may never know; we just have our suspicions about certain things having crawled under those rocks that may not be seen again. I think that is a pity and that those slugs deserve to be exposed. Nevertheless, that is not something that this committee will be asked to do at this stage.

In relation to the final term of reference to be referred to the select committee, the matter of Scrimber, the Hon. Mr Davis originally included SATCO in a much wider term of reference. I think that of all those matters the one that really deserves immediate attention is the Scrimber project. A select committee of this Council examined that project some years ago but not in great depth. Personally, I was not willing to judge the Scrimber project at that stage because it was early days and there still was every likelihood that the mill would be up and running within months and producing enormous amounts of log and making a lot of money for this State. I did not want to play any role in undermining that project. Now, that project is in mothballs.

I still say that we should be very careful, because I would like to put on the record that I believe the scrimber process, if it is got working, is a magnificent process. It is one that offers enormous potential to the State. The efficiency of our forests will be greatly enhanced and, as mature forests around the world are cut down and the few remaining ones are preserved, there will be an immense demand for a replacement product, which is what Scrimber is. So, I think we should be very careful not to undermine the potential of Scrimber in two senses: one, what it offers in a conservation sense and, two, what it offers to the South-East and this State if we can get it to work.

I think that the three matters that are to be referred to the select committee demand attention. Despite protestations that members make about select committees in this Council, often at the end of the day the record shows that they work extremely well. For instance, whilst some of the results of the last select committee in relation to SATCO may have been unpalatable to some people, it was a very constructive exercise. That is true of the vast majority of our select committees, and I believe that this one will be no exception.

As I said, having spoken with other members, I support the amendments moved by the Hon. Mr Lucas. I think that with the effluxion of time since the original four motions were moved this is the most sensible path for us to follow at this time.

Amendment carried; motion as amended carried.

The Council appointed a select committee consisting of the Hons T. Crothers, L.H. Davis, M.J. Elliott, R.I. Lucas, and T.G. Roberts; the committee to have power to send for persons, papers and records; to adjourn from place to place; to sit during the recess; and to report on the first day of the next session.

PRIVACY BILL

In Committee.

Clause 1—'Short title.'

The Hon. C.J. SUMNER: Obviously some extensive amendments to this Bill have been tabled since it was last debated. I suggest that with the concurrence of the Committee we use clause 1 to make some general statements about those amendments. The proposal is that the Hon. Mr Elliott, who has put the amendments on file, will explain them to some extent, although I understand he has given a considerable explanation in his second reading contribution. After that explanation other members can make general contributions. I will certainly make a contribution and I know that the Hon. Mr Griffin also wishes to make a contribution. Following that we can proceed to the detailed consideration of the Committee stage. However, this evening it is intended that the Hon. Mr Elliott will generally explain the amendments that he has put on file.

The Hon. M.J. ELLIOTT: As the session approached the Christmas recess, I indicated that I would be moving a raft of amendments. I also indicated the general direction that those amendments would take. I said at that time that the Bill as it arrived in the Council was unacceptable to the Democrats on several grounds. I was concerned that the tort that is to be established under this Bill had the potential to be abused in the same way as the defamation laws are abused by the rich and powerful. It seemed to me that as the tort was constructed the rich and powerful would be using it as a way of silencing legitimate investigations of activity. It concerned me that the media and public interest groups would be muzzled, and that is absolutely intolerable and unacceptable. If there needed to be a balance in relation to the right of privacy on the one hand and freedom of speech on the other hand then I insisted that we erred in favour of freedom of speech.

Whilst I will not go through the amendments in detail, some members may find areas that they consider are grey. I suggest that the grey is at the end farthest away from areas of concern. For example, when I set about defining 'journalists' and 'media organisations', where the courts may be interpreting, it will relate to newsletters and the sort of newsletters that will qualify as media. There would be no question at all about mainstream media and about a great many of the alternative but still significant media we have.

The courts' major determinations will relate to whether or not it is legitimate media or bogus media. The courts have to do that from time to time; they have to make an initial determination and set the parameters. The important thing is that the parameter is at one end of the grey scale, well away from the area of my principal concern. In fact, it is at the end that the rich and powerful, about whom I am most concerned, will not be interested in abusing. Members might want to argue about the interpretation of the courts; I would argue that I have drafted the clauses in such a way as to ensure the protection is there for freedom of speech rather than against it. While there may be some nitpicking argument about court interpretation, I would argue that it relates to the area of least concern. I suggest that it would ultimtely be nitpicking rather than anything else. I have concerns about media organisations and public interest groups. I have done all that I can by way of amendment in relation to the tort to offer those groups protection from the tort.

It is also significant that I have set about removing the word 'business' from a number of clauses. I do not see matters of business privacy as issues that should be handled by the tort. I think they can be handled under other available legislation. Once again, the area of tort is open to an abuse that I argue is unnecessary. Aside from concerns in relation to the tort itself, my other concern is that a tort will not solve some of the most significant privacy prob-

lems. It is noticeable now that some jurisdictions are ignoring a tort totally and are addressing privacy invasions from quite another direction. I would argue that the biggest single threat we face in relation to privacy in modern society is from the power of computers and methods of data exchange. An analogy was given to me the other day. Back in the days of horses and carts—150 to 200 years ago—there were very few road rules. We simply did not need them; there was little traffic and it did not travel very quickly. I must note, however, that my father rolled a horse and cart on one occasion, but I suggest that he took the corner too quickly. However, generally speaking, there were very few road rules because they were simply unnecessary. As technology progressed and as the density of traffic increased, cars travelled faster, and so on, and it became necessary because of that progress to introduce laws. We would have chaos otherwise.

Similarly, in the area of information collection, while people are collecting information by hand—putting it on cards and filing it in cabinets that are unconnected—that provides a very good form of security. A person can be seen walking up to a filing cabinet and the invasion of privacy in those circumstances is very difficult—although not impossible. One has only to refer to Hitler's Germany to see how school records were used to establish a person's religion. That information was kept in rather simple school records and it was eventually abused. However, technology has gone well beyond that and the potential for abuse of information is great.

The big problem is that most often the abuse occurs without the person knowing that it has occurred. It is one thing to exercise a tort but a tort can be exercised only if it is known that something has gone wrong. How does someone know why they were denied a job? How do they know someone has gone to a file and obtained information about them that *(a)* may be irrelevant and *(b)* may be false? It is pointless to have a tort and it is pointless to have freedom of information, because there was no knowledge that the file existed.

We need to have systems and we need to have rules about the way information is collected and kept, about the purposes to which it is applied and about who has access to it, etc. If we do not take up that challenge, then we are setting ourselves up for a totalitarian form of society. That is something that most advanced western nations are recognising. Virtually every European nation now has adopted legislation. The EC has a very tight set of rules applying to data. We have some legislation, although it is still fairly defective, at a Federal level in relation to data. There is legislation currently before the New South Wales Parliament which is very similar to the amendments I have moved in this place in relation to data protection.

New South Wales has had a privacy committee operating under legislation for several years. It was set up under a Liberal Government. The New South Wales privacy committee was working without a definition of privacy and has progressively produced guidelines under which privacy issues are judged. The reaction of some people here in South Australia is interesting, but the position in New South Wales, in a fairly ill-defined situation, is enormous difficulties or problems have not been created. I would suggest that members who have some nervousness about this should perhaps look at the present New South Wales experience, consider where they are heading, and also take note of what is happening in advanced nations, particularly those in Europe.

The issue I have set about tackling, which I felt was grossly inadequately handled by the Bill as introduced into this place, is that of data protection. There are some other wider issues of privacy which I do not think the tort always handles adequately. I have expressed some misgivings on other occasions about whether or not courts always deliver the sorts of results that they might, and, more importantly, I have questioned their accessibility. Only on this evening's news I noticed a member of the Liberal Party talking about the inaccessibility of courts to middle income people. We need to find mechanisms, other than the courts, to handle various matters. It is a question of developing those mechanisms and refining them.

I am proposing the establishment of a South Australian Privacy Committee. A privacy committee already exists in South Australia, but it has been set up under administrative guidelines. I believe that administrative guidelines are not adequate for a number of reasons, to which I have referred in other debate. A committee needs to be established by statute, and it needs to be given instruction by way of legislation as to what it should and should not do. The committee proposal contains fairly standard clauses in relation to delegations, appointments, allowances, etc.

The important point to note about what I am asking with respect to this committee is that it has no coercive powers of its own. When it receives a complaint of an invasion or breach of privacy in relation to the public sector, and where it feels that that requires investigation, it will pass it on to either the Ombudsman or the Police Complaints Authority. In fact, it will use the existing powers of current Government positions. It will act as a conduit, if you like, for matters particularly in relation to privacy. In effect, it really gives another reference to the Ombudsman and to the Police Complaints Authority but only in relation to Government bodies.

At this stage my amendments refer to local government. I have had representations from local government and I have already said to its representatives that we need to look further at their position. They explained that they had no resistance to the general concept, but felt that before they were brought under the coercive powers of the committee they would like a little more time to consider the ramifications and, more particularly, how they would go about functioning. If there are to be coercive powers in operation in relation to local government, I accept that and believe that there may be an amendment along those lines put by the Attorney-General.

There can also be complaints in relation to breaches of privacy which do not relate to the private sector. The committee can investigate those complaints in relation to invasion of privacy, but it is not in a position to use any form of coercion. To that extent, it is no different from the committee which has been functioning with no or fewer complaints under a Liberal Government in New South Wales for several years.

I know that the media have been somewhat concerned about the ramifications of this legislation. They say it is the thin end of the wedge, etc. I heard what they have said and I understand their concerns, but I disagree with them. Just as it will have to be recognised that, even where coercive powers exist for the Ombudsman, and whilst a set of privacy principles is in place, those principles cannot be adhered to strictly by every group. It is obvious that the police, for instance, in the way we accept and expect that they function, cannot adhere to those principles to the letter. In fact, there would probably be a significant diversion. However, the important thing is that, where there is a diversion, it would have to be justified. In my proposal, that justification would find its way into regulations.

In relation to Government bodies, we accept that, if there is good reason to stray from those principles, that is not a problem. As I said when I spoke with members of the

media, of almost all private sector groups, they are the most likely to digress from the principles. I expect that and I accept it. That is precisely the sort of situation that is expected and accepted in New South Wales. It has not created gross embarrassment for the media. As I said, I understand their fear, but I believe it is ill-founded and, most importantly, there are no coercive powers whatsoever.

I am aware of some complaints that have been lodged by the Hon. Mr Griffin about the work of the committee. I would argue that, if one is serious about some of the workings of the committee (and while I happen to dismiss those concerns), a series of relatively simple amendments would handle the problems he has raised. Even if he opposes this Bill, I would invite him to move such amendments, even though as I said I believe they are unnecessary and do not appear to have been necessary at all to the functioning of the Privacy Committee in New South Wales.

It is not my intention to go through the Bill clause by clause. At the end of last year I made it clear that the Bill as it stood was unacceptable. At that time I laid down the only conditions under which we would see the Bill progress further. The Government has accepted that position, and I have not been willing to move from it. There were absolute conditions in terms of protection of media, protection of public interest groups and the need to tackle data privacy.

The Hon. K.T. Griffin: What you have said now bears no relation to what you said then.

The Hon. M.J. ELLIOTT: That is nonsense. If you go back and read what I said then, it matches. The only change is that, instead of having a privacy commission, we will have a privacy committee. If the Hon. Mr Griffin can find any other significant change I would be surprised, but it will not happen; he will not find it. I invite the honourable member to do so. He cannot make those sorts of claims without substantiation, and he will find that every matter of substance I have insisted upon has found its way into these amendments.

The purpose of speaking to this clause was at least to lay the ground as to where we have reached in relation to the amendments. I recognise that they are significant; they expand the length of the Bill greatly, although I raised many of these points in debate in this Chamber several years ago in relation to a private member's Bill just on data protection; so the ideas are not new to this Chamber, although they have not been discussed for some time.

I hope that members recognise that this is a worldwide change; it is happening in reaction to changes in technology and it is inevitable. I suggest that the only argument is about the exact form of the protections that set about putting in place, and I would hope that if the Liberal Party takes a negative stand on this at least it acknowledge that there is a problem in relation to data and offer an alternative solution. I find it very hypocritical that members of the Liberal Party took such a stand against the Australia Card, which was all about keeping tabs or information on people and was a matter of great principle, and now—

The Hon. Diana Laidlaw: It still is.

The Hon. M.J. ELLIOTT: Yes, and the Hon. Ms Laidlaw has moved motions along these lines; I have read her debates. If she believes that so passionately, as I believe she does, she must admit that this is exactly the same issue. Supporting this general constraint on Governments and the way they keep data is exactly what we are talking about in relation to the Australia Card. By all means, let us have a debate about it.

The Hon. K.T. Griffin: They don't just relate to Governments; they relate to local councils and the privacy committee having the power to investigate any violation of privacy.

The Hon. M.J. ELLIOTT: That is an insult. Only minutes ago I mentioned amendments in relation to local government. I have spoken to local government and at this stage local government will not be included in relation to any coercive powers; yet minutes later you come up with that. That is nonsense; you do that sort of thing all the time, and you really ought to behave yourself. The only place where coercive powers are used substantially is in relation to Government databases. That is the same argument we had in relation to the Australia Card and I would hope that, if the Liberal Party disagrees with the structures I have put up, it offers an alternative amendment and does not just play a negative, carping role. I am sure it is capable of much better than that. I urge serious consideration of these amendments.

Progress reported; Committee to sit again.

JOINT SELECT COMMITTEE ON PARLIAMENTARY PRIVILEGE AND THE WORKERS REHABILITATION AND COMPENSATION SYSTEM

The Hon. ANNE LEVY: I move:

That the members of this Council appointed to the Joint Committee on Parliamentary Privilege and the Joint Committee on the Workers Rehabilitation and Compensation System have power to act on these joint committees during the recess.

Motion carried.

REAL PROPERTY (TRANSFER OF ALLOTMENTS) AMENDMENT BILL

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. DIANA LAIDLAW: I just note before we go further that it is quite difficult to align amendments with this Bill, because no lines are marked on the Bill itself. My questions in relation to this clause concern the proclamation. Just after the second reading debate I sought leave to have this Bill referred to the Environment, Resources and Development Committee, but the principal argument used by the Government in opposing that motion was that, if we delayed the passage and proclamation of this Bill, the Government would not be able to see itself clear to lift section 50 of the Planning Act, which has been in place since September 1990. The Liberal Party has some sympathy with that argument, but I would like to know when the Minister envisages this legislation will be proclaimed and section 50 lifted.

The Hon. ANNE LEVY: I understand that the Act is expected to be proclaimed and section 50 lifted by the end of May.

Clause passed.

Clause 3—'Interpretation.'

The Hon. K.T. GRIFFIN: During the course of my second reading contribution I raised a few issues and, because of pressure of time, the Minister did not respond. I wonder whether she has any responses to the issues that I raised or whether I should raise them again when considering each of the clauses.

The Hon. ANNE LEVY: I am afraid that I do not have a detailed prepared response, but I will happily respond to questions on the clauses as we proceed.

The Hon. K.T. GRIFFIN: This is an appropriate clause to ask about contiguous allotments. During my second reading speech I referred to criticism made by Mr Charles Brebner about the unreasonableness of this clause. He said:

> Roads, streets and, particularly, railways in the ranges can be practically impassable barriers preventing people from passing from one side to the other. Reserves may be of any size. Few people, for example, would regard properties on East Terrace and Dequetteville Terrace as being contiguous.
>
> To prevent the building of more than one dwelling on adjoining allotments which could be regarded as one consolidated property may be desirable in the interests of the community. To impose the same restriction on allotments which have no physical connection and cannot be consolidated seems unreasonable and may make the land which cannot be developed useless.

I drew attention to one problem area that I could see. I know a person who owns a property on one side of the Kuitpo forest and a property either in or at the other side of the Kuitpo forest. They are not practically contiguous, but there is a reserve which divides them. I understand that under the Bill those two properties will be regarded as being contiguous when in fact they are divided by a large distance and a reserve. I raised the question of Kyeema National Park which may be fairly extensive and persons who may have a property on one side and another property on the other in the same names, but, by virtue of the operation of this definition, they will be regarded as contiguous and therefore not be treated as separate allotments. As Mr Brebner said, there are also people with properties on both sides of a railway line where there is a deep cutting and where access is limited, if not impossible. In those circumstances, again it seems unreasonable that they should be regarded as one allotment for the purpose of this legislation. Has the Government given any consideration to such a problem and, if so, what solution does it see for it?

The Hon. ANNE LEVY: The Planning Act controls place restrictions on development. The provision in this Bill allows owners to realise the opportunity to create an amalgamation unit even where the planning controls prevent development. This is conferring a benefit, not a discretion, on the landowners.

The Hon. K.T. Griffin: The SDP confers the impediment.

The Hon. ANNE LEVY: Yes, the SDP confers the impediment. This definition will confer a benefit on landowners in such situations, because it will give them the opportunity to create an amgalamtion unit, which is to their advantage.

The Hon. K.T. GRIFFIN: I acknowledge that. I was imprecise in my description. I think one could blame it on the long hours that we have been sitting both yesterday and today.

The Hon. Anne Levy: I am not being critical.

The Hon. K.T. GRIFFIN: I know you are not. I am just saying that I was not precise, and I acknowledge that. I suppose my question was directed in the same context to the problems that the SDP will create in relation to persons who have properties in the circumstances that I have described. Can the Minister indicate whether that isssue in relation to the SDP has been addressed, or is likely to be addressed, or whether the Government is adamant that the detriment that the SDP will impose is to remain in circumstances where there is a substantial reserve, for example, separating properties, one on the southern boundary and one on the northern boundary or in some other configuration?

The Hon. ANNE LEVY: To be regarded as contiguous the boundaries would have to match exactly, and it is most unlikely that that situation would arise. I can also indicate that there are at least two other Acts in which the same definition of 'contiguous' is used, and that is in the Crown Lands Act and the Strata Titles Act. So, in no way is this an unusual definition.

The Hon. K.T. GRIFFIN: I do not profess to be expert in planning law, and I accept the Minister's explanation. I will note the fine point of the definition and, if it is the position that the boundaries must match precisely before they can be regarded as contiguous, I am relaxed about it.

Claused passed.

Clauses 4 and 5 passed.

Clause 6—'Insertion of new Division.'

The Hon. K.T. GRIFFIN: I wish to ask a few general questions on this clause and that will clear the way for my colleage the Hon. Diana Laidlaw to deal with amendments. I referred previously to the potential difficulty with capital gains tax which will arise from the creation of amalgamation units. Can the Minister indicate whether the Government has considered this problem and, if it has, what steps it has taken to clarify the issue? If it has not, can the Minister indicate whether the Government is prepared to explore this issue with the Federal Government with a view to having it resolved without placing additional burdens on owners who may be affected by the legislation?

The Hon. ANNE LEVY: As the honourable member indicated, capital gains tax is a matter for the Federal Government and is not at all within the province of the State Government. I will certainly pass on to the Minister for Environment and Planning the request that she take up the matter with the Commonwealth Government with a view to clarifying any problems that may exist. However, I cannot commit her to definitely doing so.

The Hon. K.T. GRIFFIN: I understand that my colleague the Hon. David Wotton in another place asked a similar question on 8 April and again an answer was not given then. It seems that if the Government is creating a situation where there is likely to be a problem for those who are disadvantaged by its administrative act, and where a scheme is put in place that will enable them potentially to recover some of that detriment, and if it creates a problem such as in the area of capital gains tax, it is incumbent upon the Government creating that difficulty to try to sort it out.

It is more likely that on a Government to Government basis it will be able to get the matter sorted out than if it is left to individual citizens, all of whom are under burdens as a result of this sort of scheme, trying on a one individual to a massive bureaucracy or Federal Minister basis trying to get it resolved when the problem may well be common to all of the people affected.

I certainly recognise that it is not a State Government issue, but potentially it is a problem created by the State Government's administrative and legislative action. I would like the Minister to undertake to try to have the matter followed up on a Government to Government basis so that the detriment that might flow from this scheme will be ironed out rather than leaving it for individual citizens to try to do so.

The Hon. ANNE LEVY: I reiterate that I will certainly take up with my colleague in another place whether she would consider asking the Federal Government to clarify this matter. I am sure the Federal Government will make its decisions of its own volition and will not necessarily be influenced by anything that a State Government may say.

But I agree that it could be advantageous to at least have the matter clarified. Of course, I would point out that there are different points of view as to the effects of this legislation on individuals regarding any capital benefit or detriment which may result from it. Doubtless the Federal Government will examine the matter from all possible perspectives before making any decisions.

The Hon. K.T. GRIFFIN: I appreciate that that is what the Minister will do. All I can do is urge the Government to endeavour to have this issue resolved at Government to Government level so that those who are affected by this legislation and may be compelled to deal with rights, where previously they were not so compelled by virtue of the operation of the scheme, might not be adversely affected in relation to capital gains. I note what the Minister is prepared to do in relation to that, and I put on record my request that the Minister for Environment and Planning pursue it vigorously.

During the second reading debate I raised two observations by Mr Brebner. His solution was not one with which I agreed but, nevertheless, the problem is a real one. He states:

> An interesting feature of the Bill and the planning scheme of which it is part is that the sale of allotments affected by the Bill is not restricted. An owner of contiguous allotments can retain the allotment on which his house is erected and sell the other allotment or allotments. The purchasers, however, will not be permitted to erect houses on the land they purchase. It will be necessary to ensure that potential purchasers are informed of any restrictions under the scheme. I suggest that either an appropriate notation should be made on the relevant certificates of title or, at least, that all such restrictions should be noted on the Lands Department's computer—

I presume he means the lot system—

> and advised to persons making inquiries prior to preparing statments under section 90 of the Land Agents, Brokers and Valuers Act.

I think that is a real problem. How do potential purchasers identify that the land is subject to a restriction, not so much immediately but at some time in the future, when memories may have faded? Mr Brebner goes on to say:

> An even more anomalous situation could arise where a person owns a number of contiguous alotments on which no residential dwelling is erected. The owner could sell all the allotments to different purchasers and they would all be entitled to build on the land at the time they purchase it. However, as soon as one of the purchasers built a house on his allotment, the purchasers of the other allotments would be prevented from building.

Can the Minister indicate how those two situations are proposed to be dealt with, either by virtue of the operation of this Bill or in some other way?

The Hon. ANNE LEVY: With regard to the honourable member's first question, the Department of Lands already enters notations on the lot system for all such allotments, so that matter will be dealt with in that way.

With regard to the second question, I understand that this situation currently exists and that it is dealt with by a purchaser signing contracts conditional on planning approval being obtained. If one individual has received planning approval for building on an allotment then, for all other allotments, planning approval will not be granted while the first planning approval remains in force. It is a matter of having contracts subject to planning approval, and that situation already exists.

The Hon. K.T. Griffin: Best in, best dressed.

The Hon. ANNE LEVY: Yes.

The Hon. K.T. GRIFFIN: One other matter that Mr Brebner raises—and I must confess that I really have not applied my mind to it, so I take advantage of the fact that the Minister has officers present—is with respect to section 223*llc* as follows:

> As the restrictions in the Bill apply to division by strata plan, amalgamation units should be created on the cancellation of a strata plan.

Is that proposed to be the position?

The Hon. ANNE LEVY: As I understand it, amalgamation units would be required in the creation of strata plans in the same way as for other situations, but it does not in any way deal with the cancelling of strata titles. That matter is not dealt with; it is their creation which requires the amalgamation units.

The Hon. K.T. GRIFFIN: Section 223*lla* provides:

> 'division' includes the division of land by strata plan.

Section 223*llb* deals with a regulation and provides:

> . . . that the Registrar-General must not deposit . . . a plan of division, or a strata plan, in respect of division . . . in a specified part of the Mount Lofty Ranges unless the number of amalgamation units specified in the regulation has been allocated to the proposed division.

I presume that is what the Minister is saying deals with the actual creation of the division and not the cancellation.

The Hon. Anne Levy: That is correct.

The Hon. K.T. GRIFFIN: So, if there is already an approval for strata units in the watershed area then that will not be adversely affected, even if the buildings have not been completed.

The Hon. ANNE LEVY: Any division or plan of division that was lodged before 29 January, when this became operative, is not affected by this legislation.

The Hon. DIANA LAIDLAW: I move:

> Page 3, lines 9 to 11—Leave out 'a number of amalgamation units equal to the difference between the number of allotments amalgamated and the number of allotments remaining after the amalgamation' and insert 'the number of amalgamation units prescribed by regulation for that purpose'.

This amendment relates to the creation of amalgamation units. The whole issue of amalgamation unit or TTRs is novel, as we have all discussed in this place from time to time, particularly in relation to rural land. I understand there is no such scheme operating in any State, although there is a variety of schemes overseas.

Every study that the Liberal Party has assessed in relation to TTRs or amalgamation units, not only in rural areas but also in urban areas, highlights the need for a market to be created. Without a market the scheme is flawed. Although it is not clear in the wording of my amendment, it relates to this matter of creating a market in which these amalgamated units can be transferred. There are suggestions that this issue of creating a title is now more difficult since the Minister has confined the area in which the transferable title system is to apply; to the water catchment zones rather than throughout the whole of the Mount Lofty Ranges area.

The Hon. Mr Elliott referred to that in his second reading contribution. The United Farmers and Stockowners Association made representations to us on that matter, as have the Institution of Surveyors and the Mount Lofty Ranges Review Local Government Consultative Committee. However, it is the representations of the UF&S to which I will refer. The association is very keen to see a change in this legislation so that we do not have a situation that simply transfers one amalgamated unit on a farm property with one allotment within a town area—a one for one ratio. The association believes that the ratio should be three to one. Under the heading 'Value of transferable rights' the association states:

> Due to a limited ability for developers to pass on any increase in costs, it is likely that the value being offered for a TTR will be well below that which would adequately compensate landowners for a resultant loss in land value. It is therefore proposed that the creation of one TTR should provide three development opportunities for a developer, consequently meaning the developer will offer a more realistic price for the initial TTR. The best information available on the number of potential TTRs and allotments indicates that a three to one ratio is appropriate.

It may well be that after further investigation a two to one ratio would be found to be more appropriate. It might be seen that one-third of an amalgamated unit on rural land equates to one allotment in a town area rather than one amalgamated unit equating to three allotments.

So, I believe some more work should be done on this matter in the time between the proclamation of this Act and the gazetting of the regulations because, unless we create a market for these transferable rights, every expectation that the Government has that this system will work will be misplaced, because it must have a market in which to work. At the moment, we are concerned that there is no such market. That concern is shared by the UF&S, the Institutioon of Surveyors and even the Australian Finance Conference. We believe that, by removing from the Bill the reference 'a number of amalgamation units equal to the difference between the number of allotments amalgamated and the number of allotments remaining after the amalgamation' with the words 'the number of amalgamation units prescribed by regulation for that purpose' would meet our expectation of trying to create a market that would leave the decision to the Government with later reference to the Parliament after review by the Subordinate Legislation Committee to look at whether that ratio should be three to one or one-third or some other variation.

The Hon. ANNE LEVY: The Government opposes this amendment. As it is worded, we feel that it would not do as the honourable member is proposing: in fact, it would lead to a great uncertainty, and this will have the effect of devaluing amalgamation units in the marketplace. There will be no certainty about the number that can be produced by an amalgamation at any particular time, and this would inhibit the development of a stable market, because this uncertainty would exist and people would not know where they stood at any particular time or what the situation might be at a future time. Such an amendment would consequently be counter-productive.

The Hon. M.J. ELLIOTT: I have also been approached by the United Farmers and Stockowners in relation to this matter. When it approached me, it was talking in terms of creating two or three transfer titles for one existing title. What we have now is not a fixed number but a number which might be prescribed by regulation. However, the essence of the idea is the same. I put it to that organisation, and it understood the argument that, while I understood what it was trying to do, it could undermine its members. What it would be doing, if we have a ratio greater than one to one, is creating more titles and making more titles available for transfer. That would affect the balance between supply and demand. That would increase the supply but not change the demand. That certainly will devalue individual titles. One individual who formerly had one title to transfer and who might now have two to transfer, on the face of it might appear to get more money for it. However, the danger is that the supply could increase so much above demand that the exact opposite might occur, first, that the price might plunge dramatically and, secondly, that people might want to sell titles they cannot sell at all because supply so far outstrips demand.

So, while the intention is perhaps to increase what is admittedly a somewhat uncertain return at this stage, that may not be achieved. In fact, the opposite result is quite likely. Anything we do which drastically increases supply could be very detrimental to the scheme and hurt the people that the Hon. Ms Laidlaw and the United Farmers and Stockowners had set out to help. I had sympathy for what they wanted to achieve. My judgment was and is that it would not achieve what they wanted, and we would not be doing them a favour by supporting such an amendment.

It was in consequence of the discussion about that and other amendments that the United Farmers and Stockowners forwarded that I gave it the commitment that I thought some fine tuning was required of matters in relation to TTRs, and I said I would support the whole of the Mount Lofty Ranges review, including TTRs, to go to a standing committee where the matter could be looked at in a very impartial way. I have absolute faith in the way these standing committees will handle these matters. It seems to me that the question of TTRs will be a high priority among the various issues that the standing committee will look at.

Some other matters raised by the UF&S have not been raised here in amendment by the Liberal Party. In fact, the Liberal Party did not have amendments drafted, but had a number of ideas which I think are worth further attention. Once again, at this stage, the appropriate place to do that is in the standing committee. I think the TTR scheme for most people will work more than satisfactorily, and that is the reason I supported the second reading of the Bill. The sooner we get it up and running, the better. We will know within a matter of months how it is working. In fact, instead of having the standing committee operating in the dark and not knowing how the TTR scheme will work, it will be operating while the committee is looking at it, among other things. That will be a healthy conjunction of events.

The other matter raised by the Minister related to uncertainty in the market. Will people hold back, hoping that a change in Government will mean that supply will increase, and therefore prices will drop? That also can create pressures which, at the end of the day, have a negative impact rather than a positive impact for the people who wish to sell allotments. As I said, I have sympathy for what the Hon. Ms Laidlaw is setting out to achieve. Frankly, I think it will have the opposite effect, and it is for that reason that I oppose it. If I thought it would work and create the effect, I would support it very rapidly.

The Hon. DIANA LAIDLAW: I do not want to prolong the debate because of the hour, and I know that the Hon. Mr Griffin wants to raise one issue of general concern to the Liberal Party, but I will raise it. All the references to amalgamation of allotments and the like make no reference to the size of the allotments, so quite easily we could have a very distorted situation where a person with five or six very small allotments could find that they would achieve so much more in terms of this recompense and the units in a town compared with a person with titles of considerable size. There are many distortions in this system that have not been addressed.

There is one common factor in the research that I would have liked the Hon. Mr Elliott to take note of at this stage, rather than later in the Committee, and that is that we must create this market, and it will not work. We know that even from the heritage area in transferable titles on heritage buildings in the urban area, and that is because there is no market at the present time.

The Hon. M.J. Elliott: That is because supply is too high.

The Hon. DIANA LAIDLAW: Yes, but, if there is no market, you have an impossible situation as they are finding out with heritage at the present time. The difficulty now is that the Minister has confined the area to be created as an amalgamated unit. That is an initiative that we have supported but, in turn, it creates further problems in this whole transferable title rights scheme. I simply express the disappointment of the many people in the Hills who now find, after considerable debate in this place and in the other place, that all their concerns are to be looked at by a committee of the Parliament which has no deadline in terms of its deliberations or its findings. They have to be satisfied with the Hon. Mr Elliott saying, 'We will try it for a few months or so and if it does not work we might have to have a different scheme.' That presents a very uncertain future for

the many people who are affected by this, because they live in a vulnerable area.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: I have given many opportunities for the Hon. Mr Elliott to provide these people with something more than sympathy and something more than procrastination. He has not accepted any of those options. This was a further option to say that, while the Government is looking to proclaim the Bill, in the period up to the end of May, when section 50 limitations will be lifted, we could look as a Parliament and as individual members of Parliament as well as others in the community at how we could create a system, with a further understanding of the market in the area and with a knowledge of the scheme generally and of the experience overseas. That then could have been presented in regulations. It would have been better than rushing into it now and having a situation which, as the Hon. Mr Elliott has said, could be changed in a relatively short time.

The Hon. ANNE LEVY: I point out to the Hon. Ms Laidlaw that many of the matters she has raised have been considered by the Government in great detail. The estimates are that there are three times the number of allotments which can be created in townships and which will require amalgamation units than there are available ones to be created by amalgamation of allotments in the rural areas. This has specifically been estimated to ensure that there will be a demand for these amalgamation units.

The Government is concerned that there should be a market for them and that the demand will be sufficiently strong to ensure a reasonable price for them. The estimate has been made that, on the system as set out, there will be a market with a strong demand for them, because potentially there are up to three times the number of allotments which will need them than there is potential to create them, and this will ensure that there is a high demand and therefore a high price. The Government is concerned to see that there is sufficient demand to ensure a good price for them, to compensate the people who will, through this whole scheme, lose development rights.

This has been considered by the Government. The Government is concerned that there be a market and that the market be such that these people get a high price for the created amalgamation units and it is for that reason that the scheme has been set up in this way in the Bill.

The Hon. K.T. GRIFFIN: I said during the course of the second reading debate that there is a great deal of uncertainty about this whole concept of an artificially created market, and it will be interesting to see what happens when the scheme comes into operation, but I support the concept that my colleague the Hon. Diana Laidlaw is putting. I did not address one area during the course of the second reading debate, and I want to put it on record. With the whole concept of the amalgamation units there seems to be considerable inequity, because the focus is on an allotment and not necessarily on the value or the size of the allotment.

The Hon. Diana Laidlaw: Or even the area.

The Hon. K.T. GRIFFIN: The size is the area.

The Hon. Diana Laidlaw: The location.

The Hon. K.T. GRIFFIN: Yes. So, it is all highly artificial. If one has three allotments of 10 acres each they will have exactly the same rights as three allotments of 80 acres, which are contiguous, and that has no regard for the depreciation in value which has occurred or which will occur as a result of the whole plan which the Government is putting in place and the different values of the property, either per square metre or per acre, which is affected by the issue of size. So, there are many variables in determining values which have not been taken into consideration in determining the entitlement to amalgamation units per allotment. Rather, it has been the very broad axe wielded and just the concept of the allotment actually being the basis for the creation of the amalgamation unit. I raise some very grave concerns about that. I do not know whether the Minister is able to say much about it by way of explanation. I think it is an issue that will arise again and again in the future as this scheme is put into operation.

Amendment negatived.

The Hon. DIANA LAIDLAW: I move:

Page 3, line 21—After 'secured' insert 'from time to time'.

I am very pleased to hear that the Government will accept the amendment. It is one that the Liberal Party moved in another place, and this is just a refinement.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 4, line 5—After 'issue' insert 'to the person entitled to the charge'.

This amendment relates to the right of allocation that may be charged, and I am pleased to hear that the Government will accept it. Yet again, this and the next amendment to be moved arise from Liberal Party amendments in the other place; amendments suggested by the Australian Finance Conference.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 4, lines 21 to 24—Leave out subsection (1) and insert subsection as follows:

(1) Subject to subsection (2), where a right of allocation of an amalgamation units is subject to a charge, the Registrar-General must not—

(a) register a memorandum of transfer or a memorandum of charge of the right without the written consent of the person entitled to the charge unless the transfer or charge is expressed to be subject to the existing charge;

or

(b) register a memorandum of allocation of the amalgamation unit without the written consent of the person entitled to the charge.

The Hon. ANNE LEVY: That is agreed to.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 5, lines 40 and 41—Leave out subsection (1) and insert the following subsections:

(1) No fee is payable in respect of—

(a) the issue by the Registrar-General of a certificate in respect of the right to allocate an amalgamation unit (except a certificate to replace one that has been lost, mislaid or destroyed);

(b) the registration of a memorandum of transfer of a right of allocation;

(c) the registration of a person as the holder of a right of allocation where the right has passed by testamentary disposition or by operation of law;

(d) the registration of a memorandum of charge of a right of allocation;

(e) the registration of a full or partial discharge of a charge of a right of allocation;

(f) the registration of a memorandum of allocation of an amalgamation unit.

(1a) Where amalgamation units have been allocated to a division, no stamp duty is payable in respect of the first transfer by the person who applied for the division of an allotment created by the division but this exemption does not extend to a subsequent transfer of the allotment.

This is also an amendment we moved in the other place, but the Government did not accept it. I understand that on this occasion also it has reservations. The amendment relates to exemption from fees and stamp duty. In the other place, the Government accepted what we now see in the Bill; that is, that no fee is payable in respect of the registration of a memorandum of allocation of an amalgamation unit, nor is stamp duty payable in respect of the transfer or charging

of the right of allocation of amalgamation unit. Many other issues have been canvassed in this debate, including factors such as that the scheme is untried; that we do not know whether it will work; and that we do not know whether a market will be created, although that is what the Government wants. We have seen the Government's wishes in a whole range of other financial areas and in the private sector. We are uncertain of what will happen there.

We believe that, as a gesture of goodwill and commonsense and in terms of fairness, the fees should be waived in respect of the issuing by the Registrar-General of a certificate in respect of the right to allocate an amalgamation unit, the registration of the memorandum of transfer of a right of allocation, the registration of a person as the holder of a right of allocation where the right has passed by testimony, disposition or by operation of the law, the registration of a memorandum of charge of a right of allocation, and the registration of a full or partial discharge of a charge of a right of allocation.

The Hon. ANNE LEVY: The Government opposes this amendment. I point out that paragraph *(f)* in the Hon. Ms Laidlaw's amendment has already been agreed to by the Government in another place and is already part of the legislation, so it is paragraphs *(a)* to *(e)* that the Government opposes. It should be said that, in promulgating regulations, the Government will ensure that where an amalgamation unit is created and used by transfer and allocation in the same division dealing—all part of the same dealing—there will be only a single charge.

I should point out that the fees the Opposition seeks to exempt people from are the basic administrative costs of the Department of Lands and, as the honourable member knows, the Government is moving to a commercial basis for the department. The fees that will be set by regulation under this Bill will be set at exactly the same level as the existing fees for similar dealings in land under the Real Property Act, and these are, in fact, the fees for basic commercial dealings. There is no reason whatsoever why they should be exempt from fees. They are part of the normal commercial transactions and will be subject to exactly the same fees as comparable commercial transactions.

The Hon. Diana Laidlaw: If this was a normal commercial process, that would be acceptable, but it is not.

The Hon. ANNE LEVY: I have already indicated that the part that is different is indicated in paragraph *(f)*, which has already been accepted. There is a difference in fees for the registration of a memorandum of allocation of an amalgamation unit because that is what is different. All the other items are normal commercial transactions and will have fees set which will be the same level as the existing fees for similar dealings in land under the Real Property Act. The fee at the moment is $55 for each paragraph as enumerated, that is, *(a)* to *(e)*, and *(f)* I have dealt with.

The Government also opposes the amendment that relates to new subsection (1a). In another place the Government has already accepted an amendment from the Opposition which waived the payment of stamp duty on the transfer of an amalgamation unit between the person who creates the unit and the person who allocates the unit to a division of land. There will be no stamp duty on that transfer, and that was a reasonable proposal. What the honourable member proposes here is not a reasonable proposition. The amendment seeks to exempt from stamp duty the third party not involved in the creation and allocation of an amalgamation unit. It may be a person from the city wishing to invest in land or move to the Hills. That person may not have been involved in any way in the transaction of creation and allocation of an amalgamation unit, yet the Hon. Ms Laidlaw is suggesting that this quite separate third party should also be exempt from stamp duty. This does not seem reasonable and the Government opposes both new subsections in the amendment.

The Hon. M.J. ELLIOTT: When I examined the amendment I had no sympathy for the first part in that, as the Minister said, the charges are non-profit charges and basically cover the operations carried out by the department handling those registrations. I gave much more consideration to the question of stamp duty in-so-far as it is not just a matter of service charge but money collected by Government for which it does no work. It is simply a way of raising revenue and as such it is more a matter of revenue forgone. I note that the Government has already accepted the forgoing of stamp duty in relation to one part of the process. That is a significant concession and one that I certainly would have supported. The big question is whether or not we accept the further forgoing of stamp duty as there is an assumption that these amalgamation units or titles have lost value. That is an assumption that is being made, and at this stage we do not know. It may be that title values will go up, thereby giving a bonus of a few hundred dollars as well.

The Hon. Diana Laidlaw: And if they go down?

The Hon. M.J. ELLIOTT: As I said, we simply do not know. There has been one concession in relation to stamp duty which is quite significant. Experience shows that, if there is any significant decline in the value of titles, this is worth looking at to make sure that the scheme has a chance of surviving. It is an unknown, and we are about to go into it. It is one reason why I was keen to maintain the much greater potential demand over potential supply so that we had every chance that, with relatively high demand against supply, title values would stay high.

There is no doubt that in the long run those who sell their titles early will get much less than those who sell their titles later. While the ratio of potential titles in the location is now three times as great as those available, when half the titles have moved the ratio will be not 3:1 but something like 6:1. In other words, demand against supply will escalate quite rapidly. I would love to own the last title that has not been transferred, because it will be worth a mint. There is no doubt that, except for those who are forced to sell early, most people will have titles which will be worth significantly more. The great unknown is what will happen in the early months or in the first year or so. The demand for blocks in the Hills has been so great that one would expect the supply to be soaked up very rapidly.

We just do not know what values will do. There has been one concession in relation to stamp duty. I will not support the amendment. I understand what the Opposition is attempting to do. I believe it is based on the premise that title values will be significantly down, but that is unproven and unknown at this stage. Therefore, I will not support the amendment.

The Hon. K.T. GRIFFIN: I was interested in the Minister's comment about the fees that would be charged. She noted that $55 was the present standard fee for instruments such as mortgages. Presumably it would be the same fee in relation to the creation of a charge. Has the Government yet made a decision on the fee that might be applicable to transfers of these rights? As I recollect, stamp duty on transfers of land is based on the value of the land, not the flat fee of $55, suggesting that the value of the right that has been transferred might be the subject of the stamp duty and not the instrument itself. Has the Government set or proposed any fee in relation to transfers?

The Hon. ANNE LEVY: I am somewhat confused by what the honourable member has said. The amendment which was accepted in the Lower House means that no stamp duty is payable. Stamp duty is an *ad valorem* situation. I understand that these transfer fees are a flat rate, not related to value.

The Hon. K.T. GRIFFIN: With respect, that is not correct. The Lands Titles Office fee on a transfer of land is an escalating fee based on the value of the consideration. I know that the stamp duty is *ad valorem*, but the marginal rate keeps going up; so the top marginal rate is $4 in every $100 of consideration. I cannot remember off the top of my head what the progression is for the registration fees on transfers, but I do know that it is based upon the value of the land which is the subject of the transfer. All I wanted to know was whether the Government also proposed that, in relation to the transfer of these amalgamation units, or rights to amalgamation units, the registration fee was likely to be based on the value and not just a flat fee.

The Hon. ANNE LEVY: The answer is 'No.' It is planned that it will be a flat fee.

The Hon. K.T. GRIFFIN: That is to be noted.

Amendment negatived; clause as amended passed.

Clause 7 and title passed.

Bill read a third time and passed.

FINANCIAL INSTITUTIONS (APPLICATION OF LAWS) BILL

Returned from the House of Assembly with amendments.

LOCAL GOVERNMENT (REFORM) AMENDMENT BILL

Returned from the House of Assembly with amendments.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 12.1 a.m. the Council adjourned until Thursday 30 April at 11 a.m.