LEGISLATIVE COUNCIL

Wednesday 6 May 1992

The PRESIDENT (Hon. G.L. Bruce) took the Chair at 11 a.m. and read prayers.

STATUTES AMENDMENT (ILLEGAL USE OF MOTOR VEHICLES) BILL

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

That the sitting of the Council be not suspended during the continuation of the conference on the Bill.

Motion carried.

STATE GOVERNMENT INSURANCE COMMISSION BILL

In Committee.

Clauses 1 to 4 passed.

Clause 5—'Board of Directors.'

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

Page 2, line 28—After 'writing' insert 'and must be published in the *Gazette* within 14 days after it is given to the board'.

Under clause 5 (3), the board is subject to directions by the Minister, and under subclause (4) any direction to the board by the Minister must be in writing. In the House of Assembly, amendments were made to clause 29, which required that any directions given to the board by the Minister that are not contained in the commission's charter be included in the annual report. I hold the view that, if a direction is given by the Minister to SGIC, public notification of that ought to be given at an earlier stage rather than later, recognising that the annual report is tabled only within 12 sitting days after the Minister receives it and that the Minister must receive it on or before 30 September. So, it is quite possible for a direction to be given at the commencement of a financial year and not to become publicly notified in the annual report until something like 15, 16 or 17 months after it occurs.

Members may remember that in the debate on the MFP Development Bill a similar amendment was moved by my colleague the Hon. Robert Lucas on the basis that if a corporation is subject to direction and directions are given then that direction ought to be made public at an early stage. The Government accepted that amendment in the House of Assembly, as well as the provision that there be a list of directions also included in the annual report. I think the SGIC is in a similar position to the MFP Development Corporation. SGIC's operations have been controversial but, in any event, putting that to one side, I think that in this day and age there is a growing view that there ought to be more public accountability of statutory corporations.

The Hon. C.J. SUMNER: The Government agrees.

Amendment carried; clause as amended passed.

Clauses 6 to 9 passed.

Clause 10—'Remuneration.'

The Hon. L.H. DAVIS: What reference points does the board of SGIC use in establishing remuneration levels in SGIC? What are the current levels of remuneration for board members of SGIC? Given that we are agreeing to an increase in the size of the board, has any adjustment been made, or is it intended that any adjustment will be made, to the levels of remuneration for directors of the board? I understand that some of these questions might need to be taken on notice, but, further, will the Attorney advise whether directors on subsidiary boards, such as Bouvet Pty Ltd, receive fees, and will he advise the Committee what the fee levels are in respect of each of the subsidiaries of SGIC for main board directors and any other directors serving on those subsidiary companies of SGIC?

The Hon. C.J. SUMNER: With respect to the second question, I will arrange for the information to be provided to the honourable member by letter. As to the first question, apparently the working group which was established and which led to this legislation (the earlier reports of which have been made available publicly) is continuing to work on some aspects of SGIC. One of those matters is the remuneration of directors in the future. I am advised by Mr Hill that a report is due to be completed shortly on that and other topics. I assume that that will be made available publicly, although I cannot say because it is a matter obviously for the Premier. When that report is finalised and made available to the Premier, I will ask the Premier to reply to the honourable member's question.

Clause passed.

Clause 11—'Directors' duties of honesty, care and diligence, etc.'

The Hon. L.H. DAVIS: The Opposition has already indicated support for this legislation which comes about as a result of the controversy surrounding SGIC during 1991 and which was highlighted in the critical Government Management Board report of SGIC's financial activities and management. There was widespread community concern about some of the unorthodox financial activities of SGIC, and the Liberal Party highlighted many of these. Clause 11 refers to directors' duties of honesty, care and diligence, and it is appropriate to reveal under this clause the answers to questions I asked of the Premier late last year regarding one transaction which seemed to be at extraordinary variance. I am looking for some assurance that clause 11 covers the problems that I raise with this particular matter, and I refer to SGIC's buying a building at 1 Port Wakefield Road. I asked a series of questions in a letter, dated 15 October, addressed to the Premier.

In late 1988 the Chairman of SGIC, Mr Vin Kean, entered into a contract to buy the property at 1 Port Wakefield Road for a sum of $1.4 million. He arranged to settle on that property in the last week of January 1989. At the time, the property was empty. In fact, it was advertised before settlement date for sale at the sum of $2.1 million. It failed to sell so was listed for auction on 30 March. My understanding was that this empty building, at auction on 30 March, was bought by SGIC for the sum of $1.8 million. SGIC was the only genuine bidder at the auction. Presumably, that amount meant a gross profit in a few weeks of $400 000 to the Chairman of SGIC, Mr Vin Kean. The building was unoccupied at the time of settlement, 1 May 1989, and remains empty to my knowledge three years later. I asked the Premier:

Who at SGIC suggested that SGIC should bid for 1 Port Wakefield Road at the auction of 30 March 1991?

The answer from the Premier was:

It was unclear who brought the property to SGIC's attention. In his statement to the Crown-Solicitor, Mr Kean states he did not bring this property to the attention of the investment committee of SGIC and it was his understanding that SGIC had become aware of the property through information supplied to SGIC by the auctioneers.

My second question to the Premier was:

Did the SGIC board give approval for SGIC to bid for the property at 1 Port Wakefield Road before the auction, or was it advised of the decision to bid before the auction took place and, if not, why not?

The answer to that was:

The purchase of 1 Port Wakefield Road was considered by the property investment subcommittee of the commission. At that meeting Mr Kean declared his pecuniary interest and directorship of the vendor company and did not partake in discussions on this property. The property investment subcommittee decided that management be authorised to bid up to $1.8 million at auction.

So, in other words, the SGIC board did not approve of the purchase of property by the Chairman of SGIC, Mr Vin Kean: it was approved by a property investment subcommittee of SGIC. The select committee in another place, when examining the Bill, asked questions about this matter. The question was asked, 'Who were the members of the property investment subcommittee?'—and I asked that question of the Premier myself. I also asked, 'If the SGIC board did not approve the decision to bid at auction, who did give the approval? Please list these names.' The answer was, 'The members of the property investment subcommittee include Mr Vin Kean, Mr Harry Krantz and Mr Denis Gerschwitz.'

What transpires from the Premier's answer—and this was reaffirmed in the evidence of the SGIC select committee—is that Mr Kean absented himself from the decision, and the property investment committee, which consisted of Mr Harry Krantz and Mr Denis Gerschwitz, gave approval for SGIC to bid for an empty property owned by the Chairman. Further evidence was given that that decision was made very late, just a matter of days before the auction. The decision was not referred to the board. In other words, we had Mr Harry Krantz, a long time director of SGIC, and Mr Denis Gerschwitz, the General Manager of SGIC, supporting SGIC's decision to buy an empty building.

My next question to the Premier was:

Why was the SGIC board advised that Mr Kean had an interest in the property at 1 Port Wakefield Road, and was the board aware of the recent history of that property?

The Premier's reply was, 'As per answer for question 2', which was:

The purchase of 1 Port Wakefield Road was considered by the property investment subcommittee of the commission. At this meeting, Mr Kean declared his pecuniary interest and directorship of the vendor company and did not partake in discussions of that property.

In other words, it seems, in that very defensive and evasive answer, that the SGIC board apparently was not advised at all of this matter. The fifth question was:

Why did SGIC buy an empty building for 27 per cent more than Mr Kean's company had paid only weeks earlier?

The Premier's answer to that question was:

The property was considered suitable for use as an assessing centre/crash repair facility, with a view to serving the northern, north-western and north-east regions of Adelaide.

That decision was made by two people, Mr Krantz and Mr Gerschwitz, although it was done presumably very late, just days before the auction. What evidence, information and expertise did they have to say that this facility was suitable for use as an assessing centre/crash repair facility, with a view to serving the northern, north-western and north-east regions of Adelaide?

My information is that Mr Kean looked at that site, 1 Port Wakefield Road, with a view to doing that himself and passed it up. I have had anecdotal information in tracing this extraordinary affair from people who confirm that that was his first intention when he bought it; but, instead, it was flicked on for a lazy $400 000 profit in a matter of weeks to SGIC, which claimed that, with the combined expertise of Mr Krantz and Mr Gerschwitz in the days leading up to the auction, they thought it was suitable for SGIC to develop with a view to servicing the northern, north-western and north-eastern regions of Adelaide.

The sixth question I asked was, 'Did Mr Kean know before the auction that Mr Kean was going to bid for the property?' The answer from the Premier was, 'Mr Kean was aware that approval had been sought for SGIC to bid at the auction but was not aware of the investment subcommittee's decision.' That is an absolutely breathtaking answer. He did not know that SGIC was going to bid for it! My seventh question was, 'Did Mr Kean attend the auction?' Answer, 'Yes.' That sort of example and others suggest that SGIC was a very convenient vehicle for people to use. That is a strong statement but I think it is a fair statement, in view of the circumstances.

The other matter that can be raised in this context, which I have raised before but not so specifically, relates to SGIC's involvement with 1 Anzac Highway. Currently, that building is the subject of controversy in that the Electricity Trust has bought it for $14.6 million although the Valuer-General rates it at only $13.3 million. In exchange, ETSA has agreed to sell its head office building in Greenhill Road, Eastwood, to the owner of 1 Anzac Highway, that is, United Land Holdings Pty Ltd, for $5 million. The interesting aspect of that deal is that the ETSA building is provisionally rated for land tax purposes at a value of $11 million for 1992-93. It has been sold for $5 million to United Land Holdings, but it does not have to pay for the building for another 13 or 14 months—not until June 1993. However, it will get the money up front for 1 Anzac Highway, a building that was financed 100 per cent in its construction cost by SGIC.

As has been confirmed, SGIC has only ever lent two-thirds of the valuation of property on mortgage loans, and that is the standard in the industry. The conservative nature of real estate investment—

The Hon. C.J. Sumner: We have heard all this before.

The Hon. L.H. DAVIS: I know, but you have not heard this bit before. The conservative nature of investment suggests that it is prudent to lend no more than two-thirds. In this case, the full construction cost ($20 million) was lent in a precinct which, as I have mentioned before, had not experienced high rise development, and there was no head tenant. The point that has not been made before, which I would like established, is the size of the SGIC mortgage loan book. The information I have received from within SGIC is that at the time the transaction for 1 Anzac Highway was entered into (June 1988), the SGIC mortgage loan book was very small.

In fact, with the $20 million loan to United Land Holdings, which I was told was several times larger than the next largest loan, the total mortgage loan book was only $30 million. I am arguing very seriously that SGIC was not in the habit of lending big licks of money. Certainly, it was not unusual for it to advance $500 000, $1 million or perhaps $1.5 million or $2 million, but the scuttlebutt around the real estate industry that has been growing in recent weeks is that SGIC just did not lend licks of $20 million to anyone.

I want to ask, first, whether that is true—whether $20 million was the largest sum of money ever lent by SGIC for a transaction of this nature and, secondly, what was the mortgage loan book in June 1988? It may not be possible for the Attorney to answer those questions promptly but I think that he would appreciate that they are relevant in the context of clause 11.

The Hon. C.J. SUMNER: One thing that I think needs to be said about this whole matter is that SGIC has not lost any money in this particular transaction.

The Hon. L.H. Davis: That is simply not the argument: I am talking about the morality of the matter.

The Hon. C.J. SUMNER: You have made your point, now you can shut up and let me make mine.

The CHAIRMAN: Order! The honourable Attorney.

The Hon. C.J. SUMNER: The point that can be made about this matter is that SGIC has not lost any money as a result of this loan. A commercial rate of interest was applied at the same rate as that for other loans made by SGIC, and that interest has been paid. However, the honourable member seeks to make other points about it and has asked for specific information. Obviously, that is information that I will have to check, and I will have arrangements made to provide the honourable member with that information by letter.

The Hon. L.H. DAVIS: The property 1 Anzac Highway was a matter about which I wrote to the Premier, also on 15 October. I received replies which I have not previously made public. The following question was asked of the Premier:

Why did SGIC fund the full construction cost of the building at 1 Anzac Highway by a company in which SGIC Chairman, Mr Kean, had a significant interest?

The answer was:

Since 1979, SGIC has placed funds in the commercial mortgage market area in order to maximise the overall return on investments. The request for loan funds from United Landholdings in June 1988 met this objective, and the security offered for the loan was considered adequate.

The next question I asked the Premier was:

Who gave approval for this transaction; when was the approval given; and what was the initial rate of interest on the SGIC loan to finance the construction of the building at 1 Anzac Highway?

The answer was:

The loan of $20 million to United Landholdings was approved by the board of SGIC on 22 June 1988 at an interest rate of 14.5 per cent per annum. At this meeting, Mr V.P. Kean declared his interest and left the meeting.

Question 12 will be of particular interest to the Attorney:

What other property loans has SGIC entered into in the last five years which involved advancing 100 per cent of the construction cost of a building project?

The answer from the Premier of South Australia was:

This was the only loan made by SGIC in the last five years, where construction of a multi-storey building was involved.

The only person who managed to get a loan was the Chairman of SGIC. However, let me say to the Committee that Mr Kean was not the only person in Adelaide who had sought a loan from SGIC for a development project: there are people known to SGIC, and most certainly known to me, who had applied for a loan but were unable to get one. So, in the space of five years the only winner of a loan for a development project—the construction of a multi-storey building—was the Chairman of SGIC, Mr Kean. My next question was:

What written guidelines and/or criteria for loans by SGIC for construction projects were in existence at the time of the loan being made by SGIC for the construction of 1 Anzac Highway?

The answer was:

There are no guidelines established for loans specifically on construction projects, and all applications are considered on their merit, using guidance and advice from outside professionals where thought necessary.

Does that not beg the question? If there was only one approval over a five-year period for construction of a multi-storey building, does it really mean that all the other projects put up by other developers around Adelaide were knocked back on the grounds that they were inappropriate? That does stretch a long bow, and I find it hard to believe. I restate my great concern about those two transactions. For the Attorney to stand up and defend them with only one proposition, 'At least SGIC did not lose any money' is an extraordinary argument. To say, 'Never mind about the morality, the principle involved, the perception of the community—

The Hon. C.J. Sumner interjecting:

The CHAIRMAN: Order!

The Hon. L.H. DAVIS: —well it is all right, because SGIC did not lose any money,' is, I suppose, a consolation, because it has lost money in many other directions and we are debating this Bill because of the mediocre commercial decisions that have been made by SGIC and the very mediocre management, obviously in many cases, in SGIC.

Clause passed.

Clause 12—'Disclosure of interest.'

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

Page 5, line 9—Leave out 'private' and insert 'pecuniary or personal'.

This amendment to the subclause replaces the term 'private interest' with the term 'pecuniary or personal interest'. This latter term is used in other conflict provisions. This amendment will make clear that non-pecuniary personal interests are covered by the clause.

The Hon. K.T. GRIFFIN: This amendment probably arises from a statement I made in the course of the debate. I thought it was rather curious to use the description 'private interest', and the description that the Attorney is now seeking to insert is more acceptable in the sense of consistency—having consistency with other legislation—and, therefore, I appreciate the amendment being moved and I support it.

Amendment carried.

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

Page 5, lines 19 and 20—Leave out 'contract or proposed contract' and insert 'proposed contract and does not take part in any deliberations or decisions of the board on the matter'.

This amendment adds a further requirement identical to that moved in relation to the MFP Bill to provide that a contract may not be avoided by the commission where a director makes a disclosure of interest and does not take part in any deliberations or decisions of the commission on the relevant matter.

The Hon. K.T. GRIFFIN: I have no difficulty with the amendment, which focuses on the fact that it is a proposed contract which will normally come before the board for approval so, in drafting terms, the focus ought to be on the proposed contract and not on the contract that comes after the decision is made by the board. I am happy to support that.

Amendment carried.

The Hon. K.T. GRIFFIN: I want to flag something the Attorney-General might like to look at, although not necessarily now. It is probably covered by common law but, in the form of the drafting, subclause (4) provides that, if the disclosure is made, then the contract is not avoided and the director is not liable to account for profits, which suggests that, if there is not disclosure, it is liable to be avoided by the commission and the director is liable to account for profits. This is something that has struck me as I have looked at some of the legislation that has been going through recently. What happens if there is not disclosure? As I say, I think that common law will apply, but it might be appropriate if at some stage the Attorney-General could have someone look at that with a view to stating some of the consequences of non-disclosure in terms of the contracts and the profits.

The Hon. C.J. SUMNER: I will obtain a reply for the honourable member after checking with the Crown Solicitor.

Clause as amended passed.

Clause 13—'Delegation.'

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

Page 5, line 37—Leave out 'private' and insert 'pecuniary or personal'.

This is the same point relating to clause 12 (2).

Amendment carried.

The Hon. K.T. GRIFFIN: My comment is made not necessarily with a view to obtaining a response, but under subclause (6) 'delegate' includes a member of a body, or of the governing body of a company or other entity, to which any powers or functions of the board have been delegated. That is limited to the reference in subclause (4) to a delegate who has not acted in any matter pursuant to the delegation in which the delegate has a direct or indirect pecuniary or personal interest. I have no difficulty with the reference. It is something that seems only now to be coming into the drafting.

This is the first instance I have seen of this. I presume that it is something that may well have caused a problem or something that has arisen from discussion. I should like to know whether it is likely to be part of a consistent approach to all areas of legislation where delegation is involved.

The Hon. C.J. SUMNER: I cannot answer the question specifically except to say that it will be the pattern in future. There is Government Management Board examination of legislation relating to all public corporations, and I understand that that issue has been raised in that context. In relation to subsidiaries of public corporations, I do not know. With regard to delegation, I can ask Parliamentary Counsel for a further explanation if the honourable member would like.

The Hon. K.T. GRIFFIN: I do not want to take the time of the Committee. I checked the MFP Development Bill and I see that it is in that, and I support it, but it is interesting to know the history of it. I do not need to take time now; if the Attorney could just let me have a note at some time in the future on the background of the development I am happy with that.

The Hon. C.J. SUMNER: I will do that.

Clause passed.

Clauses 14 to 17 passed.

Clause 18—'Commission's charter.'

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

Page 7—

Line 17—Leave out 'board must, in consultation with the Minister' and insert 'Minister must, in consultation with the board'.

Line 40—Leave out 'board must, in consultation with the Minister' and insert 'Minister must, in consultation with the board'.

When I was analysing the Bill one of my major concerns was that the legislation is very open in terms of how SGIC may invest. It seems to me that the major direction as to the investment and general business practices of SGIC will in fact be covered not by the legislation itself but by the charter, which is allowed under the legislation. It appears to me then that this Parliament, particularly in the light of recent experience with several Government instrumentalities, has at least as great an interest, if not a greater interest, in the charter as it does in the Bill itself, because it is the charter that gives the real direction to the SGIC. It would be consistent with the way this Parliament has behaved on a whole range of matters that it require that the charter be put before Parliament for approval. Quite frequently when we have taken the same position on this, I have heard members of the Opposition in particular argue that such matters are of such importance that Parliament should have final approval. When one considers that the charter is really about the investment direction and general business practice of SGIC, it would be consistent with that line that we do so here.

Not only am I asking in my amendments that the charter be referred to Parliament for final approval but I am also saying that, rather than the charter first being developed by the commission in consultation with the Minister, in fact, the Minister himself or herself should take the first responsibility and that the charter be developed by the Minister in consultation with the SGIC. I think that would then guarantee at least ministerial responsibility. I notice that, in his suggested amendments to my amendment, the Attorney-General concedes as much, and I know that it is a question that was raised by the Hon. Mr Griffin during the second reading debate.

However, when one looks further at the amendments that the Attorney-General has made to my amendments, one sees that he is returning the rest of the clause effectively back to its original condition; in other words, we will see reports come before Parliament and the Economic and Finance Standing Committee as to changes in the charter, but Parliament and the committee will have no say at all. I argue again that, since this document is the linchpin in the operations of the SGIC, the failure to necessitate parliamentary approval for the operations would be a great mistake.

It is interesting that with hindsight we in this place have condemned the SGIC for a number of its investment practices and have also made comment on the investment practices of some other State enterprises. We have talked about investment practices of the Timber Corporation where it has made investments even outside Australia and has gone into very new technologies. We have seen the State Bank making significant investments off-shore. We have seen SGIC becoming involved in fitness centres, in the running of private hospitals and in quite significant put options—something like 30 times the size of anything allowed by similar commissions interstate. It would seem that the charter will attempt to define what sort of things SGIC can become involved in, and it is only reasonable that Parliament should give its final approval to the practices the charter allows. I urge members to support the amendment.

The Hon. C.J. SUMNER: The Government is prepared to accept the first amendments, to lines 17 and 40, but rejects the amendment which provides that the charter cannot come into effect unless approved by resolution of both Houses of Parliament. As the Bill says, we acknowledge that there are no problems with the Minister, within six sitting days, causing a copy of the charter to be laid before both Houses and for a copy to be made available, if not laid before both Houses, to the Economic and Finance Committee of the Parliament within 14 days.

Parliament is responsible for setting the broad objectives of the operations of the commission. It is also responsible for establishing a few lines of accountability and responsibility as provided for in the Bill. However, the Government of the day should determine in detail the activities that the commission should undertake with the Minister being held responsible to Parliament for the administration of the legislation. This is the purpose of the charter. There is no point in having a charter separate from the legislation if all amendments to the charter must be approved by resolution of both Houses of the Parliament. The working group established by the Treasurer to implement the recommendations of the Government Management Board review of SGIC discussed the charter in its October report. The recommendations were as follows:

In our view, however, it would be the wrong approach to try to provide more specific direction in the Act. The insurance industry is a dynamic industry and it would be unduly restrictive if SGIC were required to seek parliamentary approval every time it wished to undertake some new activity. The commission would

be at a considerable disadvantage in trying to match new products and services introduced by its competitors.

In or view SGIC needs to be able to react quickly to emerging opportunities and the Minister needs to be able to act promptly if he or she forms the view that a particular course of action proposed by SGIC is not in the public interest. For these reasons we recommend that the Act contain only a broad statement of the powers and functions of SGIC and a requirement that a charter be developed by consultation between SGIC and the Minister. There would be an annual review of the charter as part of the normal planning process and changes could be made at any time. The need for Parliament to be informed of the objectives of SGIC and the nature and scope of its activities could be covered by a requirement for the charter and any changes to it to be tabled in both Houses.

A particularly graphic illustration of the problems which would be caused if this amendment were passed can be given by reference to the position of SGIC when the new Act comes into force in the near future. It has now endured over 12 months of sustained criticism, some of it justified, some of it not. At the urging of the Government, and with the assistance of the Parliament, it has made great strides in overcoming the weaknesses identified by the Government Management Board review and by its own investigations. Having been to all this trouble, it would now be required to wait for another six months before knowing what its charter was to be.

In the meantime, those wishing to transact business with the commission would be unable to do so with confidence, because they would not know whether the commission had the authority to enter into particular transactions. Not only would this place enormous obstacles in the way of the commission, but it would be very unfair on many individual and corporate citizens of South Australia. I move the amendment standing in my name, which is an amendment to the Hon. Mr Elliott's amendment, which basically—

The CHAIRMAN: We have not got to that one. We have to dispose of the first two.

The Hon. C.J. SUMNER: I support the first two, but I have foreshadowed and given the reasons for my opposition to the amendment which deals with the charter not being approved until a resolution of both Houses has been passed. To make it clear, the Government is agreeing to the amendments to lines 17, 40, 42 and 43 and page 8 lines 2 to 9.

The CHAIRMAN: We have not got that far. We are just taking the two amendments of the Hon. Mr Elliott and we are taking them as one.

The Hon. C.J. SUMNER: The Government agrees to the amendments to lines 17 and 40 and, when we get to them, to lines 42 and 43. I have already foreshadowed the reasons for the Government's opposition to the one that the Hon. Mr Elliott will move shortly.

The Hon. L.H. DAVIS: The Liberal Party also accepts those amendments. In fact, it reverses the emphasis so that the Minister must, in consultation with the board (rather than the other way round, that the board must, in consultation with the Minister), prepare a charter for the commission. The worm has turned a long way since the 1980s when it was conventional wisdom and seen to be desirable for statutory authorities to be given their head and autonomy. Of course, with the State Bank of South Australia, the State Government Insurance Commission and other commercial activities of Government, we have seen that, if the reins are let out too far, disaster can follow.

That is not to say that a charter will overcome the problems. It is one thing to set down a charter which outlines the scope of the activities of the investments which are to be undertaken for the life fund and the compulsory third party fund and any other parameters for investment, but at the end of the day we have to rely on the managerial skills, the professionalism, the expertise, the judgment and the vision of management in the State Government Insurance Commission if we are to see good results following from investment decisions. That was well recognised in the evidence presented to the State Government Insurance Commission select committee by Treasury officials and other parties: that we can have the best charter in the world, but at the end of the day we also need good management to complement it.

The Opposition welcomes the changed emphasis. In fact, it welcomes the charter, to which my colleague the Hon. Trevor Griffin has specifically referred in his second reading contribution. I have only one question for the Attorney-General: does he have any expectation as to when the charter will be published?

The Hon. C.J. SUMNER: Apparently the charter was attached to the select committee's report. It would normally be published in the 1991-92 annual report of the commission, and that is anticipated. Once it is finalised, if members want a copy earlier, I will convey that request to the Premier and he may decide that he can make it available earlier.

The Hon. M.J. ELLIOTT: I do not accept the argument that has been put by the Attorney-General, that this need for new products is so urgent that it would cause a difficulty. In the first instance the charter would provide for new products within a defined range, unless the commission went into a significantly different type of product, for instance, into health insurance or life insurance. Those sorts of things are a significant change in the way the commission works, and I would argue that those sorts of decisions are decisions which rightly and properly should find their way back to this Parliament.

I think we need to look at the original reason why the SGIC was first formed. It was formed for a particular purpose, and if that purpose is to change—and I suggest that this Bill is sufficiently open-ended to allow that—I believe it is reasonable that the Parliament be consulted, and more than consulted; I do not mean just laying the information before the Parliament, but there should be approval if there is any radical change in direction, and that includes the decision to go into the ownership of hospitals and the decision to be involved in major put options. Those are significant changes and are the sorts of things which are not covered by the Bill but which would be covered by a charter. I think it would be irresponsible for us simply to hand over that scope of decision making to the Minister and the commission. It would be highly inconsistent for the Liberal Party not to support this amendment because it is the sort of argument we have regularly in relation to proclamation and regulation.

Amendments carried.

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

Page 7, lines 42 and 43, and page 8, lines 1 to 9—Leave out subclauses (5), (6) and (7) and insert—

(5) The Minister may, in consultation with the board, amend the charter at any time.

(6) The Minister must cause a copy of the charter or an amendment to the charter to be laid before both Houses of Parliament and the charter or amendment will not come into operation unless or until approved by resolution of both Houses of Parliament.

The Hon. C.J. SUMNER: I move to amend the Hon. Mr Elliott's amendment as follows:

Page 7, lines 42 and 43, and page 8, lines 1 to 9—Amend the amendment to leave out proposed new subclause (6) and insert subclauses as follows:

(6) The charter or any amendment to the charter comes into force and is binding on the commission on a day determined by the Minister and specified in the charter or amendment.

(7) On the charter or an amendment to the charter coming into force, the Minister must—

(a) within six sitting days, cause a copy of the charter, or the charter in its amended form, to be laid before both Houses of Parliament;

and

(b) within 14 days (unless such a copy is sooner laid before both Houses of Parliament under paragraph *(a)*), cause a copy of the charter, or the charter in its amended form, to be presented to the Economic and Finance Committee of the Parliament.

The Hon. K.T. GRIFFIN: Under the Hon. Mr Elliott's proposal the charter does not come into operation unless or until approved by a resolution of both Houses of Parliament, while under the Attorney-General's proposal the charter comes into force and is binding on a day determined by the Minister and specified in the charter or an amendment, that charter is laid on the table of both Houses and a copy goes to the Economic and Finance Committee.

I am sorry to usurp my colleague's role, but I needed to understand what was actually happening. Whilst one would generally say, 'Look, things like subordinate legislation must be subject to parliamentary disallowance', where there is a charter within the context of the legislation in which the functions of the commission are set out, the public notification of the charter, whilst it does not allow the Parliament to disallow it, at least allows for public scrutiny. Our preference is to support the Attorney-General's proposition.

The Hon. C.J. Sumner's amendment carried; the Hon. M.J. Elliott's amendment as amended carried; clause as amended passed.

Clauses 19 to 21 passed.

Clause 22—'Compliance with insurance laws.'

The Hon. L.H. DAVIS: What will the SGIC be required to do now, with the introduction of clause 22, which it does not presently do?

The Hon. BARBARA WIESE: Essentially it comes down to two specific things. First, the information that is now required to be provided under clause 22 *(a)* (i) and (ii) is a new issue. SGIC has previously complied with the provisions, which means that it has provided information to the Insurance and Superannuation Commission in Canberra, as other insurance companies do. However, previously there has not been a requirement for that information to be provided to the Minister as a matter of course. Therefore, in future that will be a requirement.

The second matter relates to public disclosure; that is, the Bill provides for all matters that would be required of other insurance companies in relation to public disclosure to be a requirement of SGIC. As I understand it, it has been the practice of SGIC to provide the same sort of information as other insurance companies provide to their potential clients. So, essentially, this measure formalises what has been the commission's practice.

The Hon. K.T. GRIFFIN: There has been some concern about that area in the private insurance sector in the past. I am pleased that it is now proposed that that be appropriately addressed. I follow up the issue raised by the Hon. Legh Davis by asking whether Treasury has made any comparison between the Commonwealth insurance legislation, which relates to both life and general insurance, applying to those involved in insurance other than State statutory corporations and what SGIC does not comply with presently. In that way there can be an identification of the differences between what the law requires in relation to private sector operations compared with what SGIC is required to comply with. If that comparison has been made, can that information be made available to the Opposition at some stage—not immediately, because that is not practicable in the context of this Committee's consideration? It would help for us to have an appreciation of what applies to the private sector and what does not apply to SGIC and the areas where regulation may be proposed under clause 22 *(c)*.

The Hon. BARBARA WIESE: Such a comparison has been undertaken, and I will see that that information is provided to the Opposition. There would be some matters that the Government would not intend to require SGIC to do which would be required of companies in the private sector. Perhaps one example, which is very obvious, is in the area of the provision of reserves. Insurance companies in the private sector would be asked to make provision for future calls. It would not be the intention of the Government to make such a requirement of SGIC because SGIC is subject to Government guarantee. There may be other issues of that sort where there would be a departure. As I indicated, the study has been undertaken and I can provide the information to the honourable member.

The Hon. K.T. GRIFFIN: I take it from that answer that the reference to reserves is akin to capital adequacy obligations placed upon the private sector. The answer does not mean that, in providing for future liabilities of SGIC in relation to policies written, there will be no obligation on SGIC to make adequate provision for that liability so it effectively becomes unfunded liability?

The Hon. BARBARA WIESE: It certainly would not be the intention of the Government that SGIC should not make adequate provision for future liabilities. With respect to the honourable member's first question, I was referring to capital adequacy when referring to reserves.

The Hon. L.H. DAVIS: One of the matters raised by the Opposition during the course of last year and which was addressed in some detail by the Government Management Board report and canvassed in the select committee was the fact that SGIC lacked a capital base as distinct from its private sector competitors. In recent weeks we have had the announcement by the Premier and Treasurer of a $36 million injection of funds into the compulsory third party fund to compensate for the disadvantage it suffered as a result of what was styled as illegal interfund loans. That matter has been addressed, but there remains the issue of capital for SGIC. Perhaps under this clause, seeing that we are talking about SGIC now on a level playing field with other private sector counterparts and other State offices, although many of them are shortly to be privatised, is the Minister in a position to advise when we will receive information about any capital injection for SGIC, and is there any indication of the amount of that capital injection?

The Hon. BARBARA WIESE: This matter is being very closely scrutinised at the moment. I am not in a position to indicate at this point what amount of money might be required or, indeed, when such an announcement would be made. It is hoped that this matter can be dealt with in the very near future.

Clause passed.

Clauses 23 and 24 passed.

Clause 25—'Special funds for life and compulsory third party insurance.'

The Hon. L.H. DAVIS: Clause 25 seeks to overcome a problem that SGIC had in that there was fund swapping and a disadvantage in compulsory third party funds as against insurance funds. This clause seeks to establish separate funds for the life insurance business and for the compulsory third party fund. That is not to say that funds cannot be combined for management purposes. Obviously, some administrative financial benefits flow from that arrangement, which is covered in clause 25 (9). Perhaps it is an appropriate time to ask the question—and it can either be taken on notice or an approximate answer given now—

regarding the overall balance of composition of the assets of SGIC.

One of the problems that became quite clear in the debate and discussion last year was that SGIC's decision to enter into a put option over 333 Collins Street, Melbourne, and subsequently its being forced to exercise that put option last year has unbalanced the investment funds of SGIC in a very significant way. SGIC's total assets, at last balance sheet date, 30 June 1991, stood at about $1.5 billion. Of that amount, $395 million related to 333 Collins Street, another $80 million related to the Terrace Hotel, and there was a string of other property investments in and around Adelaide.

There have been significant sell-offs of parcels of shares, notably SA Brewing and F.H. Faulding, the argument being that it was necessary to correct the disproportionate investment in those two companies—an ironic explanation, given the weight of investments in the Terrace Hotel and 333 Collins Street. My question to the Attorney very simply is: could he advise the composition of the investment assets of SGIC at present as between property investments, equity share investments, hospital investments, investments in fixed interest and other cash assets, and any other subsidiary investments that may currently be held? I ask this question because it has been a common practice for all major investing institutions, whether they be insurance companies or superannuation funds, to have a balanced portfolio. My recollection is that the last investment guidelines for SGIC were set down by the Treasurer in 1987, and I would be interested to know the present composition and also what steps have been taken to set down new investment guidelines.

The Hon. C.J. SUMNER: I will take that question on notice, although I can say that I am advised that it is conceded that at present the investment portfolio of SGIC is overweighted to some extent in property and equities, but I will get the precise answer to the honourable member's question and include in that an indication of what action has been taken in relation to changing the investment portfolio.

Clause passed.

Clause 26—'Requirement by Treasurer for payment from surplus.'

The Hon. L.H. DAVIS: The requirement by the Treasurer for a payment by SGIC from any surplus it makes is something that has been given publicity in recent days with respect to the State Bank of South Australia. Evidence has been led at the royal commission that the State Bank disgorged a large part of its surplus to the State Government and it was seen subsequently that perhaps some of that surplus was illusory. One of the concerns about this open-ended clause is that a Treasury hard pressed with its revenue base might, at some time when SGIC is again profitable, take out a disproportionate amount of surplus. Does the Attorney have any view on what safeguard may exist to ensure that the commission does not give up too much surplus?

The Hon. C.J. SUMNER: What the actual surplus is will be reported upon in the annual report and verified by the Auditor-General. What happens to that surplus is legitimately a decision that should be made by the Government, that is, whether it wants to disburse any profits that its instrumentality has achieved for the benefit of the State in the form of schools or other responsibilities that the Government has to discharge or whether it wants to reinvest it in the SGIC. Those decisions must be made by the Government and they are reported on publicly.

If there is argument about the appropriateness of those decisions, that argument occurs in Parliament and in the public arena, and I think it is appropriate for that to occur. I do not think that anyone else can have that responsibility and I do not think it should be a responsibility of the board to determine that issue. Obviously the board would have some views on how much it would like reinvested, and no doubt it would make that known to the Government. In the final analysis, the decision must be made by the Government and it is reported on publicly. If people disagree with the Government's decision, they can use the forums of the Parliament and public discussion to deal with those issues.

Clause passed.

Clauses 27 and 28 passed.

Clause 29—'Annual report.'

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

Page 11, line 18—After 'force' insert 'and set out any amendments to the charter made during the financial year'.

I propose that a number of matters be included, such as amendments to the charter made during the financial year, so that comparison can be made with the charter for the previous year without necessarily having to set one against the other. I also believe that any approvals given by the Treasurer in accordance with any borrowing and any security given by the commission should be identified and, in particular, any approvals given by the Minister allowing the SGIC to engage in trade restraints. All these matters should be identified to ensure that, because it is a statutory corporation, these sorts of governmental and other activities involving the commission are on the public record.

The Hon. C.J. SUMNER: The amendment is accepted.

Amendment carried.

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

page 11—Line 19—Leave out 'and'.

After line 21—Insert paragraphs as follows:

(d) set out details of any approval given by Treasurer during the financial year in respect of any borrowing by the Commission or any security given by the Commission for the repayment of a loan;

and

(e) set out details of any approval given by the Minister during the financial year in respect of a contract, arrangement or understanding in restraint of trade or commerce or any other transaction referred to in section 24.

Amendments carried; clause as amended passed.

Clause 30, schedule and title passed.

Bill read a third time and passed.

WILDERNESS PROTECTION BILL

In Committee.

Clause 1—'Short title.'

The Hon. ANNE LEVY: In making some general comments I will take up a few points raised by members of the Opposition in the second reading debate, as this may speed up proceedings in Committee. I am delighted that all members realise that this is an important piece of environmental legislation which will ensure that South Australia's best landscapes will be preserved for this and future generations. I thank members opposite for expressing so frankly their understanding of the importance of wilderness legislation.

It is indeed pleasing to the Government that the visionary nature of this legislation is widely recognised and that it does have tripartisan support. In their speeches some members raised questions to which I would like to respond. The Hon. Diana Laidlaw recognised the essential features of the Bill, which will enable wilderness areas to be identified and protected, and ensure that the community is involved in

and well informed of these processes. But having recognised that the Bill will provide a higher degree of protection for selected areas than the National Parks and Wildlife Act can provide, the Hon. Ms Laidlaw expressed misgivings about the issue of separate legislation and the establishment of two new committees.

May I suggest that in relation to separate legislation the honourable member should not have any misgivings at all, since many of her Party colleagues have publicly expressed their support for it, as indeed have well over 1 200 members of the public in letters to the Minister. Her comments about the Natural Resources Standing Committee are only partially correct. This is not a new committee. It has been in existence for a number of years and has been the forum in which natural resources matters have been discussed by departmental heads.

Its successor, the Natural Resources Council, is the peak body advising the Government on policies relating to the allocation and management of the State's natural resources. Access to policy formulation by community and interest groups will be provided through a natural resources forum. The only new body to be set up under this Bill is the Wilderness Advisory Committee, which will have very specific tasks related to the identification and assessment of areas for consideration as wilderness.

The members of this committee will be required to have relevant skills and experience to identify and report on the wilderness values and also on any management issues of suitable land. The presentation of the committee's report for public comment will enable all the interest groups, including the apiary and fencing industries referred to by the honourable member, to identify their interest and put their own point of view. There will be some costs associated with the collection and presentation of this information for public comment. However, submissions to the wilderness discussion paper strongly supported this process as being essential for the Government and the community to consider the options and make sensible land use decisions.

It is not the role of this legislation to define budget allocations. The allocation of funding for the implementation of legislation stems from the policies, priorities and commitments of the Government of the day. In relation to management plans for reserves under the National Parks Act, those members who criticise the Government's performance in this area may not be aware that, over the past two years, more than 100 draft management plans have been prepared and released for public comment. The preparation of plans has been a high priority of the National Parks and Wildlife Service.

In response to the Hon. Ms Laidlaw's observation that only 60 per cent of parks are covered by management plans, I should like to put on record that this figure is by far the best in Australia. No other State national park authority has achieved anything like this level. Indeed, this is a remarkable improvement over the mere four plans of management that had been adopted when the current Government came to office. The Hon. Ms Laidlaw also raised a matter that was raised previously by her colleagues in another place, that is, the matter of aerial mineral exploration over wilderness areas.

A detailed explanation of the Government's position on this matter was made by the Minister in the other place at that time. I will restate this position and clarify the extent to which the Bill carefully balances wilderness protection and mining interests. The Bill was developed in consultation with representatives of the mining industry, and many of their concerns were taken on board during its preparation. The Bill strikes a sensible balance between wilderness protection and mining.

It provides for a wilderness zone to be proclaimed where the holder of an existing mining tenement agrees. Under this arrangement, mining operations may proceed to conclusion. A subsequent applicant for the same tenement will also be accommodated. The areas that will have the highest protection free from all development will be proclaimed wilderness protection areas. Those areas will have been the subject of extensive public consultation; will not have an existing mining tenement over them; and will have the highest ecological integrity. I should like to quote the Minister regarding wilderness protection areas. She commented:

> . . . the reason why we have wilderness legislation separate from the National Parks and Wildlife Act is that we believe at this point in our history that some areas in South Australia should be set aside for future generations, so that they can make their own decisions about those areas . . . There is the provision in this legislation (as indeed there is in any legislation) for both Houses of the Parliament to reverse the decisions that we will make.
>
> What is important, fundamental and crucial about this legislation is that it will give future generations the right to make those decisions for themselves. However, we will hand to them areas that are as pristine or as near pristine as possible.

The final point made by the Minister in another place was that this legislation is honest. It says that wilderness protection areas will not be available for mining. It does not set up the dilemma that, in pushing for non-intrusive exploration, the Opposition seems so keen to create. The Bill does not invite exploration in wilderness protection areas, possibly involving millions of dollars, and then preclude production following the exploration.

The Bill is saying that exploration and production will not be permitted in wilderness protection areas, but that these activities will be catered for in wilderness zones. I suggest that the members of this place and of the other, who have advocated non-intrusive geological survey in wilderness, need to consider two other points. First, the Bill already provides for scientific expeditions, without discrimination against any scientific discipline, into wilderness areas and zones with the permission of the Minister. Secondly, if anyone wishes to fly over a wilderness area or zone and undertake aerial surveys they certainly do not need permission from South Australian authorities; apart from anything else, airspace is under the control of Federal agencies.

In concluding my remarks on this matter, I ask members to reflect on the degree to which mining interests have been reconciled with conservation in this State. The regional reserve category and the joint proclamation process under the National Parks Act have provided access for the mining industry to nearly 80 per cent of the reserves system. The regional reserve concept in particular is an innovative and workable multiple land use management structure, which is supported by the mining industry and envied by conservation authorities in other States.

Contrary to the assertions of the Hon. Mr Elliott, who said that regional reserves are the consequence of hasty action and cynical motives, the regional reserve category has been developed as a specific management tool. This regional reserve category enables a conservation management framework to be introduced over areas of conservation significance which are, for the foreseeable future, subject to other land uses such as pastoralism and mining. The regional reserve plays a very useful role in the land management spectrum.

At the wilderness end of the spectrum the Government has taken the position that wilderness protection areas will be preserved free from all development. That position will not change. Another matter in which speakers in this and another place have expressed interest is interim protection

for areas under consideration as wilderness. The Hons Ms Laidlaw and Dr Pfitzner are correct in pointing out that the Bill does not specifically provide for this. In view of the concern for interim protection expressed by members, an amendment to the Bill will be forthcoming on this matter.

I would like to thank the Hon. Mr Dunn for his sympathetic comments on wilderness and recognition of its importance to the community. He raised the issue of access for the mining industry and scientific personnel, and sought an explanation of wilderness zones. I have already responded to those questions in some detail and hope that the Hon. Mr Dunn is now clear on how these provisions in the Bill will work in practice.

It is obvious from the comments made by the Hon. Dr Pfitzner that she has researched the wilderness literature thoroughly, and I thank her for her contribution to the debate. In addition to the issues of mining access and interim protection, which I have already dealt with, she suggested that the Wilderness Advisory Committee should be required to consult with Aboriginal traditional owners of potential wilderness areas. I would like to reassure the Hon. Ms Pfitzner that it has always been the intention that this committee would identify any group or individual with an established interest in an area being assessed for wilderness, and that this interest would be included in any report to the Minister. Further, it is the policy of the National Parks and Wildlife Service always to consult with relevant Aboriginal organisations regarding the management of parks in which they may have an interest.

In conclusion, I will quote the remarks of the Hon. Peter Dunn when he stated his understanding of the purposes of this legislation:

> . . . to retain some beauty around the country so that my kids and grandkids and all members' grandkids will be able to say, 'Perhaps this is what the Simpson Desert looked like.'

His words are very close to the mark. With this legislation in place future generations will not be denied the experience of natural landscapes nor the reassurance of knowing that there are still some places in which nature can continue to flourish and evolve.

Clause passed.

Clause 2 passed.

Clause 3—'Interpretation.'

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

Page 1, after line 22—Insert definition as follows:

> 'Aboriginal organisation' means an association, body or group comprised, or substantially comprised, of Aboriginal persons having as its principal objects the furtherance of interests of Aboriginal people:.

The Hon. Ms Pfitzner referred to the need for Aboriginal consultation, and I note the Minister's assurance that that would occur. This amendment and some consequential amendments have the purpose of placing in the Bill an obligation on the Minister to consult with Aboriginal people. We need to recognise that the most significant wilderness areas in South Australia most likely will be of interest to Aborigines, and a failure to recognise that within the Bill would be significant.

The amendment has been carefully drafted. People were concerned that certain mischief makers would use Aboriginal people or organisations to dispute traditional claims and create great difficulties. These people are known, and one John Bannon deserves mention. He is not John Bannon the Premier, but another John Bannon. He works with Aboriginal groups and his main task seems to be working with the mining industry as a lobbyist to upset legitimate traditional claims by setting up bogus claims. The matter has been of concern in this State for some time. It needs to be on the record, and I have carefully drafted the amendment to ensure that bogus claims have no opportunity to be put forward, but that a clear obligation is placed on the Minister to consult with Aboriginal groups.

The Hon. ANNE LEVY: The Government is happy to accept the amendment. As I indicated previously, consultation with relevant Aboriginal groups was always intended. At the moment we are looking at a definition of an Aboriginal organisation and it is the same definition as used in the Aboriginal Heritage Act. It is most appropriate that we have a consistent definition to cross various pieces of legislation. It refers to the foreshadowed amendment to clause 22 which, again, the Government will be happy to accept.

The Hon. DIANA LAIDLAW: The Liberal Party also accepts the amendment. We have received strong representations from the Wilderness Society on this matter. I was initially of the view that consultation would be required with all interested parties, as the Minister outlined, but I appreciate that in the case of Aborigines an affirmative measure is warranted in this instance. They may not necessarily have access to the media and other forms of notification that may be available to people closer to the city. Because so much of the land that is potentially to be designated as wilderness will be land in which the Aboriginal people have had an interest in the past, it may well be of sentimental and spiritual significance for them in future. On that basis the Liberal Party is pleased to accept the amendment.

The Hon. BERNICE PFITZNER: I indicate my enthusiastic support for the Hon. Mr Elliott's amendment. I was very impressed with the definition. I was not aware that there is a similar definition in the Heritage Act. The definition of the interests of Aboriginal people is of great importance. I have worked among Aboriginal people, and some Aboriginal organisations have not been of the best, nor have they worked in the best way, for Aboriginal people. I support the amendment with great enthusiasm.

Amendment carried; clause as amended passed.

Clauses 4 to 7 passed.

Clause 8—'The Wilderness Advisory Committee.'

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

Page 5, lines 1 to 3—Leave out paragraph *(b)* and insert the following paragraph:

> *(b)* one of whom has been nominated by the Minister from a panel of three persons selected by the Wilderness Society S.A. Branch Incorporated:

It is important in relation to paragraph *(b)* that, rather than simply requiring that a person 'is a member of a body which has as its principal object the protection of wilderness and the restoration of land and its ecosystems', that person should be a nominee. I will illustrate by example. I believe that Western Mining Corporation may be a member of the Wilderness Society.

Certainly one of the major mining bodies is a member and certain individuals of those bodies could be members of a body which is interested in the protection of wilderness. To that extent, it is open to potential abuse. I am not suggesting that an existing Minister would do so, but this legislation has to be around for a long time. I think that there is only one body in South Australia that has as its principal object the protection of wilderness, and that is the Wilderness Society. I expect that body will also be around for a long time. Therefore, it is only reasonable that it should be asked to nominate three persons who are suitable for that committee, and the Minister would then be in a position to choose one of those. My preferred position would be that the Wilderness Society should put forward one person, but I felt that would not be accepted and I was not going to dig in on that at this stage.

The Hon. ANNE LEVY: The Government is happy to accept this amendment, particularly as there is to be a panel of three nominees. I should point out, in relation not only to this Bill but to many Bills, that one of the reasons why a slate of suitable nominees is often requested is that the Government has to look at the composition and balance of the whole committee, including things like gender balance. Therefore, it is of advantage to any Minister who is trying to establish a committee to have some flexibility. There is no evil intent; it is purely the responsibility to ensure the establishment of a balanced committee—balanced in several aspects.

The Hon. DIANA LAIDLAW: The Liberal Party accepts this amendment. We acknowledge that the Wilderness Society has been instrumental in the preparation of the community for the introduction of this important piece of legislation. I respect the Hon. Mr Elliott's comments about the Wilderness Society being the appropriate forum from which a panel of three should be selected. However, I do not respect the Hon. Mr Elliott's snide reference to Western Mining.

The Hon. M.J. Elliott: It was not a snide reference.

The Hon. DIANA LAIDLAW: It was a snide reference. I am not here to defend Western Mining, but I feel that the amendment stood on its merits and did not warrant the nasty, mean and rather dirty manner in which the honourable member referred to mining companies in this State, particularly Western Mining which has an extraordinarily good record on environmental action and one can witness that at Roxby Downs. Even the Hon. Mr Elliott in his better moments would have to concede that. However, I think the amendment stands on its merits and recognises the work that has been undertaken by the Wilderness Society.

The Hon. PETER DUNN: There is perhaps some slack drafting in this amendment. No doubt the instruction was given, but in subclause (2) *(b)* how can we possibly restore land and its ecosystems to their condition before European colonisation? How do we know what it was like? It would just be guesswork. To me paragraph *(b)* conjures up a word picture that is impossible to achieve. I think that the Hon. Mike Elliott's amendment fits in with legislation that we seem to deal with every other day. It is not terribly clever to try to restore the land in that way. If we had to restore 2 per cent of the State to its original condition we would be busy for the next 10 or 15 years, but, notwithstanding, I do not think the Government has the money to do that.

The Hon. M.J. ELLIOTT: I suggest that some areas of the State, by the simple removal of rabbits and sheep, would restore fairly rapidly to their original condition. Yes, it will take some effort, and the question of sufficient resources is one thing that will have to be addressed after this Bill passes. That has always been a problem with national parks. I think that some areas of the State can be restored to near original condition relatively rapidly by the removal of feral animals.

The Hon. ANNE LEVY: I endorse what the Hon. Mr Elliott is saying. The use of the word 'restore' obviously forms an ambitious phrase; it is an aim and is part of the vocabulary, if you like, of discussions about wilderness. Certainly the control of rabbits would do a great deal to help restore some areas of the State, if that could be achieved. While we may not know in detail the state of the land before European occupation, we can have educated guesses. It is perhaps harder to know what it was like before Aboriginal occupation some 60 000 years ago. As I said, it is possible to have educated guesses.

The Hon. DIANA LAIDLAW: The Hon. Jamie Irwin has just raised with me the fact that under the Landcare program and generally under other programs the eradication of rabbits and so on is not allowed in Aboriginal lands. Can the Minister obtain information about that and reply later when we address clause 12?

The Hon. ANNE LEVY: We can deal with this in more detail when we get to clause 12, but I understand that it is not true that one cannot undertake rabbit eradication in Aboriginal lands.

Amendment carried.

Progress reported; Committee to sit again.

[*Sitting suspended from 1 to 2.15 p.m.*]

STATUTES AMENDMENT (ILLEGAL USE OF MOTOR VEHICLES) BILL

At 2.15 p.m. the following recommendations of the conference were reported to the Council:

As to amendment No. 3:

That the Legislative Council do not further insist on its amendment and the House of Assembly do not further insist on its alternative amendment but the Legislative Council make the following alternative amendments:

Long title, page 1—Leave out 'and the Road Traffic Act 1961' and insert ', the Road Traffic Act 1961 and the Summary Offences Act 1953'.

New clause—

Page 1, after line 14—Insert new clause as follows:

Commencement

1a. This Act will come into operation on a day to be fixed by proclamation.

New Part—Page 3, after line 2—Insert new Part as follows:.

PART 4

AMENDMENT OF THE SUMMARY OFFENCES ACT 1953

Amendment of s. 17—Being on premises for an unlawful purpose:

7. Section 17 of the principal Act is amended by striking out the penalty at the foot of subsection (1) and substituting the following penalty:

Penalty: Where the unlawful purpose is the commission of an offence punishable by a maximum term of imprisonment of two years or more—Division 5 imprisonment.

In any other case—Division 7 fine or division 7 imprisonment.

And that the House of Assembly agree thereto.

Consideration in Committee.

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

That the recommendations of the conference be agreed to.

Members will be aware that this Council and another place have disagreed over the new offence proposed to be inserted as section 86b of the Criminal Law Consolidation Act. This would create a new offence of entry on to land or premises with the intention of committing an offence against the new section 86a dealing with unlawful use of a motor vehicle. Originally, the proposal was that this offence would carry a maximum period of imprisonment of seven years. The Government opposed this clause. In brief, it did so for three reasons.

First, it took the view that the behaviour was already an offence against section 17 of the Summary Offences Act. That section provides that any person who has entered or is present on premises for an unlawful purpose or without lawful excuse is guilty of an offence punishable by a fine of $2 000 or imprisonment for six months. The Government took the view that an additional offence was neither necessary nor desirable. Secondly, it argued that the offence would be extremely difficult to prove except in a case in which the person had already committed another offence. Thirdly, it argued that the penalty proposed was, by comparison to other offences, and inherently, far too high. It would have been higher than, for example, assaulting a

child, or the penalty applicable for actually destroying the vehicle. To their credit, the Australian Democrats supported the Government in its opposition to this provision.

However, the other place has disagreed with this position and sent the proposed offence back to us, this time with the insertion of the words 'unlawfully and' and lowering the maximum penalty to two years. The Government and the Democrats maintained their objection to the proposed offence. The reasons outlined above remained valid. The objection in relation to the level of penalty proposed had diminished the lowering of the maximum, but had not disappeared.

The compromise that has been reached in relation to it goes a very long way to meeting the objections raised in relation to it. What is proposed is that the existing offence in section 17 of the Summary Offences Act be amended to provide that the existing maximum of six months be upgraded to two years where it can be proven that the unlawful purpose of the person who entered is the commission of an offence punishable by imprisonment for two years or more. That would now include the offence of using a motor vehicle without consent, given that the principal purpose of this legislation was to increase the penalties for the offence now to be up to two years in the case of a first offence and four years in the case of a subsequent offence. This compromise is acceptable to the Government because:

- there is no longer to be a new and separate offence, thus eliminating the problems of overlap, inconsistency and confusion;
- the fact that the differential penalty has been generalised beyond the new vehicle offence to all offences of a particular seriousness disposes of any objection that the upgrading of the penalty in relation to vehicles only is not logical, given the other sorts of heinous intents that may be in the mind of a trespasser; for example, to commit an assault, to steal valuable antiques, or to burn down a house;
- the upgrading of the penalty in relation to trespass offences is contained in the Summary Offences Act code of offences of that nature and integrated with them;
- while there is a notional overlap between the maximum penalty applicable (two years) and the maximum penalty applicable to the substantive offence to which the trespass is preparatory (also two years), the fact that the penalty proposed is a maximum allows the courts to pay due regard to an appropriate equivalence between the two offences, thus minimising inconsistency and discrepancy. Also, while an anomaly remains in relation to the sentence applicable to an attempt to commit the offence of using a motor vehicle without consent, which is two-thirds of the sentence for the substantive offence (in this case 16 months), a court will no doubt take that fact into consideration in the exercise of its sentencing discretion;
- the fact that the intent may be difficult or impossible to prove is of lesser significance, given that the whole offence does not turn on that question, that is, it is not an offence confined to intent. The only issue that turns on that question is the maximum penalty applicable to an offence that has already been established, that is, trespass with an unlawful purpose.

In these circumstances, the Government was prepared to agree—and this has been a resolution of the matter between the managers—to the compromise, which also included one other unrelated matter. It was necessary to add a proclamation clause to the Bill. The reason for this is that, while the whole debate on the amendments as to penalty was conducted on the basis that an offence carrying a maximum of two years or less is to be summary and over that minor indictable, in law the legislation which will achieve that result—which we think to be proper—is the Justices Amendment Act, which will not come into effect until 1 July. If this is not done, these offences will all be indictable. We will proclaim this Bill to come into effect on 1 July, the same day as the courts package, which includes the Justices Amendment Act, and at this stage I see no reason why that deadline will not be met.

The other point is that much reference has been made during debate in the Council and the other place to far more serious offences, at least when regard is had to the applicable maximum, contained in sections 169, 170, 171 and 172 of the Criminal Law Consolidation Act, which involve variations on entering premises with intent to commit various serious offences. These offences are, on any analysis, anomalous and are overdue for re-examination and reform. That is true of the entire area of criminal offences of dishonesty, some of which are still in the same form as their original passage into law in the eighteenth century. Reform of this area of the law is, however, notoriously one of the most difficult tasks in the criminal law, and cannot be done in haste and without due consultation.

Such a general review must of necessity encompass the statutory provisions under consideration here. I would like to signal the fact that the whole area of offences of dishonesty and the 'intent offences' contained within it must be revisited as part of that process. The law in this area is a patchwork quilt of specific responses to specific problems caused by the fact that we have a law which is seriously outdated. This is not satisfactory, and the review of the criminal law already announced and being undertaken by the Government will be making recommendations on these matters.

It may be of interest to the Council to know that it is the seriously deficient state of the law in the area of larceny which has required the creation of a separate offence in relation to illegal use of a vehicle. Common law larceny requires an intention to permanently deprive and, if the car stealer takes without that intent, there is no larceny. That is why we have had this separate offence for many years. The modern view of larceny is that the requirement of intention to deprive should be dropped entirely in favour of a broader dishonesty offence based on unlawful interference with the rights of the owner.

If that is done, as it has been done in England, Victoria and the ACT, there is no need for a separate offence of using a motor vehicle without consent, because the use is an unlawful interference with the rights of the owner and punishable as theft like anything else. The same is true of receiving stolen property. I recall that, over the years, many members have argued that car stealing is really stealing and should be punished as such. It may well be that a review of this area of the law will remove the technicality and recommend that the offence of using a motor vehicle without consent be abolished in favour of the prosecution of this behaviour as common theft—which is, after all, what it is and certainly what it seems to be to the public mind. I have taken the opportunity in outlining the results of the conference to indicate further steps that the Government will be taking as part of its review of the criminal law on the matters of the intent offences which exist under the Criminal Law Consolidation Act, which will be the subject of review, and to indicate that the Government is in the process of a general review of the law relating to larceny.

The Hon. DIANA LAIDLAW: I support the motion and appreciate the Attorney-Generals' comprehensive explana-

tion of the matters considered by the conference and his outline of the Government's thoughts in this area regarding the future. There is no doubt that this is a most satisfactory outcome to an issue that is of major community concern for those victims whose vehicle has been stolen and used illegally. As I have mentioned on previous occasions, this is an issue of concern not only to the victim and their immediate family but also to the wider community, because the high rate of stolen and damaged vehicles is a matter that is reflected in the insurance policy premiums of all car owners.

I am pleased to see after much toing-and-froing between both Houses, the Government in particular has seen fit to recognise that a person who is on premises without lawful purpose but for the purpose of stealing a vehicle is committing a major offence, which will now be subject to a maximum term of imprisonment for two years or more. What is of interest to me in the outcome of the conference is that we now have a situation where a person who is on premises without a lawful purpose commits a major offence not only with respect to interfering with or stealing a vehicle but for any other reason. So, as an outcome of this conference, we have broadened the ambit of unlawful purpose to beyond that of merely stealing of interfering with a motor vehicle when on private premises. That is an interesting outcome of this Bill and reflects the general community concern that we want to see tougher penalties in this area as a strong message that we in this Parliament are sympathetic to community calls for stronger deterrents in this area.

Finally, I commend the member for Hayward in the other place, Mr Brindal, who introduced this Bill some time last year to increase penalties in this area—

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: The Government introduced a very similar Bill, although not as wide in its ambit. Between those two Bills and many discussions in various places, including a conference, members of Parliament have finally determined a satisfactory outcome, which meets the demands in this area that we do something in terms of this increasing illegal activity. I commend Mr Brindal on this matter. I suspect it may well be the first instance where a private member's Bill is the subject of a conference and where, at that conference, we find two Government Ministers debating the issues between the various Houses.

So, it was interesting to participate in the conference from that respect, also. It is a most satisfactory outcome to this issue, and I hope that we will find, if not in the immediate future certainly in time, that this crime is not as prevalent in our community in reality as is the case in perception.

The Hon. I. GILFILLAN: I certainly will give credit to the Government. The result in the race to be seen as more successful in increasing penalties in a futile attempt to reduce an offence is a dead heat. The Government and the Opposition have both hit the finishing line together. I say 'futile' because there is this misconception that the increase in penalties under the legislation will in some magical way reduce the instance of the offences. Often enough we have seen individual sentences handed down which are quite distinctly different from those that are available under the legislation. In our system, we empower our sentencing courts in most cases to make their own individual decisions as to the appropriate sentence.

I do not believe that the offence of illegal use will be reduced one iota because the penalty has been doubled. So, it is my intention to oppose the motion, and that has been consistent with the Democrats' attitude to this legislation right through. I repeat: I do think there is the dilemma of an ill-defined description as to what is theft as far as car use is concerned compared with the euphemism of illegal use: whether the person took the vehicle with the intention of permanently depriving is a difficult question in the case where the vehicle is damaged so that, even if it is returned, there is substantial loss. It is hard not to describe that offence as theft. I am inclined to believe that that is where there will be some constructive reform of the law, rather than this knee-jerk reaction to increase penalty and to think that, in some magical way, offenders will be kept home at night and will not go around breaking into cars. It is a nonsense.

Regarding the amendment dealing with section 17, which relates to someone being on premises for an unlawful purpose, will the Attorney-General indicate whether this is another case of reverse onus where the alleged offender will have to establish his or her lawful purpose? If there is an inability to do that, will that put that person in contravention of 'trespass'? Does the law of trespass also have a role to play where a person is found on premises without what one would describe as a lawful purpose? Will the Attorney-General please explain to the Committee how this will be interpreted: first, is there reverse onus and, secondly, does trespass have any part to play?

The Hon. C.J. SUMNER: Section 5 of the Summary Offences Act provides:

> Subject to any provision to the contrary, where this Act provides that an act done without lawful authority, without reasonable cause, without reasonable excuse, without lawful excuse or without consent constitutes an offence, the prosecution need not prove the absence of lawful authority, reasonable cause, reasonable excuse, lawful excuse or consent, and the onus is upon the defendant to prove any such authority, cause, excuse or consent upon which he or she relies.

Section 17 of that Act, which is not a new section (it has been in the Act for years), states:

> A person who has entered, or is present on, premises for an unlawful purpose or without lawful excuse is guilty of an offence.

If the charge is being on the premises without lawful excuse, it is a matter where the so-called reverse onus of proof situation arises under section 5, which I have read to the Committee. However, if the charge is being on the premises for an unlawful purpose, which is a separate offence, although contained in the one section, it will be a matter for the prosecution to prove what that unlawful purpose was.

There are two parts to section 17 (1), which relates to being on the premises for an unlawful purpose which, as I said, has been part of South Australian law for many years. The first part is being on the premises for an unlawful purpose. As I understand it, in that case the prosecution would have to prove what that unlawful purpose is as part of the case. However, if the charge fell within the second bracket of section 17 (1), that is, being on the premises without lawful excuse, the prosecution could assert that in the complaint, and pursuant to section 5, it would be up to the defendant to establish what the lawful excuse was that he or she had for being on the premises.

That substantive law is not altered by the results of this conference. The only thing that is altered is that originally the penalty was a division 7 fine or imprisonment, which is $2 000 or six months. In the case of serious offences, that is, those attracting a sentence of imprisonment of two years or more, the penalty for being on the premises for an unlawful purpose or without lawful excuse is increased to division 5, which is contained in the recommendations of the conference, that is, two years imprisonment or a $4 000 fine.

The Hon. I. Gilfillan: What about trespass?

The Hon. C.J. SUMNER: The honourable member will recall that some years ago we dealt with trespass in this

Chamber following the events that occurred in the Adelaide Hills with the collection of magic mushrooms, which attracted a great deal of attention at the time, and the issue of squatters. While there is an overlap in legal terms between the two offences, section 17a refers to trespassers on premises and deals with situations concerning trespassers. It does not create the criminal offence of trespass because the basic concept in the law is that trespass is a civil wrong not a criminal offence. During those debates, Parliament inserted a provision into section 17a of the Summary Offences Act about people who trespass on premises where the trespass interferes with the enjoyment of the premises and added that, when a trespasser is asked to leave the premises and fails to do so or comes back within 24 hours, that person is then guilty of an offence.

So, there is a structure of offences in section 17 which concerns being on the premises for an unlawful purpose or without lawful excuse and section 17a which deals with trespass. That is the provision that I have outlined which does not establish trespass as a criminal offence but means that an offence is created when a person who trespasses is asked to leave but does not leave in situations of trespass where there is a substantial interference with the enjoyment of the property.

The honourable member may recall the debate that we had. The offence has to involve more than just walking onto someone's premises before what can happen under section 17a is triggered. However, I should return to section 17, because the question has been asked and I have had to research it on the run, as it were, by reading the section. Under section 17 those general reverse onus of proof provisions to which I referred in section 15 are excluded in the case of an offence of being on premises without lawful excuse. Section 17 (1a) provides:

Notwithstanding section 5—

which is the section to which I referred earlier—

the onus of proving absence of lawful excuse in proceedings for an offence against this section lies upon the prosecution.

Section 5 contains the general reverse onus of proof provisions and, as members will see, begins with the preface 'subject to any provision to the contrary'. In fact, contrary to what I said earlier, there is in section 17 (1a) a provision to the contrary, so the prosecution has to prove not only the fact that the individual was on the premises but also that the person did not have lawful excuse to be there.

The Hon. I. Gilfillan: So, there is no change to that.

The Hon. C.J. SUMNER: No. None of that is affected by the results of this conference. The only thing that is affected is the level of penalty, which has been increased for being on the premises for an unlawful purpose where that unlawful purpose involves an offence which attracts a penalty of two years imprisonment or more. In that case, a higher penalty applies. I trust that answers the honourable member's question. I apologise for the fact that I was researching it on the run, but I think I have now explained it correctly for the honourable member.

The Hon. I. GILFILLAN: I thank the Attorney. It was a constructive answer and it developed as it went. It now seems clear that the offence of being on premises without lawful excuse is not a reverse onus offence. That being so, my only observation is that there will be some confusion between the offence of trespass, which is a similar offence, and this other offence which has been dealt with in this conference and which carries very heavy penalties.

The Hon. Diana Laidlaw interjecting:

The CHAIRMAN: Order! The Hon. Mr Gilfillan.

The Hon. I. GILFILLAN: It is a very substantial penalty. To put it mildly, in my opinion the distinction is grey, but we will leave it to the courts to determine whether the offence is trespass which, it seems to me, quite often involves someone being on a property without lawful excuse or whether under the Summary Offences Act it becomes an offence of being on premises for unlawful purposes. I must confess that I do not clearly see the distinction between the two offences.

The Hon. C.J. SUMNER: There is no doubt that there is potential overlap between section 17 and section 17a. Section 17a is only triggered when there is a trespass where there is substantial interference of the enjoyment of the premises of the occupier and a person who is authorised asks the trespasser to leave but the trespasser fails to leave. Then the offence is constituted in the case of the section 17a trespassing offence.

However, section 17 is a more general offence but section 17 has always been in the law. Section 17a was placed in the law by this Parliament some few years ago following the magic mushrooms and the squatters debate, and at that time the issues the honourable member has raised were considered. It was considered that we were developing a reasonably rational code of offences, and I say that they are not affected, except in penalty, under section 17 by the changes we have now agreed to.

Motion carried.

QUESTIONS

UNIFORM CREDIT LEGISLATION

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Minister of Consumer Affairs a question about uniform credit legislation.

Leave granted.

The Hon. K.T. GRIFFIN: Earlier this year, in February, I asked the Minister of Consumer Affairs questions about the Uniform Credit Bill following a report that the New South Wales and Victorian Ministers had held a meeting and had decided to scrap the most recent draft Bill and start afresh. According to the report and subsequently confirmed in the Minister's answer, that decision had been taken by the New South Wales and Victorian Ministers without consultation with other Ministers. The report did indicate that they expected to have their Bill ready by the time of the Special Premiers Conference this month, a target which will now not be achieved.

In February when I asked the questions the South Australian Minister said she was trying to get details of what the New South Wales and Victorian Ministers had agreed. In answer to a question I raised yesterday about up-front charges on credit cards the Minister did explore some of the developments in relation to uniform credit legislation and said:

There is now substantial agreement on the framework of the legislation.

She also indicated that she hoped that 'by July this year, when SCOCAM is next due to meet, we will have an agreement at last on uniform consumer credit legislation for Australia'. In her answer yesterday the Minister said that the Ministers have maintained support for several penalties and have reached agreement on the terms under which such penalties would apply, but she gave no details of those terms. She also said that there was agreement on preserving the principle of comparison rates of interest and provisional agreement to 'include a range of improved protections for consumers in the area of consumer credit'.

Again, there were no details of that. The Minister also referred to up-front charges on credit cards, which was the substance of my question. She said that, in exchange for a

substantial drop in interest rates on credit card liability for the next three years, up-front credit charges would be allowed.

Again, there was no detail as to how that was proposed to be achieved and how the monitoring process was to be undertaken to ensure that the condition was complied with. A conclusion that one could reach from the answer yesterday was that, certainly, the general issues sounded good but there was very little information of substance. My questions to the Minister are as follows:

1. Because of the chequered history of uniform credit legislation over the past five years or so, will the Minister indicate the specific areas of agreement reached by the Standing Committee of Consumer Affairs Ministers (SCOCAM) last Friday?

2. What is the extent of the private sector finance and banking involvement in the new position apparently reached by SCOCAM and is it proposed that that involvement will continue? In the report about the New South Wales and Victorian Ministers' meeting in February, there was a suggestion that they had enlisted the aid of the private sector banking and finance industry and that a large amount of the task of rewriting the so-called draft uniform credit legislation would be undertaken by those private sector officers. The figure placed upon the cost was something like $500 000, but there was no detail as to how that would be achieved.

3. Will the Minister indicate whether there was any drafting of any new legislation to replace the Bill that was dumped by the New South Wales and Victorian Ministers in February of this year following an earlier draft, which also was not proceeded with?

The Hon. BARBARA WIESE: It is true to say that the events of the past few months have been somewhat inaccurately reported in the media in a series of articles that have appeared, largely in the national newspapers. When, on some of those occasions when reports have appeared, I have followed them up with individuals who may have had some involvement with the matters being addressed in those reports, I have discovered that no-one has owned up to having made the claims on certain issues that have been reported. One such issue was the article to which the honourable member refers in which it was suggested that the private sector would meet the cost of drafting new legislation and might be prepared to put up some $500 000 in order to do so.

My inquiries from various people in private sector organisations and inquiries made by other Ministers showed that no-one knew of anyone who had made any such offer. So, I presume that that offer is not on the table and that any new drafting of the legislation will be at the expense of Governments, as the previous drafts have been, with respect to the time of Parliamentary Counsel and Government officers from various States. No new legislation has been drafted at this point, and it is not true to say that the New South Wales and Victorian Ministers have scrapped the previous draft Bill. They have reopened some issues for further debate, but many of the agreements that had been reached at previous SCOCAM meetings were not opened up for further discussion by New South Wales and Victoria. I assume that those agreements that have been reached at previous meetings still stand.

A number of those agreements are of considerable benefit both to the financial institutions in terms of reduced cost and increased uniformity across Australia, and to consumers who should also benefit from various measures involved in those decisions at previous meetings. The discussions that were commenced by the New South Wales and Victorian Ministers last December began, as I understand it, with just Minister to Minister contact, and I am not sure how many of those meetings were conducted but, certainly during the course of the early part of this year, those Ministers then decided to consult with relevant industry and consumer organisations with respect to some of the issues that they were reconsidering.

So, there has been involvement on the part of the relevant bodies representing financial institutions and there has also been involvement by the peak consumer groups in discussion on the matters raised by New South Wales and Victoria. The two Ministers brought to SCOCAM new drafting instructions, not a new Bill, and the matters raised by them in their report and their draft drafting instructions were considered by Ministers. Some matters were endorsed as they stood and other matters were modified.

If the honourable member is interested in having specific information about the issues that were discussed and agreed upon, I think the most appropriate course would be for me to provide that information to him in written form for his consideration, and I will undertake to provide that to him as soon as I can. The points I made yesterday in response to the Hon. Mr Griffin's question concerning our meeting in July still stand. I am hoping that, with the additional work that must be done over the next couple of months in further research and also further consultation with financial institutions, at the end of that process we will be able to have a firm agreement on the detail of some of those matters upon which we have reached agreement at least in principle. At this point it is not a matter for the Ministers to make firm decisions about how an agreement with financial institutions on the question of fees on credit cards could be implemented until we receive some guarantees from the financial institutions that they are prepared to come to the party.

The issue of fees on credit cards is a matter which has been raised by financial institutions. They have been making submissions to Governments over a number of years about their desire to put in place such fees, and Ministers take the view that if that is what they want they must be prepared to offer an equivalent trade-off in terms of a reduction in interest rates and they must be prepared to provide us with some guarantees as to how they will maintain reduced rates. If they can come up with a firm proposition, which they have never been prepared to do in the past, we in turn will be prepared to consider their request. I should point out (and this is something that I omitted to say yesterday) that the Ministers' decision concerning fees on credit cards is intended to apply only to those credit cards that are restricted to the provision of a credit facility only. It is not our intention to allow fees on access cards and some of those recently developed cards that provide multiple credit facilities for consumers.

It is only a small section of the credit card market about which we are talking here, namely, the commonly accepted Bankcard type credit facility. We make that distinction because the other category of credit cards are already subject to transaction fees which consumers must pay and which financial institutions claim cover their administration costs. On the limited credit cards that we are discussing under this proposal, no such transaction fees are allowed and the banks claim that they are therefore out of pocket and have put forward a request for credit card fees to be allowed. In summary, that is the progress that has been made thus far. I will provide a report to the honourable member on the specific agreements reached last week.

STA RAILCARS

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage, representing the Minister of Transport, a question about new STA railcars.

Leave granted.

The Hon. DIANA LAIDLAW: In 1989 the STA awarded a $148 million contract to Clyde Engineering to build 50 3000 and 3100 class diesel railcars. As part of the conditions of this contract, the Minister announced that the body shell of the railcars would be assembled at Clyde Engineering's Martin & King works in Victoria and the interior fit-out would be undertaken by the Adelaide-based O'Connor & Sons Group at Gepps Cross—generating employment for 70 South Australians for five years. O'Connor's was placed in receivership on 29 April 1991.

Last year the General Manager and Chairman of the STA, Mr Brown, advised the Transport Estimates Committee that, because O'Connors was no longer operating, the STA was negotiating with Clyde to determine its intentions for fitting out the railcars. On Monday of this week I confirmed with Clyde Engineering that Clyde's in Melbourne are both assembling and fitting out the railcars—and that, despite earlier assurances, no fitting out work is being done in South Australia.

The Hon. R.I. Lucas: Are we exporting jobs now?

The Hon. DIANA LAIDLAW: Yes, well there are no jobs in South Australia from this $148 million. So I ask the Minister, at a time when South Australia's unemployment level is 11.4 per cent—above the national average: why did the Government not insist that the $148 million railcar order was conditional on Clyde engineering fitting out the railcars in South Australia? How many jobs have been lost to South Australia because the contract contained a loophole allowing Clyde to take over the fitting out work in Melbourne and not award the work to the Australian Submarine Corporation, following the corporation's purchase of the T. O'Connor Group interests, or to any other South Australian-based engineering company after O'Connors went out of business? What proportion of the cost of building the 50 new railcars was assigned to the cost of interior fitting out of the shell bodies?

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

SGIC

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Treasurer, a question about the SGIC General Manager's superannuation.

Leave granted.

The Hon. L.H. DAVIS: In 1990-91 SGIC reported a monster $81.4 million loss which reflected write-downs on a number of unsuccessful investments and, in particular, a massive $70 million book loss as a result of SGIC being forced to exercise a put option over the building at 333 Collins Street, Melbourne. It was obvious during all of 1990-91 that SGIC was going to report a heavy loss. Despite this loss, the annual salary of the General Manager of the SGIC, Mr Denis Gerschwitz, was increased from $170 000 to between $220 000 and $230 000 during 1990-91. In other words, in a year of record loss the General Manager's salary was increased by a minimum of 30 per cent and possibly by as much as 35 per cent. It is ironic that Mr Gerschwitz's salary is at least double the salary of State Treasury officials who have been involved in reviewing the significant financial difficulties of SGIC.

Internal SGIC sources have expressed concern to me about the magnitude of this salary increase, which has occurred little more than 18 months before Mr Gerschwitz's retirement later this year. This 30 per cent to 35 per cent salary increase will have a dramatic impact on his superannuation benefits. If Mr Gerschwitz elects to receive an annual pension indexed annually for consumer price increases, his pension will jump from approximately $51 000 to approximately $66 000 to as high as $69 000 as a result of this salary increase. In other words, Mr Gerschwitz could receive up to $18 000 extra annually in pension as a result of this recent salary increase.

The Hon. Diana Laidlaw: Can SGIC afford it?

The Hon. L.H. DAVIS: Of course SGIC has to pay this bill, and ultimately the taxpayers of South Australia. Alternatively Mr Gerschwitz may elect to commute up to 50 per cent of his salary; that is, he could take part of his superannuation in a lump sum and the balance by way of pension. If Mr Gerschwitz did commute 50 per cent, his lump sum payment as a result of the salary increase would skyrocket from roughly $260 000 to around $350 000—a massive $90 000 extra. In addition to that lump sum of $350 000, he would receive an annual pension in the vicinity of $33 000, adjusted annually for the consumer price index, which is $9 000 more than was the case before the salary increase occurred. It has been pointed out to me that in State Government departments massive salary jumps or promotions close to retirement are scrutinised carefully and rarely occur without merit. My questions to the Minister are:

1. Has the Government reviewed the superannuation implications of Mr Gerschwitz's recent massive salary increase?

2. Does it have any concerns about this matter?

3. What steps will it take in future to ensure that such salary increases, particularly in statutory authorities, do not occur so close to retirement with consequential substantial increases for retirement benefits?

4. Does the Government have any rules relating to salary increases with which statutory authorities are required to comply?

The Hon. C.J. SUMNER: I do not know. Obviously, I will have to seek answers to those questions from the responsible Minister and bring back a reply. However, it is fair to say that private sector salaries astonish most people who work in Government, particularly those private sector salaries which operate in the banking and insurance industries and which generally, in this and in other States, have been matched to some extent by the State corporations operating in the same area as the private sector. The honourable member should be under no misapprehension that the salaries in this area are set in accordance with standards operating within the private sector. It is not the public sector that leads these—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The Hon. Mr Davis asked the question. He will come to order. The honourable Attorney-General.

The Hon. C.J. SUMNER: It is not the public sector that leads these salaries up; it is the private sector. It is what is operating in the private sector in the banking and insurance industries which determines and flows through into the public sector salaries of those corporations which are operating in the same areas as the private sector. The same situation applies to legal fees. I have made comments about the legal fees which are demanded and which at present are

paid. It is essentially within the private sector that those fees are set. It also means that when the public sector has to have an inquiry of some kind—the Royal Commission into the State Bank or some other inquiry and it has to brief Queen's Counsel or other lawyers—it has to pay more or less those market fees.

As much as we can, we try to keep them down to a reasonable rate, but the fact is that we had to pay the lawyers who were operating in the State Bank Royal Commission, whether it was counsel assisting the Commissioner or counsel representing the Hon. Mr Davis and his colleagues, not the top of the range of private sector salaries but something that was more than the scale rate, something that to some extent reflected the market rate.

In areas of high demand, whether it be in the banking, insurance or the legal areas, it is not the public sector that hauls up those salaries but the private sector, and public sector corporations to some extent have to match them. The Hon. Mr Davis, being steeped in the traditions of the free enterprise market, will know that that is the situation. I do not know the situation with respect to Mr Gerschwitz's salary. It may be—

The Hon. L.H. Davis: No-one else does, either.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I do not refer to Mr Gerschwitz in particular, but in a case like that, where there is an increase in salary close to retirement, it could well be that the salary had been held back for some other reason during the course of the term of employment. I do not know the full details, but I have undertaken to obtain them and I will refer the question to my colleague for him to prepare—

The Hon. Peter Dunn: If private enterprise on a farm makes bad decisions everything is lost—the farm, superannuation, the lot.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The honourable member may well be right. All I am saying is that the market rates that these people are paid, whether it be in statutory corporations that are owned by the taxpayer or in private sector organisations operating in the same field, are basically set by the private sector. I continue to be amazed at the sorts of salaries that bankers command. I think it is astonishing that the heads of the banks in Australia, during a period when all banks suffered massive losses, command such salaries. When compared to the Premier of the State, a Minister or anyone else, the bankers in this country were getting three, four, five, six and probably, in some cases, in the major banks, 10 times more than a Cabinet—

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: Mr Clark was being paid probably three or four times more than the Premier. As I understand it, private sector bank managers, for banks such as the National Bank, Westpac and so on, are paid more like seven, eight, nine and 10 times as much as the Premier is paid. I am astonished by those salaries. I am astonished that shareholders are prepared to acquiesce in the payment of those salaries during periods when there are massive losses. But, it is not the public sector—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: —which sets those salaries. That is the point I am trying to make to the Hon. Mr Davis: it is the private sector essentially which sets those salaries and, to some extent, although we try to resist it in the public sector, we have to follow it, whether it be in the banking, insurance or legal professions. There may be some circumstances—

Members interjecting:

The PRESIDENT: Order! The Council will come to order. The Hon. Mr Davis can ask another question if he likes. Interjections will not be tolerated.

The Hon. C.J. SUMNER: I am not commenting on the particular case of Mr Gerschwitz. If the Hon. Mr Davis had been listening he would know that I said at the beginning that I would seek the details of that and bring back a reply. What I said was by way of general remarks to try to put the question the honourable member asked into some kind of context and, I believe, a fair context.

CONDUCT OF MEMBERS OF PARLIAMENT

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Attorney-General a question about the conduct of members of Parliament.

Leave granted.

The Hon. CAROLYN PICKLES: I refer to recent allegations made against the Minister of Tourism, and note that the journalist who first raised this matter on ABC Radio, Mr Chris Nicholls, has been reported by police on two counts of false pretences. I understand that police investigations have revolved around documents obtained fraudulently from the bank where Mr Jim Stitt has a company account. I also understand that at least some of the documents, or copies of the documents obtained from the bank, were obtained by Liberal and Democrat members of Parliament and were used as the basis for questions in Parliament. After much procrastination, copies of those documents have since been handed over to the Attorney-General by Mr Wayne Matthew and by the Hon. Ian Gilfillan and have been provided to Mr Worthington to assist with his inquiry.

This raises the question of how such documents came into the possession of members of Parliament and whether they knew that such documents were obtained fraudulently or, indeed, whether any member of Parliament participated in fraudulent activity. It also raises the question of the ethics of members who would use for political purposes private banking records of a member of the public to which no-one else is entitled to have access, under the cloak of parliamentary privilege. I ask the Attorney-General:

1. Does he agree that members of Parliament have overstepped the bounds of decency by breaching a private citizen's privacy in this way?

2. Would he expect members of Parliament who have, by some means, gained copies of private documents obtained fraudulently to cooperate fully with the police in their investigations?

The Hon. C.J. SUMNER: I do not want to comment on the instant case, because that matter is before the police. It will have to go through the regular procedures and, after the police have investigated it and fully reported on the matter, Parliament will have to see what action is taken, and whether the investigations reveal sufficient evidence to lay charges. Therefore, I do not think it is appropriate for me to comment on or canvass the specific matters. However, I think it is a legitimate area of concern for members of Parliament, particularly if those members of Parliament are aware that documents have been stolen or obtained by some illegal means. Serious questions definitely arise as to whether members of Parliament have an obligation to report that situation to the police.

Obviously, there are questions of parliamentary privilege which may interact in this area and which would need very careful consideration. However, there is no doubt in my mind that, in some circumstances at least where a member of Parliament becomes aware of documents or other mate-

rial that has been stolen or obtained by illegal means, there would at least be an ethical obligation and possibly a legal obligation upon members of Parliament to report those matters to the police. Of course, of even more serious concern—if it happened to be the case—would be a situation where a member of Parliament actually participated, acquiesced or had knowledge of the illegal action which led to the obtaining of documents. That would raise serious questions for the member of Parliament, for Parliament itself and possibly for the community, were the issue to be investigated by police.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: No, I said that I am not commenting about the instant case, and I want to make that quite clear. However, the second question that was asked may relate to the instant case. If honourable members—whoever they are in relation to this matter or any other matter—came into the possession of documents about which allegations were made that they were stolen or illegally obtained, and if the police were investigating those matters, I would expect all honourable members who came into possession of the documents, by whatever means, to fully cooperate with any police inquiries that would be made in relation to them. I am not suggesting that that would not occur in this case, but I think that, under normal circumstances, members of Parliament would have an obligation to cooperate if an allegation is made that documents were stolen. I am talking about a criminal investigation, an investigation into documents—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Well, I will come to whistle blowers in a minute. I am referring to an investigation into a document obtained illegally, by fraudulent means—stolen or whatever—in a large variety of circumstances. It may well depend on the circumstances as to what action is appropriate. Nevertheless, if there is a serious allegation or complaint made by a citizen that involves allegations of the illegal obtaining of material that is made available to members of Parliament, I would anticipate that in the normal course of events members would cooperate with the police in their inquiries.

In answer to the Hon. Mr Griffin's interjection, the purpose of whistle blower legislation is to provide protection for people who want to blow the whistle: that is the important point about it.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Well, it may do, and that is one of the issues that will have to be explored when the whistle blower legislation, which the Government is currently drafting, is before the Parliament. So, there are important issues involved in this, and the whistle blower matter will be discussed by the Parliament. I expect that legislation to be introduced in the budget session. Certainly, in the meantime, I think the questions raised by the Hon. Ms Pickles are serious ones that need to be examined by members, at least personally, and certainly in normal circumstances I would expect members to cooperate with any police inquiries that were undertaken.

GLENELG FORESHORE REDEVELOPMENT

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister representing the Minister for Environment and Planning a question about the Glenelg foreshore redevelopment.

Leave granted.

The Hon. M.J. ELLIOTT: This question could also be addressed to the Minister in her capacity as Minister of Water Resources and Minister of Lands. The State Government has been promoting a massive redevelopment of the environs of the Patawalonga at Glenelg as the only means of achieving necessary work in the area, notably on water quality and the sand movement problem at the Patawalonga mouth. It is now evident that a clean-up of the Patawalonga will and can happen regardless of a development proceeding, because the developer's contribution will be minimal.

A document entitled 'Glenelg Foreshore and Environs Redevelopment, Public Finance and Administration Draft Discussion Paper', dated 6 April 1992 and prepared by Chris Kaufmann, makes clear that the majority of the cost of the clean-up will be borne by the Government. It states:

> The Minister of Water Resources is to take a proposal to Cabinet to make an offer to the council for development of a gross pollutant trap, independent of any project. The project proposes a gross pollutant trap, silt removal and a seawater pumping system to create a clean Patawalonga, with the project contributing to this cost. The Local Government Association is working with the State Government to create a system for managing stormwater in metropolitan Adelaide.

It has been revealed at a Glenelg council meeting that the developer's contribution to this work is to be only $1.5 million. I say 'only' in the light of later information. The E&WS has costed the gross pollutant trap alone at $2.2 million. Once the development is in place, the costs of maintaining both the water quality controls and the sand movement system, to be provided by the developer, will be the responsibility of the Glenelg council. Operating costs for the current facilities are $400 000 per year and will increase to $600 000 per year for the new scheme.

The document attempts to show how, because of increased rates from new residents moving into the development, the council will receive an overall financial benefit from the development, despite the increase in operating costs. What it fails totally to mention is that, as well as bringing in new rate revenue, new residents create increased demand for the services and facilities of the council. The cost of that increase is not included in the calculations. As part of its encouragement to the developer to proceed with the Glenelg project, the State Government is giving the developer a sizeable piece of public land.

The Valuer-General has estimated the market value of the residential land with its present zoning at $750 000, and with development approval in place at $3 million to $4 million. However, when the residential land component of the development is considered in the light of recent property sales in the immediate vicinity, it could be said to be worth as much as $46 million. A significant amount of that value will accrue to the developer as profit once earthworks are completed and the land is sold.

The developer is likely to make a significant profit on its investment of only $1.5 million for a part of the clean-up of the area, the rest of the cost being borne by the State Government and local government. It appears that, for the cost of losing a large parcel of public land, the benefits to both the Glenelg ratepayers and the taxpayers of South Australia in general will not be that great. Will the Minister release full valuations of the land to be given to the developer and a detailed cost analysis of the supposed benefits to the State of the development proceeding on the proposed scale?

The Hon. ANNE LEVY: I will refer those questions to my colleague in another place for her to consider as either Minister for Environment and Planning, Minister of Water Resources or Minister of Lands.

ETSA BUILDING

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Treasurer, a question about the sale of ETSA's building.

Leave granted.

The Hon. J.F. STEFANI: On 31 March this year, I placed a series of questions on notice to the Minister of Mines and Energy, the Hon. Mr Klunder, seeking information about the sale of ETSA's building and other related matters. In my questions, I asked the Minister to advise me when ETSA's board first considered the sale of its head office building and to confirm when negotiations first began for the sale of its property. I also wanted to know whether public tenders were called for the purchase of this public asset and whether the board of ETSA had obtained a report and valuation on the building. As yet, I have not received any answer to the 20 questions I placed on notice. In the meantime, ETSA has sold its building for a reported price of $5 million, which is $6 million less than the preliminary Valuer-General's valuation of $11 million placed on the property for the coming 1992-93 year. The site has a current value of $5 million.

It has also been revealed that ETSA, in a deal involving a property swap with United Landholdings Pty Ltd, has purchased No. 1 Anzac Highway for a reported figure of $14.6 million. It has been suggested that, in signing such a deal, ETSA has effectively discounted the value of a public asset by $6 million and has provided part of the funds required by United Landholdings to meet a portion of its loan commitments to SGIC incurred over the development of the No. 1 Anzac Highway property.

It has also been suggested that ETSA has lost almost $1.5 million to $2 million by way of interest by paying the purchase price for its new head office building in advance. People in the industry are expressing concern about this discounted property deal which, on face value, has deliberately written down the book costs of both properties to minimise the payment of stamp duty. My questions are as follows:

1. Will the Treasurer have the matter fully investigated in relation to the payment of any additional stamp duty which may be due on this transaction?

2. Will the Treasurer make available the confidential report prepared for ETSA by KPMG Peat Marwick at a cost of $150 000?

3. What undertakings, if any, have been given by ETSA in the secret conditions of the contract in relation to the removal of asbestos from the building?

4. What is the estimated value of the potential claims liability for workers compensation which may arise from the occupation of the asbestos contaminated building on Greenhill Road by ETSA's employees over a period of more than 20 years?

The Hon. C.J. SUMNER: Obviously, I will have to take those questions on notice; I will refer them to my colleague and bring back a reply.

COUNTRY FIRE SERVICE

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 the memorandum of understanding and the Country Fire Service.

Leave granted.

The Hon. J.C. IRWIN: Because of the failure of some Government departments to honour the memorandum of understanding, an interim protocol for consultation with local government was sent out to all Government departments. This protocol states that:

> State Agencies will consult the Local Government Association on proposals which affect the powers, functions, finances, legal or administrative requirements of local government or make changes in the charging policy for Government provided services to local government or services of which local government is a major user. Where a proposal affects more than a single council area, or where a proposal in a single council area has implication of other areas or the sector as a whole, consultation should occur with the Local Government Association in the first instance.

The Minister of Emergency Services appointed Mr Alan Bruce in 1990, at a cost to taxpayers of approximately $170 000 so far, to write a report on restructuring the Metropolitan Fire Service and Country Fire Service. Part of the Bruce report recommends the amalgamation of communicatons, training pre-determined mutual response and fire safety.

With local government wearing up to 15 per cent of the running of the Metropolitan Fire Service and getting close to 40 per cent of the Country Fire Service outlays effecting those services, quite obviously local government should be consulted on all matters concerning the restructuring of the fire services, and as far as I know it has not been consulted. The Local Government Association has two members representing local government on the Country Fire Services Board. The LGA does not have representation in the Metropolitan Fire Services. The board members of the CFS have not seen the full Bruce report. The Local Government Association has not seen the full Bruce report. In particular, the board and the Local Government Association have not been allowed to see the financial figures and costings of the Bruce report. Yet the board has been threatened by the Minister that if it does not agree with the report the CFS will not get further funding to improve the Brukunga training facilties.

There is little doubt that Minister Klunder has broken with the spirit of the memorandum of understanding and the protocol by not consulting with the Local Government Association fully over proposed changes to the fire services. Worse still, the volunteers, the backbone of the CFS, will see the move of CFS headquarters to the MFS in Wakefield Street and disposal of the Keswick land as the beginning of the end of the CFS volunteers, just as they saw it happen with the demise of St John volunteers.

Will the Minister use her influence, as the Minister directly responsible for local government, to ensure that her colleague the Minister of Emergency Services does not continue to ignore the memorandum of understanding and the protocol which, by signed agreement, ensures a commitment from the Government that no changes are made affecting the Local Government Association or its constituent councils without full and proper negotiation?

The Hon. ANNE LEVY: I am certainly not an expert on the CFS, and I point out to the honourable member that I am not Minister for Local Government: I am Minister for Local Government Relations, which is a different matter.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: I am responsible for local government relations. This matter is—

The Hon. Peter Dunn: What's the difference?

The PRESIDENT: Order! The Hon. Mr Dunn will come to order.

The Hon. ANNE LEVY: I will certainly take up the matter and refer the question to the Minister of Emergency Services.

SPECIAL EDUCATION

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister representing the Minister of Education a question about special education.

Leave granted.

The Hon. R.I. LUCAS: I have been contacted by a southern suburbs couple who have drawn my attention to quite disturbing problems families are experiencing in having their children identified as requiring special education and then in obtaining such help for their children. This couple's worries first began when they noticed their son was slow to talk and learn prior to his starting kindergarten. By the end of their son's reception year at school, the couple asked his teacher why it appeared he was not learning as much as other students. The teacher reassured the couple all was well and there was nothing to worry about.

The child had the same teacher in year 1. Again they sought and obtained reassurance from that teacher that the child was progressing at an acceptable pace. The child was assessed by the school and found to be an 'average student'. Despite this, the child's mother soon realised that her son's reading and writing progress was flawed. He could not read simple words, was writing certain letters of the alphabet back to front, and his writing in general was hard to decipher. These disturbing developments were drawn to the attention of the teacher and again the parents were told there was nothing to worry about.

In year 2 the parents saw their son's teacher again. He was assessed by the school and again pronounced an average student. Unconvinced, the parents took their child to SPELD and had him assessed, where it was discovered he had not learnt the basics of reading and writing. In term 3 of that year the teacher again had the child assessed. However, his parents were told their son was not far enough behind other students in his learning to receive extra help. When the parents sought the results of their son's assessment they were told school policy did not allow parents such access. In year 3 the parents again went to see their son's teacher, and again had their son assessed by the school. They were told once more that he could not receive extra help.

The Hon. Diana Laidlaw: Was no help available?

The Hon. R.I. LUCAS: Help for the child was available generally in the department but it was not available at the school for the child. In sheer frustration, in November 1990, they took their son to a child psychologist and discovered that he has attention deficit disorder (short-term memory problems) and is also dyslectic. The child was two years behind other students in his reading, spelling and maths. A paediatrician, to whom the child was also referred, discovered the child also had visual tracking problems. The couple also found out through the psychologist that their son was not allowed to read to other students in his class because the teacher said he was 'too slow'.

Following receipt of the psychologist's report, the parents went to see their son's headmaster, who, to his credit, was understandably disturbed to see the child had fallen so far behind in his schooling. He called in a departmental child psychologist, who confirmed what the couple had been told and that their son definitely needed assistance. Despite this, the couple claim their son only received special education to assist with his learning difficulties because the headmaster 'juggled the funding he received . . . for other areas . . . to keep the adaptive education program going'.

However, when the child began year 5 at the start of this year, the couple were told no funding was available to keep the adaptive education program going. The couple rang other schools in their area and were told the same story. So their son, along with 62 other children with learning problems in the same school—not the area—is reportedly receiving little or no help whatsoever. The couple have had to send their son to a private tutor, at considerable personal sacrifice, to give him the chance to reach his full potential. Their son is now 10 years of age and, even with the extra help he has received, has advanced only five months since his assessment in November 1990. My questions to the Minister are:

1. Is he concerned that it appears this child eluded detection by the department as requiring special education for specific learning difficulties and, if so, what steps will be taken to improve the identification of students with such difficulties?

2. Will the Minister confirm that funding to schools in the southern suburbs running adaptive education programs has been cut in 1992, and, if so, why, and what replacement funding has been provided to schools to meet the urgent need for special education in the area?

3. Is it correct that it is Education Department policy that parents are not allowed to gain access to the results of a school's assessment of their child?

4. Will the Minister immediately review the decision to cut the above program given the unnecessary hardship it is creating among families with children who have learning difficulties and, if not, why not?

The Hon. ANNE LEVY: I will refer that series of questions (I counted six or seven) to my colleague in another place and bring back a reply.

DAIRY INDUSTRY

In reply to **Hon. J.C. BURDETT** (19 November).

The Hon. BARBARA WIESE: I seek leave to have the reply inserted in *Hansard* without my reading it.

Leave granted.

In response to the questions asked by the honourable member, the Minister of Agriculture has advised that:

The Industry Commission report on the dairy industry was commissioned by the Federal Treasurer because the market support payment plan, called the Kerin scheme, sunsets on 30 June 1992. This scheme broadly uses a levy on all milk produced in Australia to support export prices at a level about 30 per cent above a seven year average.

There are numerous recommendations of the Industry Commission inquiry, some of which if implemented will have little effect on dairy farmers in South Australia. Implementing all the recommendations immediately would have considerable effects on the whole Australian dairy industry. Therefore, there needs to be a national approach to future dairy marketing arrangements and the Standing Committee in Agriculture (SCA) has set up a working group with representatives from all Departments of Agriculture plus the Department of Primary Industry and Energy (DPIE), which will report to SCA on the effects of the Industry Commission review and make recommendations in relation to future dairy marketing arrangements.

The Federal Minister for Primary Industry and Energy (Hon. Simon Crean), in a speech to the Australian Dairy Industry Council annual meeting, challenged the dairy industry on a number of issues, in particular, the future uses of the market support payments. The dairy industry through the Australian Dairy Industry Council is liaising directly on these proposals.

At the same time there are ongoing discussions relating to the subsidies applied by the EC which corrupt the dairy export market, so the returns of Australian dairy farmers. The results from the GATT Uruguay round may therefore place obligations on both the Commonwealth and the States in connection with their respective dairy policies. The 12 point strategy announced by the Australian Dairy Industry Council, which has the support of the South Australian Dairy Farmers Association, identifies several issues that are directly related to the Industry Commission inquiry. On both points raised, the Minister of Agriculture took to the AAC meeting the viewpoint of the whole South Australian dairy industry and a number of decisions will need to be taken in the coming months by State and Federal Min-

isters in relation to dairy marketing for the dairy industry at a national and State level, together with consumer needs in the context of the Australian econcomy.

KANGAROO ISLAND FERRY

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Attorney-General, representing the Minister of Marine and Harbors, a question relating to the Kangaroo Island Seaway Ferry.

Leave granted.

The Hon. I. GILFILLAN: As an islander speaking for the people of Kangaroo Island, we have been dependent on a Government-run ship for the transport of the main body of island freight for more than 30 years. It is recognised as the equivalent to a main road connecting rural communities and townships on the mainland, only our route happens to go over a sometimes slightly bumpy track. This is best illustrated by the fact that the Highways Department was responsible in years past for the *Troubridge* and, in the early stages, for the strife-torn *Island Seaway*, which has now been transferred to the Department of Marine and Harbors.

The service is subsidised by the Government and is equivalent to 'road maintenance' for the marine roadway linking Adelaide and Kangaroo Island, although that support is now under pressure by the Government's iniquitous full cost recovery policy. However, island residents believe that it is not only essential to continue the Adelaide-Kangaroo Island *Island Seaway* link but to re-establish that service to include Port Lincoln. This is important to allow for the movement of thousands of sheep from the West Coast to the Kangaroo Island abattoir and, following the Government's closure of the Port Lincoln abattoir and the establishment of an abattoir on Kangaroo Island, there is a profitable opening for that connection to be re-established. It also would provide some sort of tenuous link with what is now I hope Kangaroo Island's temporary electorate of Flinders.

The continuation of the *Island Seaway* is vital to retain competition with Sealink Ferry Services, which is run by a Malaysian company, across Backstairs Passage from Penneshaw to Cape Jervis at the eastern end of the island. Without the *Island Seaway*, Sealink would have a monopoly and could set charges at whatever level it wanted. This would also create intolerable pressures on the Adelaide to Cape Jervis road, making an increase in road casualties and death inevitable. Also road deterioration would increase dramatically and the cost to the Government would be enormous. It has been estimated that the actual increase in cost for an average semi-trailer—and this is the actual cash payout cost—would be approximately $500 per round trip if it had to use the Cape Jervis Sealink connection. That would add significantly to the freight burden of all Kangaroo Islanders. My questions to the Minister are:

1. Will he guarantee that the Government will continue to run the *Island Seaway* or an alternative vessel between Adelaide and Kingscote on a regular basis? If not, what guarantee of freight service will he give?

2. Does he agree that Kangaroo Island is entitled to a supported freight service similar to tax supported road services to other rural areas of South Australia?

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

TUNA FARMS

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Tourism a question about tuna farms in Spencer Gulf.

Leave granted.

The Hon. PETER DUNN: In recent years, tuna farms have been developed in the Port Lincoln area, particularly in Boston Bay. The industry appears to be taking off: it is one bright star on the horizon, it is bringing high rewards and high financial returns to the fishing industry in Port Lincoln and that, of course, benefits South Australia. The value-added component is between about $6 a kilo for fish caught in the sea and as high as $50 a kilo for tuna kept at the fish farm in the enclosures in Boston Harbor. The industry is offering employment opportunities in the Port Lincoln area for catching the fish, feeding them and maintaining the fishing areas, and all in all it is looked upon as a very successful operation.

Other people are now wishing to get into the industry. Recently, it was suggested that there should be some fish farming at Memory Cove. Everyone was excited about that prospect except the office of Tourism South Australia in Port Lincoln, which has objected to the development. My questions are: does Tourism South Australia object to all the tuna farm developments or only to the ones suggested at Memory Cove; and what criteria does Tourism South Australia demand?

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

ARTS FUNDING

The Hon. L.H. DAVIS: I move:

That this Council expresses its concern at the proposed cuts to the arts industry in the 1992-93 State budget in view of the important role of the arts in attracting business and tourism to South Australia.

It has been said for many years that South Australia has been leader in the arts in Australia. Indeed, on our number plate we boast the 'Festival State'. Sadly, we have to face the fact that today under the Bannon Government South Australia's leadership in the arts in Australia is at risk if we have not already lost that title. The fact is that, although other States have recognised the importance of supporting the arts to promote tourism and attract investment in their States, the Bannon Government increasingly has turned its back on arts funding.

In 1991-92 the arts budget was cut by 3 per cent in real terms. There seems to be no doubt at all that Department for the Arts officers have privately told arts leaders to expect cuts between 10 and 15 per cent in the 1992-93 arts budget. I have had so many reports of that fact that it seems to be beyond dispute. The Minister may protest loudly and publicly but the fact is so many reports of those figures are filtering back that it seems to be beyond dispute that the prospect of double-digit cuts in the arts is beyond dispute. That is certainly a grim possibility.

Increasingly around the world people are seeing arts funding as a vital conduit to attracting investment and to promoting a region or a city, and one can look at cities such as Glasgow, a notable example which in the course of a decade turned itself from a fairly unpopular destination for investment and residence into the culture capital of Europe in 1990, because it deliberately set out to use the quality of its history and heritage to build a cultural base and to promote its arts in a positive way to attract tourism and investment into the city.

The Liberal Party believes that this approach by Glasgow and cities such as San Diego, in the United States, is the way to go in the 1990s, that is, as we leave behind the industrial era and move into a decade where small business and service industries will generate most jobs and where small business will account for at least 80 per cent of the new employment in South Australia and the nation. South Australia with its quality of life, its Mediterranean climate and excellent housing stock, and with its ease and accessibility for transport purposes, is uniquely located to take advantage of this economic phenomenon.

I have recently returned from America and Canada where this phenomenon is well recognised by government, where the arts and cultural base of a city or region is used as a spearhead to attract investment and tourism, and places such as Portland, Seattle and Vancouver are leading the way in using the arts as a magnet for visitors to their region and for economic investment. It saddens me to see that South Australia and the Bannon Government have lost their way in recognising this important phenomenon.

At the moment, we in South Australia are going in the opposite direction to all other States. In Queensland we see a notable increase in the enthusiasm for the arts and an increase in arts funding. In New South Wales we see a strong commitment for the arts in the budget at local government level. In Victoria the Labor Government has made a deliberate pitch to sell Melbourne as the cultural capital of Australia. I recently shared a platform with the Deputy Premier of Victoria (Mr Jim Kennan) when he was here for the Festival of Arts, where he enthusiastically espoused that object.

So, all these other States are committed to an awareness of arts funding and the important economic role of the arts, but we have a Government that seems very reluctant to embrace this principle. The concern of the Liberal Party is reflected also by the widespread concern of the arts industry in South Australia, because, for the first time, during the Festival of Arts we saw a campaign launched by the Arts Industry Council, the arts equals campaign, which focused on the importance of the arts to jobs, tourism, enjoyment and ideas, and focused especially on the possibility of cuts in the arts. The Arts Industry Council Chairman (Mr Robert Love), who is a very experienced administrator and well respected in the arts, said that cuts in arts funding would make the next financial year (that is, 1992-93) extremely difficult; that there was the possibility of record unemployment among actors and arts staff.

Of course, one of the problems the arts community is facing is a cut in Foundation South Australia's arts sponsorship, principally because of the success, presumably, of its health program. The cutback in tobacco sales has, ironically, meant a fall in its sponsorship money. One cannot do anything about that, but the Government can do something about its commitment to the arts, its funding for the arts, its support for the arts and its overall administration of the arts.

Arts funding in South Australia accounts for just 1 per cent of the budget—barely 1 per cent of total State budget expenditure—and it is my firm view that the benefits flowing from the arts far outweigh the money allocated. As I have said, the 1990s will be characterised by a return to the 'small is beautiful' philosophy, with small business being the main generator of jobs, so; increasingly, the decision that people are making in establishing a new business, relocating a business, takes into account the quality of life in a particular region. The arts and culture of a region or city become a very important priority in making that investment decision. Has anyone seen this Government promoting that in advertisements for State development? Has anyone seen that sort of concept being promoted interstate or overseas? Certainly, I have not.

It is appalling to see this Government's lack of interest in the arts. It used to be said that the Premier was an arts enthusiast, and so he is. He has an interest in the arts. He was the Minister for the Arts, but the economic burdens that have fallen on him have seen him relinquish that title, which has been passed on to the Hon. Anne Levy. The Liberal Party takes very seriously the concerns of the arts industry, and I want to say publicly that a Liberal Government would be sympathetic to that industry. We see it as an important springboard to economic prosperity, to attracting tourism and as a source of vitality and energy within the community.

Of course, it must never be underestimated that the arts provide jobs. It should never be forgotten that 8 per cent of all household expenditure is on the arts. So, because this Government has been burdened with a series of economic woes, we find that capital works programs have been postponed and that the recently released arts division review recommends no new building projects in this recessed economic climate. The possibility exists that the Art Gallery extension, which was due to be progressing as we speak, could be deferred until after 1994. There is that real possibility. We see everywhere that anything that moves has been reviewed by this Government and the effect of these reviews has been catastrophic in some cases. Because I recognise that time is precious I do not want to go through the many areas that can be discussed so readily today, but I want to focus on one area that has not been subject to great debate. I want to talk about the Come Out Youth Arts Festival.

The Come Out Youth Arts Festival has international and national recognition; it is one of the great international festivals for children in the world, and 1993 celebrates the tenth Come Out Festival. It is estimated that the 1991 Come Out Festival touched about one-third of the State's population; some 35 000 school children participated directly in this festival; not only people in metropolitan Adelaide, but also many children from country regions. It is important to stimulate and encourage young people to appreciate the arts, to participate in the arts and also to recognise the importance of promoting excellence in the arts, and the Come Out Festivals, through a succession of splendid directors and a series of exciting programs from interstate and overseas, as well as local participation, has been a focus for youth arts in Australia and the world. In fact, the Come Out Festival was so highly recognised that in 1987 it was held alongside the ASSITEJ conference, which is the International Association of Theatre for Children and Young People, and it held its international conference alongside the Come Out Festival of 1987.

The Hon. Anne Levy: You misquoted what ASSITEJ is.

The Hon. L.H. DAVIS: I have given the English equivalent—let's not be pernickety. The Come Out Festival is now a ship without a rudder. This has been caused largely by extraordinary procrastination in the review process. The review of youth arts was due in December but it has only just come out, and I understand that the Youth Arts Board has yet to meet. The Come Out Festival is scheduled for May 1993, just 12 months away, but at the moment it has no director, no program and no manager, just an acting manager. Only this Friday there will be interviews for a Come Out Festival manager, and that will probably take a month. They are moving away from the model where there was an artistic manager and administrator to a model that provides for a manager with a programming directorate for

the festival—a group of people who will have the artistic input. So, we will have a sort of artistic camel providing the program. The lack of progress and the present position of the Come Out Festival is a national scandal; there is no question about that.

This is a two year project, just as it is with the Adelaide Festival of Arts, where the planning for the next festival in two years time starts immediately—indeed, sometimes before the current Festival of Arts has concluded. We are now only 12 months away from the next Come Out Festival. Normally at this time a draft program would be in place for discussion by the Come Out Committee and resolution within the next one or two months. Quite clearly, as the Minister would know only too well, when you are attracting internationally acclaimed youth theatre from overseas or interstate, there is a long lead time in the programming. There is nothing in place. Nothing has been done. Obviously the long lead times required will mean that it will be too late to provide a properly balanced program for 1993. As I have said, it is a national scandal.

The sadness is that, although South Australia has been acknowledged as the leader in children's festivals through the Come Out program, the other States are now breathing down our neck. Next week, Victoria has the Next Way Festival, which is a Come Out equivalent. In the Brisbane Sunday magazine of late March (I take the *Courier Mail* of Brisbane each Sunday to see what is happening in Queensland as it is the State in which the Arts is being given priority, emphasis and support by the Government), an article boasted, in fact erroneously, that in June Brisbane will host a national first, a major arts festival for young children called Out of the Box. It goes on to describe the nation's first major festival for children, 'which will defy the imagination and creativity of Queensland's young folk . . . designed to introduce children aged three to eight to the performing arts'. It is another example, at the youth level, of how other States are moving in on territory where we had undisputed leadership. Our leadership in youth arts is being blown away. The Come Out saga is a reflection of what is happening to the arts in South Australia under this lack-lustre, limp-wristed, lethargic Government.

The Hon. R.R. Roberts: We have been the leader in arts for the past 20 years.

The Hon. L.H. DAVIS: The Hon. Ron Roberts has hit it on the head: that South Australia has been the leader in the arts for the past 20 years. He put it in the past tense, quite correctly, because we have been the leader in the arts. I acknowledged that in my opening remarks. I pay credit to the initiative of the Hon. Steele Hall, who selected the site for the Festival Theatre, and to Don Dunstan for carrying out that vision and for being a leader in the arts. That was backed in magnificent fashion by the Hon. Murray Hill, who is regarded as one of the most under-rated Arts Ministers that this State has had. The Tonkin Government had a firm commitment to the arts, as was reflected in the many initiatives taken down North Terrace.

The Bannon Government in its early years carried on that tradition, but in the past few years it has become quite obvious that we are the Festival State in number plate only. Whilst we do boast a great international festival, what happens for the balance of that two years is of increasing concern. This Government's commitment to the arts is being questioned by the arts industry publicly, and that has never happened before in my time in this Parliament. It is increasingly of concern to arts administrators and to the community at large. I recognise that the arts in this State have been bipartisan for many years, and my colleague the Hon. Diana Laidlaw and I, who have shared the shadow portfolio for the arts over the past seven years, have always been very conscious not to politicise the arts and only to raise matters of grave concern when we believed that it was warranted, in the public interest and in the interests of the arts community.

Arts funding has led to cuts. The position of Director of the Old Parliament House has gone. The position of State Historian has gone. Does that mean that State history is no longer important? The prospect of no further capital works spending on North Terrace is reality. The Government's slovenly leadership in the development of North Terrace as a cultural precinct is another example. Certainly we had a vision day at the Botanic Gardens recently in which the Minister and I participated, but we have been having a vision of North Terrace for a decade.

The Hon. Diana Laidlaw: Did you read Peter Ward's article in the *Adelaide Review*?

The Hon. L.H. DAVIS: Yes. Peter Ward, who is so perceptive and unerringly accurate in matters relating to the arts, adroitly summarised the state of play in the most recent edition of the *Adelaide Review*. The lack of consultation and purpose between the Arts and Tourism South Australia in promoting South Australia's cultural assets is a matter on which my colleague the Hon. Diana Laidlaw has commented on more than one occasion. For instance, we have never had a pamphlet on North Terrace, apart from an extraordinarily expensive one which probably cost a dollar a pop and disappeared very quickly off the shelves. North Terrace—South Australia's unique kilometre of culture and a wonderful tourist asset—has been badly and sadly underpromoted for a long time. I will not bore the Minister with the saga of the signposting again today.

The Hon. Diana Laidlaw: You would not have to do so if she had done something about it.

The Hon. L.H. DAVIS: Exactly. We still have a sign pointing to the Constitutional Museum five years after it ceased to be called the Constitutional Museum. On the main intersection of Adelaide, the corner of King William Street and North Terrace, we have a fading brown and white sign. It may well be the responsibility of the Adelaide City Council, but it seems that because I have raised this subject every year for the past six years the perverse—

The Hon. M.J. Elliott interjecting:

The PRESIDENT: Order! The Hon. Mr Davis.

The Hon. L.H. DAVIS: —nature of politics suggests that they want to leave it there for another year so that I can ask the question the following year, so I do. Any leadership in the Government would have fixed that sign, and it would not have cost a lot of money. It is a hick, amateurish and typical approach of this Government to allow such sloppiness. Signposting, which I raise in this place continually, is an important part of the promotion of cultural assets. I think that this Government displays great ignorance on signposting. It could learn from cities with sophistication such as Boston, Vancouver and other North American cities. That is a distraction, and I must say that I am distracted easily on such an important matter.

In summary, I come back to where I started. The Arts Industry Council of South Australia believes that the economic and social benefits of the arts and cultural heritage are being neglected by this Government. It is concerned about the cuts which are in prospect in the next financial year and it is concerned that this Government does not recognise the international and national reputation that South Australia has enjoyed in the arts. Obviously this Government does not recognise that the 2.5 million people who attend concerts, galleries, recitals, operas and museums and watch performances in theatre and in dance and visit our

libraries enjoy and participate in the arts and expect the Government to have a commitment to the arts. The Liberal Party has a passionate belief in the arts and believes that arts funding can be justified on economic grounds, on artistic grounds—

The Hon. R.R. Roberts interjecting:

The Hon. L.H. DAVIS: The Hon. Ron Roberts said that we would cut arts spending.

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order! The Hon. Mr Roberts will come to order.

The Hon. L.H. DAVIS: He obviously has not been listening to what I have said. The greatest irony of all is that in this *ad nauseam* review process, which probably has only benefited the paper industry in some respects—

The Hon. Diana Laidlaw: And kept a few more public servants employed.

The Hon. L.H. DAVIS: Yes. The review of the Department for the Arts revealed that the Arts Division costs in the order of $1.25 million a year, and the Corporate Services Division costs about $2 million a year. Did those two divisions get savaged by the reviews? Did they have a red pencil put through them? I will leave the readers of *Hansard* to imagine what the result of those reviews might be.

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: I can say that they are entirely predictable to the Liberal Party, and I think predictable to many people in the arts industry. Whilst the Minister no doubt will rationalise what really happened, the truth will come out; and I will continue to advise the public and the arts industry what is the real truth of the matter.

Whilst it gives me no pleasure to move this motion, I do it with passion and concern on behalf of the arts industry in South Australia. This Government, by flagging cuts in the arts industry in 1992-93, is following a disturbing pattern which has been evident for some years. When it cut arts funding in real terms by 3 per cent last year, notwithstanding a 7 per cent increase in taxation, the Government was clearly giving a signal to the arts industry in South Australia and to the community at large that arts really is not important any more. I believe it is of vital importance; it is a trigger, a springboard, to economic prosperity and growth in South Australia, to jobs and also is a decided advantage to tourism. I urge the Council to support the motion.

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I rise to reject the motion, and urge the Council to do likewise. I preface my remarks by reminding the Hon. Mr Davis that throughout his 20 minute oration I interjected only once, and that was in a facetious manner: I challenge him to repeat that performance. I am delighted that the Hon. Mr Davis wishes to highlight the important role of the arts in attracting business and tourism to South Australia. He does not need to remind this Government of the importance of the arts.

Despite his comments, the South Australian Government still spends far more per capita on the arts than does any other State. I will quote the most recent figures that have been collated by the Victorian Ministry for the Arts relating to the current financial year. Those figures show that South Australia spent $40.19 per capita on the arts and cultural heritage whereas the Greiner Liberal Government of New South Wales spent $20.20 per capita on the arts and cultural heritage. We are spending twice as much on the arts as is provided by the Greiner Liberal Government. I did notice that in his comments the honourable member referred to the contribution by local government in New South Wales. Given these figures, we can well understand why he made no comment at all about the dismal performance of the leading Liberal Government in this country—that of Mr Greiner in New South Wales.

The honourable member mentioned the Arts Industry Council. The council has applauded the initiatives taken by this Government in the arts over the past two years. Perhaps I could remind the honourable member of some of those initiatives. We have completed and launched the $8.5 million Lion Arts Centre, which is no small achievement, and we all know how this became a highly popular night-time venue during the recent Festival Fringe; there was our $60 000 boost to the rock music industry in this State; the Public Libraries Agreement was signed, and that guarantees continued State funding in real terms to local government for their libraries in the next three years; and, of course, there was the 50 per cent increase in funding for this year's Festival, compared with the contribution for the 1990 Festival. This Government's contribution to this year's Festival was $2.2 million, and I am sure that I do not need to remind any South Australian of the value of our Festival in tourist and business terms and, of course, of its cultural value.

We then come to the question of reviews. The Hon. Mr Davis complains that we have reviewed the department. I am proud of the fact that we have just completed a series of reviews into the many activities of the Department for the Arts and Cultural Heritage so that we could identify savings in administration. I would remind the Hon. Mr Davis that these reviews were conducted with the knowledge that we are in a recession, and the arts, like all other Government sectors, could be facing reductions in this year's budget. But what we have done through our reviews is to aim to ensure that the arts product remains the priority at the expense of the bureaucracy. It is the arts product, the type of product which contributes to the cultural life of this State, which generates business and which attracts tourism; that is our priority, not administration and bureaucracy.

I know there have been concerns within the arts industry about possible cuts—that is only natural—but I cannot understand why the Hon. Mr Davis is so concerned about cuts in administration when the Liberal Party has been screaming at the Government for years about cutting bureaucracies. When we do it, he complains. I would have thought that the Hon. Mr Davis would be pleased that we are conducting these reviews in the department, instead of complaining about them. The Liberal Party's own policy statement at the last State election was to have a review of the Department for the Arts and Cultural Heritage. I would like to quote from the Liberal Party's own policy, which said:

> We now believe it is time to conduct a review of the department in order to achieve the most effective, efficient and relevant structure possible.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! The honourable Minister.

An honourable member interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: That is his one interjection, Mr President: he has made it. When we undertake reviews, the honourable member complains about it, yet his own Party promised such a review to make the administration of the arts more efficient and effective. When we have done it, he does not like it. Of course, the reality is that the State Liberal Party does not really have an arts policy. It certainly provides lots of warm fuzzies, but it has no substance. More specifically, it has no budget. As Peter Ward pointed out in the March edition of the *Adelaide Review*—which is obviously read with great attention by the Hon. Mr Davis—

the Opposition can complain all it likes about any number of funding cuts, but it does not offer any concrete alternatives.

Of course, the Hon. Mr Davis himself does have a solution for saving the arts industry—again, according to Peter Ward. When Peter Ward asked Mr Davis what a Liberal Government would do about its capital works program for the major cultural institutions, Mr Davis replied, according to Peter Ward, 'Yes, we will have problems too, but we would start by selling off a few assets.' I am sure the Council would love to know exactly which cultural assets the Liberal Party intends to sell. Perhaps it would like to auction the Lion Arts Centre so that it could pay for renovations to the Festival Centre or, perhaps, vice-versa.

One can only assume that the Opposition is rather ignorant of government and of budgets if it honestly believes it can prevent funding cuts by the sale of the State's cultural assets. It amazes me that the Hon. Mr Davis continues to harp about how funding cuts will destroy South Australia's arts industry when his own Party has no specific policy on the arts. We are not destroying the arts; we are cutting administration, and we remain as committed as ever to the South Australian arts industry. One matter that the honourable member raised was a long peroration on Come Out. He did not indicate the fact that the Come Out budget has not been cut at all—not by one cent.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: He has made another interjection, saying that he did not talk about the budget. I thought his whole speech was supposed to be about cuts in funding; it was on financial matters. His comments on Come Out were totally irrelevant to the topic of his motion, which was about funding cuts. If he was not talking about budget matters, what place did it have in his speech? I am pleased to say that Come Out is strongly supported by this Government. It now has a new plan as a result of the review process that has been undertaken. It will be a more efficient festival in the future as it takes up a proposal to share resources with the Festival and to have a different organisation. Meetings are occurring and have been occurring that have achieved agreements on a new, efficient Come Out, which will be very much to the benefit of youth arts in this State.

The honourable member also referred to North Terrace as a kilometre of culture and he raised his hoary old problem of signage along North Terrace. For the Hon. Mr Davis to have the gall to talk about a signage problem on North Terrace really amazes me. Only a few weeks ago he voted in this Chamber to prevent the city council or anyone else being able to control the use of sandwich boards on North Terrace. He voted in a division—

The Hon. J.C. Irwin interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: —to allow sandwich boards on North Terrace by right, to prevent the city council or anyone else removing sandwich boards along the full length of North Terrace. He can never again say that he has concerns about the appearance of North Terrace or its signage. The one time he was able to do something about it, he voted to permit sandwich boards the length of North Terrace. That, more than any of his words, shows what he thinks of signage on North Terrace.

As I said, whilst the State Liberal Party has very little in the way of an arts policy—it certainly has never put figures on it—at least the honourable member's Federal counterparts have been brave enough to specifically state the Federal Liberal Party's arts policy. However, that policy is a frightening one and should terrify arts communities throughout Australia. In the so-called Fightback package, the Federal Liberal Party has said it will slash $43 million off its arts budget. That includes a $4 million cut in funding to the Australia Council. It will kill the Australian film industry by cutting $27 million from its budget. It will cut $4 million from the National Gallery; $4 million from the National Library; $1 million from the Australian National Maritime Museum; $1 million from the National Museum of Australia; $1 million from the Australian Heritage Commission; and $1 million from the cultural heritage programs.

That is a Liberal arts policy—$43 million off the arts. This is really slashing the arts Liberal style. This is the Liberal Party's commitment to the arts in Australia from the mouth of Dr Hewson and his colleagues. If we see the return of a recycled Liberal Leader to this State from the Federal Parliament, the arts community in South Australia cannot possibly expect anything different from a South Australian Party devoid of its own ideas and supporting Dr Hewson's Fightback.

We must not forget that the Liberal Party aims to apply a goods and services tax of 15 per cent. What effect would that GST of 15 per cent have on the arts industry? It would add 15 per cent to the cost of every ticket for an arts performance. It would add 15 per cent to the cost of nearly all the materials used by artists in the industry. The GST would have an absolutely devastating effect on the arts industry. To pretend that this in any way compares with a reduction in arts administration which this Government is undertaking is ludicrous in the extreme.

I am not saying that cuts are good for the arts industry. Personally, I would like to double the amount of arts funding, but we do live in a real world and, while funding reductions are inevitable, I do believe we can work through these cuts together with the arts institutions to ensure that South Australia remains the premier arts State. I have said it many times before and I will be happy to say it again: we are in a recession. The arts industry is suffering at all levels, particularly at the box office and in its ability to maintain corporate sponsorship. This is caused by the recession. Members opposite really know this, and I can only hope that this time the message might finally get through to the Hon. Mr Davis. This Government is more concerned about ensuring a lively and innovative arts industry in tough economic times than with assisting the honourable member in his preselection campaign.

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

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 29 April. Page 4504.)

The Hon. M.J. ELLIOTT: This matter of tourism accommodation zones is of great importance and is being watched with a great deal of interest by members of the community because the regulation removes a right from the citizens of South Australia, a right that they have enjoyed for many years. In a democratic society, I expected that such a right would be expanded, not cut back. As I argued before, this regulation removes the public advertisement of a development within a tourism accommodation zone and, as such,

removes the appeal rights of people in relation to that development.

When the Hon. Diana Laidlaw spoke to this motion last week, her first sentence was, 'It is with mixed feelings that I speak to this motion.' When I examined the arguments that she put forward, I felt that her arguments in favour of the motion were more compelling than those against the motion. I hope that between then and now she has read her own speech and has become convinced by her arguments which—

The Hon. I. Gilfillan: They were very persuasive.

The Hon. M.J. ELLIOTT: Yes, they were. I will draw a few points from the honourable member's contribution. She noted that there are already 23 tourism accommodation zones in 20 council areas in South Australia. She made the comment that, because there is an appeal mechanism in the supplementary development plan process, that should be adequate, but I put one question to her, which she can answer in her own mind. While those supplementary development plans were subject to the public appeal process, if a development was put in at a later date, there was further potential for public involvement. That was a right that people had. That right has been taken away and there is no longer a right of appeal against any development within such a zone.

Knowing that they had that second right, people could reasonably say that the creation of a tourism accommodation zone did not worry them too much and that they could wait and see what developments came along before they became actively involved. Under this regulation, they have now been denied any say. That right has been taken away even more clearly in relation to the existing zones than future zones. Nevertheless, the honourable member notes that, when one considers a supplementary development plan, quite frequently the arguments are in more general terms. It does not always involve a specific project, and, even if a specific project is in mind, other projects may be proposed later for that zone.

We are not talking about building a house, or something that is relatively minor, in an area that is otherwise zoned for housing. Tourism developments can be of significant scale and some tourism accommodation zones are in extremely sensitive areas. The most obvious and recent example is the Tandanya tourism accommodation zone which, apart from about 5 per cent of the zone, is native vegetation. A host of issues will need to be addressed in relation to that development, yet that possibility has been denied totally to the public of South Australia. I interjected when the Hon. Ms Laidlaw spoke last week and asked her whether her Party believed in democracy. She said that she did but that she was referring to the Party vote on this matter. That was not what I was asking about; I was asking about the democratic rights of the citizens of South Australia to have some say in relation to developments in their own State.

As I said, the effect of this change in the regulation, if it remains, is to deny the democratic rights of people. In relation to new tourism accommodation zones people might be far more wary of the SDP and become more involved. However, with respect to the 23 existing tourism zones, the public has now been told that, if a development complies with the zoning, they will have no say whatsoever about it. I argue that that is a significant reduction in democratic rights and I add that I do not concede that, in future, people will confront a supplementary development plan when it does not necessarily involve a clear development. Sometimes a vague proposal is put forward and I do not think that members of the public who are not politically wise and who do not understand the political process will become involved. They watch these things happening and it takes them a while to work out what is going on. Often the detailed plans are not available to them until close to the time that the project is due to commence construction or is due for Government approval.

I am surprised that the Liberal Party indicated that it is not willing to uphold citizens' rights. I express disappointment in the Government, too. It is starting to show signs of supporting third party appeal rights, for example, in relation to the Wilderness Protection Bill, which is before the Council. For the first time the Government is looking at third party standing in a significant fashion; yet, having taken a step forward in the Wilderness Protection Bill, it is taking a step back in relation to tourism accommodation zones. I argue that there is an illogical inconsistency in doing that.

If this regulation is allowed to stand, the democratic rights of people would be removed and this Council would have no way of bringing them back. It would mean that legislation would have to go through both Houses to return the rights of the citizens of South Australia. That is a severe step backwards. It is a surprising move from a Party that consistently opposes proclamation and supports regulation in relation to so much legislation. It smacks of convenience because certain members of that Party have taken a view that any development is okay, that citizens get in the way of these things, that they are nuisances and that they should not have a say about their own locality. I hoped that I would not see that sort of attitude and I also hope, perhaps in vain, that the Liberal Party and the Government have reconsidered their position.

The Council divided on the motion:

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

Noes (15)—The Hons T. Crothers, L.H. Davis, Peter Dunn, M.S. Feleppa, J.C. Irwin, Diana Laidlaw, Anne Levy (teller), R.I. Lucas, Carolyn Pickles, R.J. Ritson, R.R. Roberts, T.G. Roberts, J.F. Stefani, G. Weatherill and Barbara Wiese.

Majority of 13 for the Noes.

Motion thus negatived.

WILDERNESS PROTECTION BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 4768.)

Clause 8—'The Wilderness Advisory Committee.'

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

Page 5, lines 8 to 10—Leave out subclause (4) and insert the following subclauses:

(4) The Governor may appoint suitable persons to be deputies of the members of the committee appointed by the Governor and a deputy of a member must be appointed in the same manner as the member and have the qualifications (if any) required by this Act for the appointment of the member.

(4a) The deputy of a member may act as a member of the committee in the absence, or during a temporary vacancy in the office, of the member.

The amendment is consequential and I am seeking to have the same concept included as was the case in the earlier clause. The amendment relates to subclause (2) *(b)*. I want to guarantee that the deputy for the Wilderness Society is also nominated by the society and, with that requirement, I thought it was also important that the deputies for other members be people who have to fulfil the same requirements as those filling positions on the committee itself. The amendment is an attempt to guarantee that the deputies

have the same qualifications as the persons on the committee itself.

The Hon. ANNE LEVY: The Government is happy to accept the amendment, which clarifies the terms for deputies.

Amendment carried.

The Hon. PETER DUNN: Subclause (2) *(c)* provides:

Two of whom have wide experience in the management or recreational use of wilderness.

As we do not have any wilderness areas in South Australia, does it mean that we will have to get someone from interstate with those skills? How does the Minister intend to appoint people? There are certainly none in that category in South Australia who could do it.

The Hon. ANNE LEVY: This Bill has been put forward so that we can identify areas with the highest possible qualities of wilderness and there are certainly people in South Australia who know a great deal about wilderness and its qualities. Some of these people may have experience interstate, and others are South Australians without such experience, but there certainly are people available who have knowledge and experience of wilderness as a land management form.

The Hon. PETER DUNN: I guess there are people here who have had experience in 'wilderness' areas but if we want the term to be defined there is no wilderness area in South Australia. I will accept the Minister's explanation of it, but why provide for the recreational use of the wilderness when in effect we are saying that we do not want human beings in there? Are we going to play in there or are we not?

The Hon. ANNE LEVY: There has never been any suggestion that people would not be able to use wilderness areas. Certainly, there will be access in perhaps a limited form. There will not be four-wheel drives charging up and down sandhills, but there is no intention that wilderness areas will have a big fence put around them so that no one can enter them. Many people will be interested in walking in and enjoying the qualities of wilderness.

Clause as amended passed.

Clauses 9 and 10 passed.

Clause 11—'Functions of the committee.'

The Hon. DIANA LAIDLAW: I feel that one of the interesting aspects of this legislation is that at no time in the other place, in public statements I have read on this matter or when the Minister in this place summed up the second reading debate has the Government made any reference to budgets. I stressed this point at some length in my contribution. I note that in summing up the Minister referred to most of the matters that I have raised, but I certainly did not hear her refer to my concerns as to what funds will be allocated for the implementation of the measures in this Bill, in particular the functions of this committee.

The functions of the committee are broad: not only do they include the assessment of all land in the State to identify those parts of the State that meet the wilderness criteria to a sufficient extent to justify protection under this Act or that warrant restoration to a condition that justifies such protections (so we can imagine from that first function that that access process will be quite costly), but *(e)* provides that one of the functions of the committee will be to commission research into the effect of mining, grazing and other forms of primary production and tourism on wilderness and its wildlife and to advise the Minister of the findings of the research.

In my assessment, no consultant to date has come cheaply. Perhaps the work is to be undertaken by the Department of Environment and Planning but certainly it does not seem to have much money to do much at this time in meeting even its own current obligations. In addition, there is a provision in 11 (1) *(f)* to increase understanding in the community of the significance of wilderness, but I have never seen a successful public relations campaign that did not cost a considerable amount of money, even if it was just limited to the production of pamphlets. So, I would be most interested to learn what budget the Government intends to provide to ensure that this committee is able to fulfil the functions that the Government and the department expect of the committee.

I appreciate that most of the management aspects of this legislation will be administered by the Department of Environment and Planning as separate from the costs associated with the functioning of this committee but, again, as I alluded to briefly, the Department of Environment and Planning has little money to undertake its current responsibilities and there is considerable community agitation about that. In addition, I do not know where the Government thinks that money will come from for restoration of land such as the eradication of pest plants or feral animals. So, perhaps the Minister could just elaborate on some of those. I think they are very fundamental concerns about funding if this Bill is to realise the high expectations of those who promoted it or those in this Parliament who intend to support it.

The Hon. ANNE LEVY: I did mention earlier that it is not the role of this legislation to define budget allocations. That is not the role of this legislation; that is part of the budget process involving the whole of Government. However, I would point out to the honourable member that most of the wilderness areas to be declared will already be in the parks system, and that is generally accepted. The wilderness areas by definition will have only a minimal disturbance and not a great deal of human use, and areas such as these do not require a high level of management resources.

It is not like, say, the Flinders Ranges, where there is a great deal of tourist activity and consequently management of such areas is obviously more costly. Wilderness areas will not require a high level of management resources. Furthermore, in the community consultation phase of this legislation there was overwhelming support throughout the community for the wilderness committee to collect as much information as possible so that it would then be possible for the Government to make sensible decisions regarding management of wilderness areas, but there was a lack of information and more information was required.

The Hon. DIANA LAIDLAW: Is the Minister suggesting that the Government has proposed this legislation and is asking us to pass it but has no idea at all what financial impact it may have on the budget of the Department of Environment and Planning or the National Parks and Wildlife Service?

The Hon. ANNE LEVY: I reiterate that most, if not all, of the areas which are likely to become wilderness are already in the national parks system and so are already the responsibility of the National Parks and Wildlife Service section of the Department of Environment and Planning. A great deal of the survey work already carried out has been under the auspices of the Australian Heritage Commission which has funded that work. Therefore, it has not been done at State expense.

The Hon. DIANA LAIDLAW: The Minister is saying that the cost of implementing the measures arising from this Bill will be found in the existing budget of the Department of Environment and Planning. I do not think that anyone in this State in their wildest dreams would suggest

there are sufficient funds to meet the management tasks for which the department already assumes responsibility. The Minister's response was most inadequate. It does not give me any confidence that this is more than a window dressing exercise.

The Minister said that it is unlikely that the areas of wilderness will require a high level of management resources. Is she suggesting that very little land will be put into the wilderness zones or areas in the category of warranting restoration to a condition which justfies such protection? I should have thought that category would involve a considerable amount of money.

The Hon. ANNE LEVY: Not a great deal of land in the State can be classed as wilderness or is capable of being restored to its original condition. It is not expected to be a costly exercise, because, unfortunately, there are not very large areas of the State which are likely to be categorised as wilderness. With regard to the honourable member's earlier comments, it seems to me that she has very little understanding of the budget process.

The Hon. Diana Laidlaw: I have a good understanding that—

The Hon. ANNE LEVY: If she has, she knows perfectly well that allocations of resources both within and between agencies are decided in the budget process.

The Hon. DIANA LAIDLAW: It is quite clear why this State is near bankruptcy and why the Treasurer is soon to appear before the Royal Commission if the Minister says that it is acceptable for this Government to pass legislation with the financial ramifications of this legislation when it does not have one idea whether it will cost $1, $10 or $1 million extra to implement it. I have a very good understanding of ministerial responsibility in terms of legislation. I recall the example of the Attorney-General when he introduced age discrimination legislation in this State. He indicated that proclamation would be deferred until resources were available.

In answer to questions very similar to those that I am asking now, he outlined that so many more staff would be required to listen to and mediate the complaints and how much more money would be required. He then indicated that it was not possible at that stage, because of the resource implications, to implement that legislation. At least the Attorney-General was prepared to do his homework when he had important legislation to implement. I repeat that I am extremely disappointed that any Minister would come into this place and raise the expectations of so many in the community that the Government would be able to implement wide ranging legislation such as wilderness protection and not have one idea of, or at least not be prepared to tell Parliament and the public, what resources may be involved.

I come back to the specific functions of the committee. As the Minister has not been able to answer my general questions about the management of wilderness areas, can she indicate what range of funds is envisaged will be provided specifically to the committee to undertake research, as in paragraph *(e)*, and/or to undertake public relations campaigns to inform people about the significance of wilderness, or is this committee to be starved of funds for those purposes and will those important functions not be fulfilled?

The Hon. ANNE LEVY: The committee will not be starved of funds. It will be able to carry out its responsibilities.

The Hon. Diana Laidlaw interjecting:

The CHAIRMAN: Order!

The Hon. ANNE LEVY: The resources to be awarded to it will be determined in the budget process. I am sorry if the honourable member cannot understand English. She says that she understands the budget process. In that case, she should be able to understand me when I say that the actual sums involved will be determined in the budget process. Furthermore, the honourable member commented on the work that will be required. I can only reiterate that a very large part, if not all, of what is expected to be classed as wilderness is already in the national parks system. There are also numerous Commonwealth programs of which advantage will be able to be taken for restoring wilderness, such as the feral animal control program. This will obviously benefit the restoration of wilderness areas when they are identified. I cannot help feeling that the honourable member is nit-picking and feigning ignorance about how budget allocations are made.

The Hon. DIANA LAIDLAW: I did not ask about the commencement of this legislation, which is to come into operation on a day to be fixed by proclamation. I am assuming from what the Minister said about budget deliberations that this legislation will not be proclaimed until after August because there will be no money for it to operate until that time.

The Hon. ANNE LEVY: The Wilderness Advisory Committee will have available to it a great deal of work which has already been done. Its first task will be to collate a lot of that information. The proclamation date will be determined by Cabinet when it is felt desirable to bring it into operation.

The Hon. DIANA LAIDLAW: Has the Minister any idea when the Government may believe it is desirable to implement this legislation?

The Hon. ANNE LEVY: I do not have an answer to that question, but I shall be happy to ask the responsible Minister whether she can provide an answer.

The Hon. PETER DUNN: In my second reading speech I made a point of saying that I am in agreement with what the Government has done, and I am pleased to see that it has been done, but I pose the question of costs. If I am going to buy a farm and I go along to a bank and say, 'I have no idea how much I will make from it, but I know how much it will cost me', I am in terrible trouble and I will not get the loan. To be more exact about it: if, on that property, I want to excise an area, and the bank manager says, 'Well, you cannot do that, because your profit will go down because of your lack of productivity,' surely I would have done my sums and would have some idea.

So my questions are as follows. How many extra staff will you put on, or are you not going to put on any extra staff? How much will it cost to run the committees? For that matter, have you any projection of what will happen if there is an outbreak of feral animals or phytophthora or whatever in one of these areas? If you do not know that or if you do not budget for it, how in the world will you run this? I agree with the legislation, but if you have no idea of the cost, how will you run it? I suspect that that is what has happened to this State over the past 10 years.

The Hon. ANNE LEVY: I can point out that the Interim Wilderness Resources Committee has existed in this current year. In this financial year it has had resources allocated to it in the order of $100 000, but I cannot indicate any precise figure for the next financial year, because it depends on the budget process.

The Hon. PETER DUNN: The only assumption that I can make is that you are trying to stitch up the next Government so that it will have the obligation to meet all these commitments, and you will not. You are very quickly losing me—very quickly! And you will lose a lot of other people if you cannot demonstrate to them that you can afford it,

and I do not think that you can—not with the answers that you are giving us.

The Hon. DIANA LAIDLAW: In respect to 11 (1) *(e)*, which relates to the function of the committee to commission research, can the Minister confirm that the research commissioned into the effects of mining, grazing and other forms of primary production on the wilderness and its wildlife will be made public?

The Hon. ANNE LEVY: Yes.

The Hon. K.T. GRIFFIN: Following the question by my colleague the Hon. Diana Laidlaw in relation to subclause (2), will the reports made under subclauses (1) *(a)*, and (1) *(c)* also be made available to the public?

The Hon. ANNE LEVY: The answer is 'Yes'.

The Hon. PETER DUNN: How many extra staff is it anticipated will be required to administer and look after this wilderness area?

The Hon. ANNE LEVY: The staff who will be required are within the existing structure of the National Parks and Wildlife Service. The only extra staff member required would be the Executive Officer for the committee, who has been employed this year with the resources allocated to the Interim Wilderness Resources Committee.

The Hon. PETER DUNN: Can I confidently go out and tell the people whom I see every now and again that we can reasonably assume that $100 000 plus one extra staff member will cover the wilderness legislation, to look after 2 per cent of the State?

The Hon. ANNE LEVY: Certainly not. The resources involved include enormous amounts of money, both Federal and State money, which is being spent on the feral animal program, a great deal of money that is being spent by pest, plant and animal bodies, and a great deal of work which is already being done and which is being funded by various State and Federal programs, work which is very relevant to the wilderness areas.

The Hon. M.J. ELLIOTT: With all this going on about costs, I must make some brief comments. Once wilderness is lost, it is not regained. The important thing about the Bill is that it provides protection for the wilderness from people and their activities. It promises, at least on the surface, to protect us from the depredations of people and their direct activities. However, there is no doubt that, despite that, if we are serious about protecting wilderness, it will cost money, and it does not matter which Government is in office: that will eventually come. But that is not an argument against the Bill, because it is the same problem that we have had with national parks for years: the City Council employs more gardeners to look after the gardens around the square mile of Adelaide than there are rangers looking after the national parks of the whole State. That is an absolute disgrace. Notwithstanding, that is not an argument against this Bill. At the very least, this Bill is a guarantee that the human depredation on wilderness areas will stop and, of course, that is absolutely necessary as a first step.

The Hon. DIANA LAIDLAW: The Minister said earlier that there will not be fences around these areas, and I accept that that is for a variety of reasons, including those of cost. But, as I understand it, in relation to the cattle brucellosis program, when an area was cleared, it was fenced. Can the Minister explain this to me: when an area of wilderness is cleared of rabbits, how is it intended to keep that area clear?

The Hon. ANNE LEVY: As I understand it, the only practical means of ever achieving rabbit control is by biological means. Fences are irrelevant when one is discussing biological control mechanisms. It is a tragedy that rabbits were ever introduced into this country. The damage that they have done is incalculable, and it may well be that Australia will never be able to recover from the damage which the rabbit has done. But we can only hope that reasonable and adequate biological controls will assist in reducing the degradation which is caused by rabbits.

Clause passed.

Clause 12—'Wilderness code of management.'

The Hon. DIANA LAIDLAW: Although I have not checked the National Parks and Wildlife Act in respect to the code of management that is outlined in the Act, can the Minister give me the benefit of her knowledge in this area and tell me: are the policies set out in clause 12 (2) the same as those outlined in the National Parks and Wildlife Act? If not, where do they differ?

The Hon. ANNE LEVY: I understand that the policies are certainly based on those in the National Parks and Wildlife Act and are very similar. The difference is in one or two of the subclauses where, as in this case, we are dealing with whole ecosystems and are looking at it from that perspective.

The Hon. DIANA LAIDLAW: With respect to subclause (3), this is the first reference to the Natural Resources Management Standing Committee. From earlier responses by the Minister, I understand that this committee has been in place for some years, bringing together chief executives of various departments. Why has tourism not been included in this committee, knowing that tourists are in fact great users of natural resources?

The Hon. ANNE LEVY: Tourism has not been included because tourism does not deal with land management.

The Hon. Diana Laidlaw: Yes, it does.

The Hon. ANNE LEVY: The Tourism Office can hardly be described as a land management agency and has not ever been so regarded.

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

Page 7, line 20—After 'The Minister must provide' insert 'the Environment, Resources and Development Committee and'.

At the time the Minister is providing copies of the submissions to the Natural Resources Management Standing Committee, I believe it would also be valuable if those same submissions went before the Environment, Resources and Management Standing Committee of the Parliament. The Natural Resources Standing Committee is a committee of the chief executive officers of various interested departments, as I understand it. To some extent, the Standing Committee of this Parliament is an equivalent committee in many ways. It is a committee which has overview of matters of both environment and development. It is only reasonable that those submissions be laid before the committee. There is no requirement of that committee to act upon it. It is simply the provision of information.

The Hon. ANNE LEVY: The Government is happy to accept it.

Amendment carried.

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

Page 7, lines 35 and 36—Leave out 'by the Natural Resources Management Standing Committee or by members of the public' and insert 'pursuant to subsection (4)'.

I believe it is unnecessary in this case to make special mention of the Natural Resources Management Committee. In relation to the final considerations that have to be made, that committee has no special standing. Like any other group in our society, it has the opportunity to make a submission, and so it should, but there is no reason for the special recognition that that particular committee is given in this clause. I think it is an undue and unnecessary emphasis.

The Hon. ANNE LEVY: Despite what the honourable member has just said, the Government opposes this amend-

ment. It does not really add anything at all. Certainly, individuals are not prevented from making representations. They are fully covered, and the Government wished to recognise the important role undertaken by the Natural Resources Standing Committee. It felt that it should be covered by more than a definition which simply says 'members of the public', that it warranted being specifically mentioned.

The Hon. DIANA LAIDLAW: The Liberal Party supports the amendment.

Amendment carried; clause as amended passed.

Clause 13—'Appointment of wardens.'

The Hon. DIANA LAIDLAW: I understand at the present time that about 80 wardens are employed under the National Parks and Wildlife Act—at least, that was my understanding of the Minister's answer to a question on this clause in another place. From what the Minister has stated earlier, do I understand that no further wardens will be appointed under this provision but that the 80 or so current wardens will be empowered to undertake these additional responsibilities?

The Hon. ANNE LEVY: The honourable member is correct. There are about 80 wardens and, seeing that most of the areas to be proclaimed as wilderness are already in the national parks system, it will be a question of extending their duties as required in this legislation, unless the Adelaide City Council were able to take up the Hon. Mr Elliott's suggestion and, instead of funding gardeners, it funded wardens for national parks, in which case we might get more. However, I would be very interested in the Adelaide City Council's response to Mr Elliott in this respect.

Clause passed.

Clause 14—'Assistance to wardens.'

The Hon. DIANA LAIDLAW: Is this provision also in the National Parks and Wildlife Act and, if so, how has it worked with respect to a warden requesting any suitable person to assist that warden in the exercise of the powers under the National Parks and Wildlife Act, or is this a new provision? My general concern was about the assistant who is requested to provide help to the warden, whether that assistant is to be accompanied by the warden at all times, or able to go off and do his or her own thing, under the very wide powers provided in this Bill.

The Hon. ANNE LEVY: The exact same provision is in the National Parks and Wildlife Act. As I understand it, often in wildlife management or research the assistant works under the supervision of a warden, although they might not be within a few metres of each other all the time. There is always this supervision and interlocking of the work being undertaken.

The Hon. DIANA LAIDLAW: As the assistant has the powers of the warden and, under clause 15, the warden has very wide powers with respect to entry and search, does the authority of the warden to gain this extra assistance have a time limit, or can a person be appointed as assistant warden for 30 days, 60 days or much longer? There does not seem to be any suggestion here that the appointment of an assistant warden has a time limit.

The Hon. ANNE LEVY: I understand that it is always incident-related, not for a specified time period. A particular incident may last as long as a couple of weeks though in general it would be a much shorter time than that. It is related to a specific incident.

The Hon. DIANA LAIDLAW: I am interested in this issue because I would like to know how national parks are managed. I am particularly keen to learn how wilderness areas will be policed. Are assistants to wardens generally members of the National Parks and Wildlife Service or are they local people, Aboriginal people or police officers? Are they paid? How many have been employed in the past?

The Hon. ANNE LEVY: I understand that all rangers are wardens and all wardens are rangers. They are specifically trained for both sets of duties. The Acting Director of the Department of Environment and Planning would be very happy to brief the honourable member on the National Parks and Wildlife Service should she care to make inquiries.

Clause passed.

Clause 15 passed.

Clause 16—'Prevention of certain activities.'

The Hon. DIANA LAIDLAW: I move:

Page 10, after line 34—Insert subclauses as follows:

(8a) A person who objects to a direction that he or she has been given by the Minister under subsection (5) may appeal to the Administrative Appeals Court.

(8b) Upon hearing the appeal the court may confirm, modify or revoke the direction.

This relates specifically to subclause (5), which provides:

Where a person is undertaking or has undertaken an activity in, or adjacent to, a wilderness protection area or wilderness protection zone or on, or adjacent to, land acquired by the Minister or the Minister has reason to believe that a person is likely to undertake such an activity and, in the opinion of the Minister, the activity constitutes, or will constitute an offence against this Act or the National Parks Act or will result in the commission of such an offence if it continues, the Minister may, by notice in writing, direct the person to stop the activity or not to undertake it.

Beyond believing that that clause suggests there is a need for plain English in legislation, the Liberal Party believes very strongly that there is a need for a right of appeal. My amendment provides for appeal to the Administrative Appeals Court. We believe that it is fundamental in terms of natural justice, but I also believe it is worth taking up the point made by the Minister in the other place in response to the same amendment. She indicated that she considered that avenues are available to ensure that, under the normal process of the law, if a person feels that he or she has been treated harshly or unjustly, that person can make an appeal.

The Minister indicated by that statement that she believes appeal rights are available, but I feel very strongly that, if those rights are available, they should be noted in this legislation. In looking at the legislation, a person charged under this Bill should be aware of recourse to an appeal procedure. That person should not have to resort to hunting through countless other Acts to discover his or her rights. The Minister also indicated that there is no appeal right in the National Parks and Wildlife Act. That might be so.

The Hon. K.T. Griffin: Nor is clause 16 in that Act, either.

The Hon. DIANA LAIDLAW: Yes, but I am aware that that Act is under review and I hope that, as part of that review, an appeal process is incorporated.

The Hon. K.T. GRIFFIN: I will join the debate on this issue because I think it is a matter of considerable importance. I interjected on my colleague the Hon. Diana Laidlaw when she said that, in the other place, the Minister said that there was no comparable appeal provision in the National Parks and Wildlife Act. I make the point that, in so far as I can ascertain, there is no provision comparable to clause 16 in that Act. It is all very well to say that there is no appeal provision, but there is no provision that is as significant in conferring power upon a Minister to affect a person's rights as there is in clause 16.

Although in the other place the Minister said that in the general law there would be a right of appeal against a Minister's decision, the only avenue that I can think of to which she might have been referring is the prerogative writ procedure, which enables a citizen, believing that the Minister did not exercise a discretion in accordance with the

basic law, to seek to establish that fact in the Supreme Court and endeavour to obtain an order against the Minister. That is not an appeal, it is a prerogative writ, where different onuses apply.

I will explore what clause 16 does because it is important to recognise that this gives tremendous power to a Minister without that Minister being accountable. Subclause (1) provides:

> Where a person is undertaking or, in the opinion of a warden, is about to undertake an activity in, or adjacent to, a wilderness protection area or wilderness protection zone or on, or adjacent to, land acquired by the Minister and, in the opinion of the warden, the activity constitutes, or will constitute, an offence against this Act or the National Parks Act or will result in the commission of such an offence if it continues, the warden may direct the person to stop the activity or not to undertake it.

It may well be that, in relation to a wilderness protection area or wilderness protection zone, if an activity occurs in the zone no-one could then quarrel with the warden and, subsequently, the Minister having the power to say, 'You must not do that. You are warned off.' That is the end of it.

The Hon. Peter Dunn: But not adjacent to.

The Hon. K.T. GRIFFIN: The point that my colleague the Hon. Peter Dunn draws attention to is that this power also exists in land which is adjacent to a wilderness protection area or wilderness protection zone. 'Adjacent' is a very flexible concept. It can be right on the boundary or even 20 kilometres from the boundary. It might be even further if it is the one property that is adjacent to the wilderness protection area or wilderness protection zone. It could cover a vast area of land.

In addition to that, it is on land that has been acquired by the Minister. It might not be a wilderness protection area or a wilderness protection zone. It does not have to be land acquired by the Minister for the purposes of the Act. It can be any land acquired, although one presumes that it relates to land acquired for the purposes of the wilderness protection legislation, but that does not necessarily follow. It is not only on land acquired by the Minister; it is on land that is adjacent to land acquired by the Minister, and the same connotation applies to the wilderness protection area or the wilderness protection zone. They are very wide powers and the warden can give a direction orally, in writing or in any other convenient manner, it remains in force for five days and it must be reported to the Minister.

The Minister can then give a notice forbidding certain action and then reasons have to be given. That notice has to be served personally or by post or by publication of the notice in a newspaper circulating generally throughout the State—heaven only knows how people in the outback who do not get the daily newspaper on a regular basis, or even a weekly newspaper like the *Stock Journal*, will ever become aware of that notification if it is not served personally or by post—and then the Minister may review the decision, and there it rests. The Minister has absolute and final power.

It seems to me that in those circumstances, where it relates particularly to land outside a wilderness protection area or protection zone, and because of the wide power that is given to the Minister, it is appropriate to have some independent body undertake a review of the Minister's or the Warden's decision originally, and that body is the Administrative Appeals Court, which is a division of the District Court under the new legislation we passed at the end of last year. It is a division of the District Court which deals with administrative matters, administrative appeals tribunals and so on. There is every justification for that. That does not prevent the order from remaining in force, but it does give the citizen a right to have a Minister's decision reviewed, and it is for that reason that I strongly support the amendment.

The Hon. ANNE LEVY: The Government opposes the amendment. There are already avenues which exist for consideration of the case by an outside adjudicator.

The Hon. K.T. Griffin: What are they?

The Hon. ANNE LEVY: I did not interject on you when you were carrying on. Why do you have to do that to me when I am trying to explain something? As the Hon. Mr Griffin indicated, it is certainly possible for someone to apply for a declaration to the Supreme Court that the Minister has exceeded his or her powers in giving a particular direction and, in that situation, if the court ruled that the Minister had exceeded his or her powers, then the action would not proceed.

More importantly, if as a result of the direction the prosecution occurs, the Minister is then taking the matter to court and the court obviously would look at all the circumstances and exercise its own discretion. This relates to matters such as the relevance of the person being on land adjacent to the wilderness area, whether or not the Minister had exceeded his or her powers. The court can certainly exercise its discretion on whether or not to record a conviction or to record a conviction without a penalty or to record a conviction with a very low penalty.

As to the matter raised by the Hon. Mr Griffin about land adjacent to land acquired by the Minister, from his remarks he understood that land acquired by the Minister is defined in the Act as land acquired for the purpose of a wilderness area. Such a concept as 'land adjacent' is used in the kind of offence envisaged by this clause, such as trapping native animals. Unfortunately, this occurs only too frequently, given the uniqueness of Australian fauna, and this applies particularly in respect of endangered species which may have their habitat in the wilderness area and which are being trapped just outside the wilderness area by someone who is doing this quite illegally, and hence the mention in the legislation of land adjacent. As it is felt to be in the best interests of management of the wilderness area, I remind members that the Bill specifically states that a warden must have reasonable grounds for giving directions to anyone and, if they are not judged to be reasonable, the whole matter comes to a halt.

The Hon. M.J. ELLIOTT: The policing of wilderness areas is going to be an extraordinarily difficult task. Those areas are remote and, although as a percentage of the State they will be small, in actual area they will be large. We have enormous problems as it is stopping illegal activities in the north of the State. Vast amounts of illegal fishing occur through the creek systems up there, with vast amounts of illegal capturing of native animals.

It is going to be an extraordinarily difficult task to protect these areas. I have no sympathy for the amendment in relation to the areas within wilderness because, after all, there is only one goal in a wilderness area, that is, to protect wilderness itself. As far as I am concerned no-one has many rights inside wilderness areas in terms of activities other than perhaps the right to live and breathe if they happen to be there. Other than that, the primary goal is wilderness protection and I believe that the law has to lean very much in favour of protection.

Some ultimate appeal rights are available and, frankly, I do not think they will need to be exercised that often, but the very difficulty of policing those areas probably necessitates a clause in the way in which it has currently been structured.

The Hon. K.T. GRIFFIN: I want to refer to several of the matters referred to by the Minister. There is no reference

in clause 16 to the opinion of the warden or the Minister having to be based on any reasonable suspicion. It is merely a matter of opinion: 'in the opinion of the warden the activity constitutes, or will constitute, an offence', or 'will result in the commission of such an offence if it continues', and in subclause (5), in respect of the Minister, 'the Minister has reason to believe that a person is likely to undertake such an activity'. A reason to believe is not 'reasonable belief' and then it is the opinion of the Minister. Of course, the other consequence is that the Minister will, in the notice, fix a penalty for failure to comply with the direction, and that is one further detriment that is being imposed without any effective independent review.

I acknowledge that the Minister is endeavouring to deal with those persons who might be illegally trapping outside the boundaries, and one can have no sympathy with them. If there is an illegal trapping operation, the obvious thing is not only to stop it but also to prosecute for it. However, it is equally possible, I suggest (and we have had a number of instances of these circumstances), that the warden will mistakenly take action and in those circumstances it seems to me to be inappropriate that the final decision is made by the Minister in whose name the warden is acting in any event. Whilst the Hon. Mr Elliott says there is some other right of appeal, there is no right of appeal: there is a right under the prerogative writs in limited circumstances to review the judgment and decision of the Minister, and all this amendment of the Hon. Diana Laidlaw will do is to provide some independent means of maintaining a check on the exercise of power by the Minister.

The Hon. PETER DUNN: I just pose a problem—and I am not sure it has occurred to the department—in the case of the North East of the State. I am not sure whether the department intends to make the Simpson Desert part of the wilderness areas, although I would think it would. Huge stations in that area border onto the Simpson Desert, so they are not fenced, and it is reasonable to assume that, being adjacent to what may be a wilderness area, there would be no way for them to stop their stock going to the area without some enormous cost. Since the TB and brucellosis program, much of it has been fenced, but I can name four stations—Kalamurina, Cowarie, Mungeranie and Clifton Hills—which border onto the Simpson Desert. Most of that area does not have a northern boundary, relying on the desert itself, but in good years stock do stray there. I can foresee the day when somebody gets a bit pedantic with one of the owners there and causes a problem. Has that been thought of? Is it likely that there will be some concessions for these people?

I fully agree with what the Bill does with regard to people trapping animals and denuding the vegetation and so on; I have no problem with that, but people genuinely consider that it has been done in the past so it is a convention that they have done for years. They have grazed in those areas and the cattle go in and get lost looking for water, the water dries up and they cannot get back. That happens all the time. Will that be considered an offence? It really is degrading the area, in a sense. Has the Minister considered that?

The Hon. ANNE LEVY: I think it is a question of being reasonable and sensible. The National Parks and Wildlife Service has always tried to be a good neighbour to properties adjacent to parks; they cooperate with them, they have helped with fencing and such problems and even on occasion have released land to fix up a fencing problem, and there is no question that inadvertent or unwitting breaking of the boundary would in any way be considered other than as something to discuss. The National Parks and Wildlife Service certainly tries to be a good neighbour and, as far as I am aware, has good relationships with all the properties adjacent to national parks.

Amendment negatived; clause passed.

Clauses 17 to 21 passed.

Clause 22—'Constitution of wilderness protection areas and wilderness protection zones.'

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

Page 14, after line 6—Insert paragraph as follows:

(aa) if, in the Minister's opinion, an Aboriginal organisation has a particular interest in the land to which the proposal relates, the Minister must consult that organisation in relation to the proposal;.

This amendment is consequential on the earlier one in relation to Aboriginal organisations and the requirement of the Minister to consult with those organisations that, in her opinion, have a particular interest in the land.

The Hon. ANNE LEVY: The Government is happy to accept this. It was discussed when we were considering clause 3.

Amendment carried.

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

Page 14, line 16—Leave out 'not less than'.

There is an invitation here for interested persons to make submissions to the Minister in relation to a proposal within a period of not less than five months following publication of the notice.

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: It is giving a little more flexibility in the period, and I think it is a fairly simple amendment.

The Hon. ANNE LEVY: The Government is happy to accept this. It means that there must be a three month period and that a period of less than three months cannot be chosen, but the Government is happy to accept that.

The Hon. DIANA LAIDLAW: The Liberal Party will accept this amendment, but I indicate that it does not provide more flexibility; it is totally the reverse argument. If I were going by the explanation of the amendment, I would not be supporting it, but I certainly would support it, having done some earlier homework on the matter.

Amendment carried.

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

The Hon. DIANA LAIDLAW: I move:

Page 14, after line 34—Insert subclause as follows:

(8) Notwithstanding anything to the contrary in a mining Act, a mining tenement must not be granted or renewed in relation to land that is the subject of public notice under subsection (6) *(b)* until the land has been constituted as a wilderness protection zone or the Minister has given public notice under subsection (6) *(f)* that he or she has decided not to proceed with the proposal.

The amendment relates to interim protection, an issue which the Liberal Party explored in the other place. We were keen to learn why the Government had not included interim protection in this Bill in relation to wilderness areas and zones. We were concerned because the Government has proclaimed that this is a higher form of protection to be provided to selected areas of our natural environment. The Liberal Party supports this Bill, but if this is to be a higher form of protection it is puzzled why interim protection was not provided as an option during the assessment stage, particularly as interim protection is provided during the assessment stage in both the National Parks and Wildlife Act and the Heritage Act. It seemed inconsistent to us in that regard. The Minister did not satisfactorily answer our questions in the other place and we have continued to receive representations from the Wilderness Society.

We have also consulted the Chamber of Mines and Energy in South Australia, which is relaxed about the amendment that I have moved. I think that is a positive sign for the

future in terms of so many of the debates that we have had in the past on environmental matters with the so-called green groups on one side of the debate and developers, including the miners, on the other side. I am heartened to believe that this amendment, which has been pushed for by the Wilderness Society, is accepted by the Chamber of Mines and Energy. I hope very much that it will also be accepted by the Government and the Democrats.

I note that the Democrats had an amendment worded in the same way. An identical amendment was prepared on 24 April, but the Democrats have since circulated a new set of amendments and a new proposal. I understand that the Chamber of Mines and Energy is not enthusiastic about that proposal, but is about the Democrats' original amendment which was the same as the one that I have moved. I feel that the relationship between the Chamber of Mines and Energy and the Wilderness Society is a very important development—almost a breakthrough in this type of legislation—and that it should be encouraged by gaining bipartisan support in this place. In view of the pressure of work, I will not go into elaborate exploration of the working of this amendment.

The Hon. M.J. ELLIOTT: I note that the Hon. Ms Laidlaw recognised that, in the first instance, I tabled an identical amendment to this one. However, after further examination, I withdrew it. Instead of seeking to amend clause 22, I shall be moving an amendment to clause 25. The effect of the amendments is identical. It was more a matter of drafting and the appropriate place in the Bill for the amendment to be inserted. The amendment is now to clause 25, which relates to the prohibition of mining operations. The effect of this amendment is prohibition of a sort in that applications will not be processed once an area has been nominated and is being assessed for suitability. The effect is the same. It was a matter of drafting. As I said, originally I had an amendment which was similar to the one that has been moved by the Hon. Ms Laidlaw. I have now opted for a slightly reworded amendment, but no different in effect, to clause 25 rather than to clause 22. It is a matter of tidy drafting, but the effect is the same. I guess that I am biased. I had an amendment identical to this one, but then decided I had a better one. There is no argument about the substance of it.

The Hon. ANNE LEVY: I mentioned earlier that an amendment on this matter was foreshadowed and that the Government was in favour of the principle. However, we prefer the placing of the amendment to be moved by the Hon. Mr Elliott to that moved by the Hon. Ms Laidlaw. Clause 22, under the heading 'Constitution of wilderness protection areas and wilderness protection zones', is not as appropriate a place to have such an amendment as clause 25, which deals with the prohibition of mining operations in wilderness protection areas and zones. For that reason, not because of the principles involved, I shall be opposing the Hon. Ms Laidlaw's amendment and supporting that of the Hon. Mr Elliott when we come to clause 25.

The Hon. M.J. ELLIOTT: I should like to make one further comment. It is pleasing that we have all three Parties seeking interim protection. All three Parties have supported the legislation as a whole, but interim protection is vital to the working of the Bill. It is most interesting to see what is happening in New South Wales where interim protection does not exist. The loggers are sending in the bulldozers and felling forests which have been nominated. They are vandalising areas so that they are no longer suitable for wilderness use. That is because there is no interim protection after nomination. It is absolutely scandalous. Interim protection is an important part of the legislation. It does not remove any existing rights. If a person has been granted a lease, that lease continues. However, if a person applies after a place has been nominated, it is unreasonable that it should be processed and granted while the area is being considered. We do not want that sort of thing to happen, and it is most pleasing that all three parties consider interim protection to be important.

Amendment negatived; clause as amended passed.

Clause 23—'Constitution of area or zone with consent of indenture holder.'

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

Page 14, line 45—Leave out 'proclamation' and insert 'regulation'.

This amendment is similar to the ones we have in this Chamber so regularly, where the Government brings in legislation whereby it carries out things by proclamation, and this place very quickly says, 'Look, that is not on. We believe that, as far as possible, Parliament should retain control.' In this case, the clause as it reads provides:

> In order to obtain the consent of a party under subsection (2) the Governor may by proclamation, authorise the party to undertake an act or activity that would otherwise be unlawful under this Act.

We do not believe that unlawful acts should be authorised by proclamation. I think that is something about which the Parliament should have some say, and it is consistent with the sorts of amendment we frequently have in this place.

The Hon. DIANA LAIDLAW: The Liberal Party agrees with the amendment and is pleased to see every additional opportunity for the Parliament to scrutinise matters as important as those outlined in this Bill.

The Hon ANNE LEVY: I can count, Mr Acting Chairman.

Amendment carried; clause as amended passed.

Clause 24—'Alteration of boundaries of wilderness protection areas and zones.'

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

Page 15, line 10—Leave out 'proclamation' and insert 'regulation'.

It has been noted that in the National Parks Act boundaries of wilderness areas, for the purposes of making roads, etc, can be carried out by proclamation. I would suggest that when we talk about wilderness areas, we must be especially careful. Despite the regular argument we have about proclamation against regulation, wilderness areas are not supposed to be touched, and what is seen as the simple modification of a road, for instance, can be much more important than that in a wilderness area. For instance, if the modification of the road allows increased traffic flows, that is certainly anomalous to what we are trying to achieve in wilderness areas.

One area which has been considered for nomination is the Danggalia conservation area, which has a number of bush tracks around it, some of which are used as thoroughfares for people going through the Riverland and up towards Broken Hill. The last thing we would want is changes to be made to those roads by proclamation. Someone might think that they would like to improve the roads a bit, but I would like to stress that altering a road in a wilderness area is not a minor event. It is very important that proclamation be replaced by regulation, despite the fact that it is 'proclamation' in the National Parks Act.

Amendment carried.

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

Page 15, lines 33 to 36—Leave out subclauses (6) and (7).

This is a consequential amendment which relates to the fact that proclamations are no longer allowed, so subclauses (6) and (7) become irrelevant.

Amendment carried; clause as amended passed.

Clause 25—'Prohibition of mining operations in wilderness protection areas and zones.'

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

Page 15, after line 42—Insert subclause as follows:

(1a) Rights of entry, prospecting, exploration or mining cannot be acquired pursuant to a mining Act in respect of land in respect of which the Minister has published a notice under section 22 (6) *(b)* until the land is constituted as a wilderness protection zone or the Minister gives public notice under section 22 (6) *(f)* that he or she has decided not to proceed with the proposal to constitute the land as a wilderness protection area or zone.

This amendment is the one which I foreshadowed when we debated clause 22.

The Hon. DIANA LAIDLAW: I do not think that the Liberal Party is at all keen on this amendment. I am not sure what is the Government's view.

The Hon. M.J. Elliott: It has exactly the same effect as the other one.

The Hon. DIANA LAIDLAW: Yes, that is why I said we were not as keen on that as we were on the other matter.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 15, line 45—After 'constituting' insert 'a wilderness protection area or'.

I have a number of related amendments to clause 25, which relates to the prohibition of mining operations in wilderness protection areas and zones. The amendments I move will allow for exploration from the air in wilderness protection areas and zones. We noted before that there are provisions in this Bill for boundaries to be amended or for areas or zones to be abolished by passage of a motion through both Houses of Parliament. We recognise that, having inserted that amendment, the Government envisages that from time to time there may be reasons for boundaries to be changed or for areas to be abolished. We feel that, in this day and age, not only is it critically important that we pass on to future generations the small remaining areas of wilderness in this State but also that we do so with the confidence of what is not only on the surface but also what is under the ground.

We also feel that the environmental future of the State is just as important as the future wealth and general well-being of people in this State. Almost every day in the media and in this place, reference is made to the desperate financial situation in this State, and as responsible members of Parliament we do not believe that we should allow areas in this State to be tied up where there is not full knowledge of not only what is on the surface but also what is under the ground.

Therefore, we believe that in this day and age there is a much better attitude amongst miners, environmentalists and politicians generally about the environment and development working hand in hand. We believe that, in this area, it would be most satisfying to know that, when we tie up areas, we do so with the knowledge of what is under the ground. We believe that the only means to do that is by aerial surveys. We do not advocate ground surface surveys, which could and possibly would be destructive to the environment, particularly as most of the wilderness areas in South Australia will be in the arid zones, not in the South-East or in the rainforest areas of New South Wales or Tasmania where there is high rainfall and quick rejuvenation of much of the native vegetation.

Aerial surveying for exploration reasons is an accepted and vital process today in determining what is under the ground. It is certainly not intrusive. I have spoken with a number of companies that operate such surveys. They abide by the rules outlined in the Mining Act with respect to surveying work. I have spoken with personnel from some survey companies such as Airborne Geophysics, based in Adelaide, who have told me that in a recent survey conducted just outside Broken Hill, they were told about the yellow footed rock wallaby, so they flew at an additional height over that area deliberately to avoid disturbing that wallaby. Also, from time to time graziers have requested that aerial survey companies be sensitive to the fact that sheep were lambing in the area, and again the surveying companies have taken that into account.

It is quite clear from work done two decades ago that the Roxby Downs deposits would not have been discovered in South Australia and we would not have the royalties from that project today had aerial surveys not been undertaken. It is important in our view that, in tying up land, we recognise what is underneath. It would be agreed that there would not be motions in both Houses of Parliament to upset that wilderness area with mining activity if extraordinary wealth was found underneath it, but we do not accept that tying up a surface area is wise, sensible or acceptable without knowing what riches are below the surface.

With respect to wilderness areas and zones, from time to time there will be very small pockets, not always widespread areas, where an ore body might be adjacent to but outside the area or zone, and to determine the extent of that ore body, it may be important to have a wide understanding of the geological formations within the area. I do not accept that in such instances we should be banning aerial surveying altogether. Some people have said that, in this instance, people can still fly over the area and undertake this work even if there is a ban. That is not an acceptable situation and we should not tolerate that. We should indicate that we would and could allow aerial surveying in those circumstances—not just turn a blind eye to such illegal practices.

I have moved this amendment in the belief that not only do we need to protect the environment in the future but also we must take into account the future financial well-being of this State. Through the generation of wealth, we can improve our education, health, roads, policing and a variety of other services. Very definitely we have a commitment and responsibility, not only for this generation but future generations in both regards.

The Hon. ANNE LEVY: The Government opposes this amendment. Obviously, whether people fly over a particular area is not within the control of the State Government. The control of air space comes under Federal jurisdiction. It seems utterly irresponsible on the part of the honourable member to move an amendment such as this which suggests to the industry that it can go and spend millions of dollars doing aerial exploration when we have quite definitely said that no development will occur in a wilderness protection area. The following portion of the amendment:

(b) the proclamation is made in pursuance of a resolution passed by both Houses of Parliament.

already exists in clause 22 (3) *(a)* of the Bill. A wilderness protection area, not a zone, cannot have any development in it. If that status is to be changed, it can only be changed by a resolution passed by both Houses of Parliament. To encourage the mining industry to spend millions of dollars on aerial exploration in the knowledge that no further development can be undertaken within that area is utterly irresponsible, and I would think the mining industry would not thank the honourable member for that. If exploration is undertaken, it is with the aim of recovery should the exploration find anything. To allow any form of mineral exploration in these areas would certainly create the impression that mining would then be permitted. It is utterly irresponsible to allow exploration and then deny recovery of the minerals that are detected, particularly as the honourable member stated that aerial survey work can cost millions of

dollars. Her amendment makes a mockery of the distinction between a wilderness protection zone and a wilderness protection area.

The Hon. M.J. ELLIOTT: This amendment is totally inconsistent with the whole argument about wilderness. If I can draw an analogy, it is a bit like saying, 'Will you sell your grandmother?' with the response, 'No, but I will take quotes.'

Members interjecting:

The Hon. M.J. ELLIOTT: The analogy is exactly the same. Why are we supporting wilderness? What is the concept of wilderness? We are attributing to it a value which ultimately is not just about dollars. There will not be any more wilderness; they are not making it any more. It has taken a few hundred million years to make what we have.

The Hon. Diana Laidlaw: They are not making any more minerals underground.

The Hon. M.J. ELLIOTT: That is true. That means another fact must be recognised. The world does have a limited resource base. If you eventually have to dig up every tree to get what is underneath it, that is an admission that the present course of our society will fail anyway. What if the world was made 10 per cent smaller? We would run out at the same time as if you set aside 10 per cent. I refer to the sort of principled stand that the Opposition Party took in relation to the Antarctic: 'It must be wilderness.' That is what it said. 'No mining' is what it said. I would hate to think they were doing it because the Australian mining companies were worried that something might be found that was going to compete with them. I am sure that is not the case, though.

If one believes in wilderness (and as I said, there will not be any more), one attributes a value that is not about dollars. I could understand if 90 per cent of Australia was wilderness and people said, 'That is really fairly tough', but it is not. There is hardly any wilderness left. If we cannot get by without whatever is left underneath it, there is something sadly wrong with us. Even if we take a conventional economic approach, the world's successful economies are not the resource-based ones. In fact, they tend to be the Third World countries. The wealthy nations in the world are the Japans and European nations who use somebody else's resources. If anything, Australia has been a rather lazy economy and a rather lazy society altogether, because it has achieved its wealth in some ways too easily for too long. It has just been able to dig it up and ship it out.

The Hon. Peter Dunn: Do I have to put up with this?

The Hon. M.J. ELLIOTT: I have to put up with your nonsense on many occasions so you can take my stuff for a while. One cannot deny that, generally speaking, the world's successful economies are not resource based. If we cannot find other ways of creating wealth, even in conventional economic terms, that is an admission of failure. If we have to dig up the last wilderness areas to get what is underneath them, that is an admission of the failure of our society and its direction. All this does is delay the inevitable.

One either believes in wilderness or one does not. One cannot say that if there is something underneath it one will not believe in it anymore. It has a value and it must transcend dollars. I could understand that, if people wanted to declare the whole of the State wilderness, we could not do anything. That will not happen. Let us be realistic. Although we get maps from the mining lobby indicating how much of the State is tied up, most national parks have all sorts of exploration leases over them. Every national park that has been proclaimed over the past 12 years—which is the great majority in area and number—has had exploration allowed by proclamation at the same time. What we are saying is that some areas of this State are so special that we are willing to set aside those few small areas. We have conceded that, if there is an existing lease, we will allow that lease to run its term, so we will not interfere with leases on which mining companies have spent their money. I think the mining companies have been treated very reasonably in this process.

The Liberal Party has stated that it believes in interim protection. What is the worth of interim protection if, although something has been given full protection, that is withdrawn when it is found that there might be something in it and you want to look at it later? I am happy to say that a small fraction of our State will be left as wilderness. Yesterday the Hon. Mr Dunn gave a very eloquent speech about his grandchildren and other member's grandchildren who will get a chance to see wilderness. That is very important and I hope that the Liberal Party reconsiders its position because there has been such a conjunction of thoughts about this Bill. It is most unfortunate that this one amendment undermines the intent and purpose of what we are debating.

The Hon. DIANA LAIDLAW: I understand the Minister's political propaganda, trying to suggest that this is irresponsible, but such a suggestion from a Government that is bankrupting this State is laughable. I do not accept for one moment that we should dig up everything. This amendment is not about digging anything up. It is about knowledge, not only of what is on the surface but what is under the surface. Even the Government does not believe that everything should be tied up for ever and a day under this legislation, because the Bill makes provision for areas to be amended or abolished if there is reason to do so.

We do not know what the state of the world will be in 30 or 40 years time. We need knowledge of our environment in every respect, including what is under the surface. We do not know what new minerals will be needed for what purposes later on, and I am not suggesting that everything be dug up. The Liberal Party would not be part of that, but Liberal members accept that we need knowledge and, in most instances, with that knowledge, there would be no effort in this place to overturn wilderness areas. I believe that very strongly and that is why the Liberal Party is supporting the creation of these areas.

I also point out to the Minister that it is not irresponsible for us to suggest that exploration be undertaken, and that it be undertaken only by industry. It is a fact that the Bureau of Mineral Resources carries out constant aerial surveys which are of enormous benefit to our wealth of knowledge in this State, and that is what we as Liberals are seeking to achieve. It is also very clear that, well outside a boundary of a wilderness area or zone, there may be a very rich deposit of some mineral, and it is most important to follow the ore body, line and rock formations to find out the extent of the deposit and to find the cracks, distortions and layering—a whole range of things—before any decision is made on mining. That information is required for a wide radius around the core of the ore body. Such information might be required from within a wilderness area or zone, although neither the area nor the zone would be touched.

Whilst I am seen as a greenie within my Party and among many people in the community, I have no misgivings about this amendment because I believe that, other than in the debate in this place, there is a much greater understanding of our responsibilities towards future generations for our economic and environmental wealth.

The Hon. PETER DUNN: What the Hon. Diana Laidlaw said is exactly right: it has nothing to do with mining. The amendment concerns the knowledge of what might be under

there. The only reason one would fly over it is to pull an inclinometer across the top. It is a non-intrusive mechanism that measures magnetic variations as it travels across the surface of the earth. If there are ore bodies or oil deposits, it may give an indication of those deposits. It does nothing more than that. After that is done, ground surveys have to be carried out.

I take members back to the finding of Roxby Downs. It was not found by aerial inclinometers; it was found by satellite imagery. Are members opposite saying that we cannot send our satellites over 2 per cent of the State because we might find some ore there? The argument put forward by the Government and the Democrats is the greatest bit of nonsense I have ever heard. This amendment permits an inclinometer or a variometer to determine what might be underneath the surface. It does not say that it has to be done.

Are members opposite saying that there will be no scientific exploration of the vegetation or anything else? Are they seeking to exclude the university? What is the point of having wilderness if they want to do that? This amendment has nothing to do with invasive investigation; it merely involves flying over the top of a wilderness area or zone. I can tell the Committee now that members would not know whether an aeroplane flying over such an area is exploring it. It is a nonsense to talk about it. Most areas are probably gridded and have had an inclinometer over them, particularly the Simpson Desert and the area around Lake Eyre. That is being surveyed all the time for oil, using newer and better techniques. They are getting more sophisticated and give better indications. That does not necessarily mean that explorers will dig holes or mine the area.

The argument that people should not be able to fly over a wilderness area or zone defies logic. We are talking about private enterprise. It is private money and, if those people want to spend it knowing full well that they will not get any return on it, what are the odds! It defies logic.

The Hon. K.T. GRIFFIN: With respect, the Minister was wrong when she indicated that it was the Commonwealth which had control of the air space. That is correct to some extent concerning control of some areas of air traffic but constitutionally the State still retains control of a significant amount of air space as I understand it within the boundaries of the State and control of airlines. I think some States still have not deregulated their intraState air traffic systems. The other problem is that the space above a piece of land is generally regarded as being the property of the person who owns that block of land. If we look at land in suburbia, no-one can build on the top of my block of land because that is my space and the same can be said about wilderness. It is reasonable to be cautious in debate about who has control of the air space over the wilderness zone, to provide that nothing will prevent aerial surveying. After all, it is possible for that to be controlled either directly or indirectly by refusing permission to take off and to land on particular pieces of land under the control of the State. I do not see any difficulty with the amendment and it is important to help clarify that aerial surveying is still permitted and nothing can stop it.

The other point I want to make about the Hon. Mr Elliott's contribution is that, as I understand exploration, it is not just a matter of flying over one piece of land or one area and saying, 'I have done my survey.' It is a matter of flying over an extensive piece of land and saying, 'Now I have done the survey, I get certain readings which you can follow through in a continuous line over a large area of land so that you can gather some idea of the configuration of the strata below the surface.' I suppose if it is possible to prevent surveying over wilderness areas or zones it might mean that up to the point of the boundary information is available about strata but that, after that, there is a blank. So it is important that the whole of the area of surveying be taken as a whole and not in a piecemeal way. There are good and valid reasons why the amendment should be supported without having the sinister connotations that the Hon. Mr Elliott might seek to put on it.

The Hon. M.J. ELLIOTT: I must point out that the Hon. Ms Laidlaw said in her contribution that there was a chance that they would want to go into small areas that might have something in them. I cannot remember her exact words, but she said—

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: I think the honourable member said inside as well. If one looks at the consequential amendments coming up, they talk not just about the right of exploration from the air but also about proclamations in pursuance of both Houses of Parliament which obviously suggests that there is a possibility within the amendment of eventually pursuing changes within the wilderness area itself. There is no other possible purpose for the proposed (3a) *(b)*, which has been moved. The only purpose is to change what is happening inside the area.

The Hon. Diana Laidlaw: That is provided for in the Act.

The Hon. M.J. ELLIOTT: Yes, but once again it is here. It points out exactly that not only is one looking at a right of exploration from the air, but that that once again is being considered. It is quite clear that the mining lobby sees itself, after having done an exploration, coming back and saying, 'We think there is a good chance that something is there. We think it will be big. It may be another Roxby Downs, so can we drill a few holes and have a look?' We get back to the point I made before: either we decide something is a wilderness area or it is not. One cannot—

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: The only reason we have any wilderness remaining now is because it was not useful for anything else—no-one had found a significant use or a use that would vandalise it. The honourable member is saying that there is a chance that we could find a use for those areas and that we should not lock them up. That is the ramification of the amendment and I cannot and will not support it.

Amendment negatived.

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

Page 16, lines 5 to 13—Leave out subparagraph (i) and insert the following subparagraph:

(i) is made—

(A) for the purpose of enabling the holder of a mining tenement that was in force immediately before constitution of the land as a wilderness protection zone to continue to exercise rights of entry, prospecting, exploration or mining under the tenement;

(B) to enable the holder to acquire and exercise such rights under another tenement granted under the same mining Act;

(C) to enable a subsequent holder of a mining tenement referred to in subparagraph (A) or (B) to exercise rights of entry, prospecting, exploration or mining under the tenement;

or

(D) to enable a subsequent holder of such a mining tenement to acquire and exercise such rights under another tenement granted under the same mining Act.

The subparagraph that I seek to amend was known by some people who were discussing it as the subparagraph from hell. Basically, the provision is highly convoluted and open to interpretation, some people felt. Lawyers would have delighted in it. The amendment follows the intention of the

provision as we understand it but is in a more readily comprehensible form. There is no other intention; it is to make the intention clearer.

The Hon. ANNE LEVY: The Government is happy to accept the amendment which, despite its convoluted language, makes the position clearer.

The Hon. DIANA LAIDLAW: It is less complicated and the Liberal Party accepts it for that reason.

Amendment carried.

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

Page 16, after line 36—Insert subclauses as follows:

(7a) A subsequent holder of a mining tenement referred to in subsection (4) *(a)* (i) cannot exercise rights of entry, prospecting, exploration or mining under the tenement, or acquire and exercise such rights under another tenement, without the written approval of the Minister.

As I understand it, it is possible that mining leases can be granted for an indeterminate or indefinite period and we could have the interesting position where an area that has become a wilderness protection zone cannot be changed to a wilderness protection area because a lease continues to operate indefinitely. It seemed that there must be at least some form of periodic review and in another amendment I look at the possibility of periodic review. It is something we did in the National Parks and Wildlife Act when we looked at regional reserves, because there was a recognition of a need for periodic review.

There are two possible mechanisms. One is a periodic review, which is the sort of review we have in the National Parks and Wildlife Act and that can be undertaken every five years, and that will be covered in a later amendment. This amendment suggests that there could be some form of review whenever there is a change in the holder of a mining tenement. Often a company may hold a lease and not be active with it. They simply hold it and eventually put it on the market. During the period before it is actually at the point of transition the Minister could examine whether or not the area involved might be considered for a change from a wilderness protection zone to a wilderness protection area. The purpose of that clause is to allow some form of intervention, and that is one possible mechanism, so I put this amendment forward.

The Hon. ANNE LEVY: The Government opposes this amendment, basically for two reasons. This is dealing with the wilderness protection zone, where holders of tenements do have rights, and it seems unreasonable to require them to apply to the Minister for Environment and Planning for permission to exercise the rights they have. Furthermore, the control of the exercise of rights regarding entry, prospecting, exploration and mining under a tenement comes under the province of the Minister of Mines and Energy. He is the Minister responsible for looking to the exercise of those rights, and it would seem quite contrary to good governmental practice to bring in the Minister for Environment and Planning in matters that are the province not of that Minister but of the Minister of Mines and Energy.

The Hon. DIANA LAIDLAW: The Liberal Party agrees with the explanation provided by the Minister in opposing this amendment. In addition to the points she made about the Minister of Mines and Energy already having control in this area, we agree that it should then not go to another Minister, but there is also the issue of finance. It is a fact that if we did support this amendment it would impede the ability of the holder to raise finance by farm-out or to sell an interest to a more financial party, and for those reasons we oppose the amendment.

Amendment negatived.

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

Page 16, after line 39—Insert subclause as follows:

(9) The Minister must, at intervals of not more than five years—

(a) assess the effects of mining operations on each wilderness protection zone constituted under this Act;

(b) prepare a report setting out the Minister's conclusions following the assessment and any action that should be taken as a result of the assessment;

and

(c) cause copies of the report to be laid before both Houses of Parliament.

Members will note that I have tabled an amendment which I now replace with another amendment, which was circulated today. I am afraid that I circulated a set of amendments without reading them through carefully; I was concentrating on some earlier clauses when I was checking them and I did not realise that this amendment was in that form when I circulated it, and that is my error. The purpose of this clause is to allow a periodic assessment of the wilderness protection zones, in this case, every five years, and for the Minister simply to assess the effects that mining operations are having in the protection zone, to prepare a report on the Minister's conclusions following the assessment, and to cause copies to be tabled in both Houses of Parliament.

There is no other action beyond that; the Minister cannot change the zoning or anything else. It is simply a way for the Minister for Environment and Planning to pass information to the Parliament and undertake what I take to be a fairly detailed review every five years as to the wilderness protection zones and the impact of mining operations within them. It is fairly reasonable. It has some similarity to a provision in the National Parks and Wildlife Act, and I would hope that this Committee would support it.

The Hon. ANNE LEVY: The Government is very happy to support this amendment. As the honourable member said, it is very similar to a provision in the National Parks and Wildlife Act and it would seem quite appropriate to have it repeated. As in fact the similar provision in the National Parks and Wildlife Act was inserted by the Opposition when that Bill was before Parliament, I presume it will have complete tripartite support in this Chamber.

Amendment carried; clause as amended passed.

Clauses 26 and 27 passed.

Clause 28—'Control and administration of wilderness protection areas and zones.'

The Hon. K.T. GRIFFIN: I have a question in relation to clause 28 (2). Subject to proposed subsection (3) all leases and licences granted in respect of land become void on constitution of the land as a wilderness protection area or zone, and proposed subsection (3) provides that a mining tenement in force in respect of land immediately before the constitution of the land as a wilderness protection zone remains in force if the rights of entry, prospecting, exploration or mining under the tenement are preserved by proclamation made simultaneously with the proclamation constituting the land as a wilderness protection zone. Does the Minister envisage that, by virtue of the operation of clause 28 (2), some form of compensation will be payable where existing leases and licences not preserved by proclamation become void upon constitution of the land as a wilderness protection area or zone?

The Hon. ANNE LEVY: I understand that the formal answer is 'No', but the procedure would be acquisition of the land or of any rights or leases prior to proclamation so that it would not be a question of voiding private rights; it would already be in Government ownership before the proclamation was made.

The Hon. K.T. GRIFFIN: I am pleased to have the assurance that that is how it will be handled, otherwise, by operation of statute and then by process of constitution of

land as a wilderness protection area or zone, persons who have the benefit of leases and licences would stand to lose significantly as a result of that Act. So, I am pleased to have the assurance by the Minister that it is proposed that they be acquired for an appropriate value or appropriate consideration prior to the proclamation occurring.

Clause passed.

Clauses 29 and 30 passed.

Clause 31—'Plans of management.'

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

Page 19, lines 11 and 12—Leave out 'by the Natural Resources Management Standing Committee or by member of the public' and insert 'pursuant to subsection (9)'.

This is somewhat similar to an amendment which I moved earlier and which was supported by the Opposition. I do not see that the Natural Resources Management Standing Committee has a special role to play at this point that is any different from the role played by many other bodies within the Government and the general public, so I believe that this amendment should be supported.

The Hon. DIANA LAIDLAW: The Opposition supports this amendment.

The Hon. ANNE LEVY: For the same reasons that applied to the previous amendment the Government opposes this, but, again, I can count.

Amendment carried.

The Hon. K.T. GRIFFIN: Clause 31 (4) provides:

The Minister must make copies of all submissions made under subsection (2) available for public inspection or purchase (except for submissions made in confidence) and for that purpose the Minister must, by public notice, give notice of the place or places at which the copies are available.

What puzzles me is why there should be any need to allow submissions to be made in confidence, particularly as the plan of management is to be on display and submissions are to be made. Can the Minister indicate why there should be any provision for submissions to be made in confidence in light of the fact that they will not then be available for public scrutiny?

The Hon. ANNE LEVY: I understand that some people who may feel strongly about something and wish to make a submission but want it to be kept confidential request that their submission be kept confidential. If that were not possible they would feel inhibited in expressing their feelings on a matter. An area where such a thing could be important is Aboriginal sacred sites. They would not want the location perhaps of a men's sacred site to be known or read about by women or a women's sacred site to be known or read about by men. That exception would be available to protect the confidence of such possible submissions.

The Hon. K.T. GRIFFIN: I have no difficulty with the latter explanation. However, in respect of the former reason, I express concern that anything other than submissions made in the context of sacred sites would not necessarily seem to me to warrant the confidential tag. It means that submissions on plans of management relying upon confidential treatment, other than in the area to which the Minister has referred, open the way potentially for some behind-the-scenes arrangements which are not subject to public scrutiny. I suppose there is no way of protecting against that if we are to provide the facility for the recognition of things like sacred sites.

Clause as amended passed.

Clauses 32 to 40 passed.

Clause 41—'Regulations.'

The Hon. K.T. GRIFFIN: I have a few questions on this clause. The regulation making power is similar to, if not identical with, that in the National Parks and Wildlife Act. Can the Minister indicate what sort of 'powers, authorities, duties and obligations upon the Minister, the Chief Executive Officer, the Director, wardens or any officers appointed under this Act', may be necessary or expedient for the enforcement of this Act? I ask the question on the basis that normally one would not expect regulations to confer those powers and authorities, but that they would be in the statute itself.

The Hon. ANNE LEVY: I understand that it relates to the code of management which has to be drawn up under the Act. There will be public consultation for such a code, but the powers will relate to the code of management when it has been drawn up and agreed after public consultation.

The Hon. K.T. GRIFFIN: There is a provision in the National Parks and Wildlife Act relating to expiation fees. This is a matter to which I constantly refer on the basis that there is a proliferation of provisions which provide for the expiation of offences. I do not want to elaborate on this further. I merely draw attention to my concern about the continuing provision for the expiation of offences.

In the House of Assembly the Minister for Environment and Planning made some rather caustic criticism of the Opposition in relation to an amendment proposed by the Opposition to limit the penalties which could be prescribed by regulation; that is, penalties for breaches of the regulations. That amendment proposed that a limit of $2 000 be placed on penalties for breaches of offences created by regulation. That is consistent with the general practice that we adopt. I acknowledge that there is no such limit in the National Parks and Wildlife Act section which deals with regulations. To that extent, the Minister for Environment and Planning was correct.

However, the Minister then made a gigantic error in saying that the Opposition had supported penalties of $1 million in the Marine Environment Protection Act and that, by seeking to put a limit on the penalties which may be prescribed by regulation for breaches of the regulations, it was being inconsistent. I have looked at the Marine Environment Protection Act. It is correct that substantial penalties were prescribed, but they were provided in the Act itself for offences created by the legislation. They were not included for offences for breaches of regulations. There is a provision in the Marine Environment Protection Act under the regulation making power that fines can be prescribed under the regulations for contravention of or non-compliance with a regulation of an amount not exceeding a division 6 fine. A division 6 fine is $4 000, and that is still at the lower end of the scale. Therefore, the Minister for Environment and Planning is quite wrong in relation to the Marine Environment Protection Act. I think she missed the point that there is no difficulty with penalties being provided by Parliament in the Act itself for offences created by the statute, but it is quite a different matter for offences to be created by regulation and then for high monetary penalties, or even in some instances imprisonment for breaches of those regulations.

Regulations are designed to implement the provisions of the Act and are more of an administrative nature rather than of a primary legislative nature. Because of the arguments about consistency with the National Parks and Wildlife Act, I do not intend to seek to put a limit in this, but that is the exception rather than the rule, and any discussion with the Attorney-General will show that there has been a consistency of approach in trying to limit the penalties which might be prescribed by subordinate legislation for breaches of offences created by that legislation. I want to put on the record that correction and put the penalty provisions in relation to regulations into a correct context.

Clause passed.

Schedule and title passed.

Bill read a third time and passed.

The Hon. K.T. GRIFFIN: I draw attention to the state of the House.

A quorum having been formed:

GAMING MACHINES BILL

In Committee.

(Continued from 5 May. Page 4758.)

Clause 17 passed.

Clause 18—'Hindering of wardens, etc . . .'

The Hon. R.I. LUCAS: Subclause (7) provides:

The Commissioner may, on such conditions (if any) as he or she thinks fit, waive compliance with formal requirements relating to an application.

Can the Minister say why this particular provision is deemed necessary? What is potentially envisaged here to necessitate this particular waiving requirement?

The Hon. ANNE LEVY: I understand that it would be very rare situations where such an out would be used. It would be the type of situation where there are very complex corporate structures, where shareholders are proprietary companies and there could be, for example, a total of 40 natural people actually involved, one of whom might happen to be in London. In such circumstances, the commissioner would entertain an application if there were an affidavit that the person in London did not have any criminal convictions, without taking the formal steps to ascertain whether that was true, other than by affidavit. It would be used only in extreme cases such as that. Subsequently, the proper demonstration would have to be provided, but one would not hold it up because one person was a long way away. It is the same as in the Liquor Licensing Act.

Clause passed.

Clause 19—'Certain criteria must be satisfied by all applicants.'

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

Page 9, after line 33—Insert new paragraph as follows:

(aa) the Commissioner may cause the person's photograph and fingerprints to be taken;.

This clause deals with criteria which an applicant must meet in order to satisfy the Commissioner that the applicant is a fit and proper person and, where the applicant is a body corporate, each person who occupies a position of authority is a fit and proper person to occupy such a position. One of the things which the Police Commissioner commented upon in his submissions—and I do not have them readily accessible—was that the only way one can ensure the checking of identity and record is, if not infallible, then almost infallible, is to allow an applicant's photograph and fingerprints to be taken for comparison purposes. So, I propose to allow the Commissioner to cause the person's photograph and fingerprints to be taken for the purpose of that investigative process.

If it were not specifically included, there may be some debate as to whether it could be required lawfully. In an area where it is important to maintain the integrity of the inquiry system, if photographs and fingerprints assist in that process, they should be allowed. My recollection is that the Commissioner of Police said, with respect to the Casino, that photographs and fingerprints were taken as a matter of course to enable the checking. I just want to make sure there is no doubt that that can be done in this instance.

The Hon. ANNE LEVY: I am quite happy to support this amendment. It was very much the intention in the Bill. The Bill provides for the taking of photographs and fingerprints, but the honourable member's amendment makes this quite clear and puts it beyond any doubt.

The Hon. BERNICE PFITZNER: Does this provision pertain to all four types of licence—machine, dealer's, monitor's and technician's?

The Hon. ANNE LEVY: Yes.

Amendment carried.

The Hon. R.I. LUCAS: With respect to subclause (2) *(b)*, in determining whether a person is a fit and proper person to hold a licence, judgments need to be made about the honesty and integrity of the person's known associates, including the person's relatives. How will this provision, which I certainly support, compare with relevant provisions in the Liquor Licensing Act? Is it fair to say that this is a much tighter provision than that in the Liquor Licensing Act, brought about because of perhaps some defects or loopholes that might exist already in the liquor licensing legislation?

The Hon. ANNE LEVY: It is certainly a much tighter provision than that which applies in the Liquor Licensing Act. In that Act, in determining whether a person is fit and proper to hold a licence, the person's associates cannot be taken into account. The reason it is included here is that it was felt, in the matter of gaming, that the very tightest possible security was desirable. It was felt that a precaution such as this was highly desirable.

The Hon. R.I. LUCAS: Would it be correct to say that if a relative of a known criminal figure, such as Abe Saffron, was to apply for a liquor licence, that licence might be granted but, under this provision, it would be possible that the relative of Abe Saffron might not be able to get a gaming machine licence?

The Hon. ANNE LEVY: That is a correct interpretation.

The Hon. R.R. ROBERTS: It is my understanding that the Commissioner of Police and the Liquor Licensing Commissioner will vet every employee who works in these areas where there are gaming machines. It is also assumed that there will be liquor and gaming machines in close proximity. If a person is not of good character or has some sort of criminal record, there is some doubt whether or not that person will be able to participate in the handling of gaming machines. As we are now bringing gaming machines into the business of hotels and clubs, there will be people who work in this industry who have not been squeaky clean in the past.

I am concerned for country areas in particular where, in my view, the same employees who work behind the bar will be those working with the gaming machines. If the Liquor Licensing Commissioner is not satisfied, because of some past criminal activity that may have resulted in a gaol sentence which has been served (and, to all intents and purposes, the penalty for the crime has been paid and society has been justified) would that mean that such a person would become unemployable and lose their permanent employment, or only be able to work behind the bar and not in the gaming machines area? That would create a situation where present employees would be placed in jeopardy of losing their employment, not because they were not good bar attendants but because of some past mistake which gave serious doubt with respect to the handling of the gaming machines legislation.

The Hon. ANNE LEVY: I understand that that is a fairly correct interpretation. If a particular person has a record such that the Commissioner of Police indicates that that person should not receive any type of gaming licence, then that person would not receive that licence, quite obviously. It would then be up to the employer whether that person was employed purely in the liquor area and not in the

gaming area. It is quite possible that someone would be an appropriate employee in the liquor area but not in the gaming area, and it would then be a matter for the employer as to whether that person would be employed purely in the liquor area. Quite definitely, anyone who the Commissioner of Police says should not have a gaming licence of any type will not have one.

Clause as amended passed.

Clauses 20 and 21 passed.

New clause 21a—'Holder of monitor licence cannot hold other licences.'

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

Page 10, after clause 21—Insert new clause as follows:

21a. The holder of the gaming machine monitor licence cannot hold any other licence under this Act.

During the lead-up to this debate and during the debate a number of manoeuvres have been made or a number of games have been played by the various interest groups in relation to the legislation. I acknowledge that there are people with vested interests on both sides of the debate. I want to place on record something that occurred on the way to this clause so that members are aware of it. I was advised earlier today that an anonymous note had been left on the desk of a Labor member of Parliament. The note was read to me and it stated that, although I had this new clause on file and would move it, I intended to run dead on it and that I had been persuaded that I really should not proceed with it. It also suggested that I had persuaded my own colleagues to vote against the amendment.

The Hon. K.T. Griffin: Nothing could be more persuasive.

The Hon. R.I. LUCAS: Exactly. I want to say on the record that that statement is not true. I have not suggested to any of my colleagues that I would run dead on my own amendment. Indeed, the only discussion that I have had with them about this new clause has been in the open Party room of the Legislative Council where I urged my colleagues to support my amendment. I am sure that any other member of this Chamber who speaks to my colleagues about this will get exactly the same response from them. I must say on the record that such a proposition was put to me last night during the evening session by two Labor members who suggested that there were some problems with my new clause and that I should run dead on it and persuade my colleagues to vote against it. As I always do, I listened courteously to their submission, but I certainly gave no commitment to them that that was my considered judgment in relation to the proposition that was put to me. I want all my colleagues in this Chamber—those within my own Party and within the other two Parties—to know the true circumstances surrounding this new clause.

Another honourable member approached me this afternoon to ask whether I intended to proceed with it, that there was some story doing the rounds that perhaps I would not. As I said, some games are being played in relation to this legislation. I do not want to take it any further but I want members to know the truth about the lobbying that has been done and my response to it. It is my firm intention to move the new clause, as I have done, and to convince my own colleagues and the majority of this Chamber to support it.

I expanded on the reasons for the new clause in my second reading speech and earlier in Committee when we dealt with the Lotteries Commission and the Independent Gaming Corporation. I intend to give only a brief argument for it because, as a result of previous debate, why I believe this is important is clearly on the record. I know that the Hon. Mr Feleppa and the Hon. Mr Elliott had different propositions about the Lotteries Commission and I know that this new clause does not go as far as they wish, but it does head some way down that path. I hope that those members who preferred the Lotteries Commission rather than the Independent Gaming Corporation will be prepared to give favourable consideration to this new clause.

I have a firm view that the person or institution that holds the monitoring licence ought not to hold a dealer's licence and that is the intention of this new clause. I acknowledge that the people associated with the Independent Gaming Corporation could, without too much clever assistance from legal counsel and others, devise ways around the intention of this new clause. For example, if the Independent Gaming Corporation were to be successful in obtaining the monitor's licence, this new clause would mean that it could not hold a dealer's licence. From advice given to me (not being a lawyer myself), associates of or perhaps even the same people associated with the Independent Gaming Corporation could establish a different company or a different legal entity to apply for a dealer's licence.

Under this legislation, the Liquor Licensing Commissioner has great discretion in such a circumstance. If Parliament passes this provision, it is a clear indication that we see it as important that the people associated with the holding of the monitor's licence do not hold a dealer's licence or any other licence under the legislation. If the IGC were to try to subvert the intention of this legislation, I would support any attempt to bring the legislation back before Parliament to further tighten the restrictions and controls in that area. I have a great aversion to retrospective legislation, as do all my colleagues.

Personally (this is a conscience vote and I do not speak on behalf of my Party or my colleagues), it would only be in certain circumstances that I would consider retrospective legislation, and I do not say in this case that I am even definitely on record as saying that I would support retrospective legislation, but I would certainly give it serious consideration if the intention of the provision was to be subverted in some way. As I said, I understand that the Liquor Licensing Commissioner has wide powers under the legislation and it may well be that the Commissioner may decide that if the IGC has the gaming machine monitors licence and a body similar to IGC but in some way being a slightly different entity was to apply for a dealer's licence or some other licence, it may be possible under the structure of the legislation for the Commissioner to find reason not to accede to a request for such a licence from the body similar to IGC. I am sorry that I have taken longer in explaining the amendment than I otherwise intended but, for the reasons that led to the discussion on the debate, I thought it important to explain the situation and I urge members to support the amendment.

The Hon. ANNE LEVY: I oppose the amendment. I trust that the honourable member will agree that I was not party to any discussions he may or may not have had with anyone, and I can assure him that I am not in the business of writing anonymous letters. I neither give nor take anonymous letters, and I trust that the honourable member would affirm to that. I can assure him that I discussed this matter purely objectively and on its merits, without any hidden agenda whatsoever.

I oppose the amendment for much the same reasons that the honourable member gave. It would be possible to subvert the provision, as he says, by having another legal entity apply for a dealer's licence. The people who apply may be perfectly fit and proper people with no known associates or relatives whose integrity or credibility can be doubted in any way. Indeed, the fact that they may be friends of those who hold the monitor's licence would not be grounds for dismissing their application. It seems to me that this is

condoning hypocrisy. We want the gaming machine legislation to be open and above board. There is nothing hidden, there are no hidden agendas at all, no subterfuges, and no dirty tricks played or playable in this legislation.

The amendment moved by the honourable member could encourage such subterfuge and hypocrisy and introduce a backdoor approach, which is not what I for one would want our gaming machine legislation to condone or encourage in any way. I would like it to be clear and above board, with everything laid out clearly right from the start. I dislike hypocrisy or legal measures that encourage hypocrisy of which there are too many in our legislation. To some extent the reason for this amendment has not been effectively explained. If IGC applies for the monitor's licence and is successful in obtaining it, it would seem to me not in any way unreasonable that it should also apply for a dealer's licence as it will be of obvious benefit to the industry. If there was to be a cooperative from the industry which on behalf of the industry either purchases, sells or leases gaming machines, because of its buying power it would be able to get a much better price from manufacturers than could individual clubs and hotels. Many clubs and hotels might only wish to buy five or 10 machines; their buying power would be fairly small and they would be much more likely to be charged a higher price.

It does not seem unreasonable to me that the industry acting cooperatively should use its bulk buying power to obtain favourable terms from the manufacturers. I would have thought that that is a common business practice. Pharmacists in South Australia certainly do it in obtaining their supplies. Their bulk buying power through their cooperative enables pharmacists to obtain goods wholesale at a much cheaper rate than they would pay if each pharmacist purchased supplies individually. I am sure the Hon. Dr Ritson would recall debates on this issue in this place.

The Hon. R.J. Ritson: When I was in the Navy they bought aspirin at 7d per 1 000.

The Hon. ANNE LEVY: Through bulk buying power, yes. There is power in buying bulk and I see no reason why we should be setting up provisions preventing the industry from exercising bulk buying power if it wishes to do so, or being forced into some sort of subterfuge and hypocrisy to achieve what I would feel is a perfectly legitimate and respectable business practice and be able to do so without subterfuge, hypocrisy or pretending that things are different from what they are. We should not encourage this. 'Hypocrisy' is the most apporpriate word to use about what would be encouraged.

The Hon. M.J. ELLIOTT: I support this amendment, although it comes as a distant fourth. I am not sure what ran second and third, and I am not sure that it is paying very well. This amendment acknowledges at least to some extent some difficulty with what I referred to yesterday as vertical integration within this industry and the capacity of that to increase the potential for corruption. I think it does this rather clumsily, though, and I think that the amendment of the Hon. Mr Feleppa confronted it more directly, and this certainly allows the potential for circumvention, which the Hon. Mr Feleppa's amendment does not. It still allows at least the hospitality industry not only to be holding individual gaming machine licences but also to be involved in the holding of a monitoring licence, as I understand it. I can only presume that the Hon. Mr Lucas is then trying to prevent the IGC holding both monitoring licences and dealers' licences.

I am on the record as saying that I hope the Bill fails and I also oppose IGC's holding the monitoring licence, but if I lose those two arguments I would hope that the IGC itself would not want a machine dealers' licence. It should be set up for one purpose only—for monitoring—and for it to be a bulk buyer of poker machines is quite a different purpose from operating a monitoring licence. I do not think those two roles should be confused, and I would hope and expect that if the hotel industry wants to get bulk buying it would set up a separate cooperative that is totally unrelated in any structural sense to the IGC, because if it is successful in getting monitoring licences, the IGC should have that as its only role and there should be no hint of its having any role in anything else. I really see that as a very distant third or fourth, but I will support the amendment, because it is all that is available to us at this stage.

The Hon. M.S. FELEPPA: I reluctantly support this amendment. I say 'reluctantly' because this amendment does not achieve what I would have achieved had I had the opportunity to explain it when we dealt with clause 14. This amendment tries to restrict the holder to only one licence, which has been clearly set. It represents some sort of improvement on the current Bill but it does not go far enough in controlling the crucial function of the industry. It is a step closer to preventing some monopoly and perhaps to prevent some criminal infiltration as has been mentioned by the Hon. Mr Elliott but, as I said, it does not go far enough, nor would it have significant success. My amendment would at least have achieved something to prevent the criminal infiltration of the gaming machine industry.

In separating the licence it provides separate entries for criminal infiltration; it is as simple as that. What should happen here for the effective protection of the industry is that the monitoring, distribution, installation and maintenance of gaming machines should all be under a Government controlled body, so that the function of the industry is kept well under scrutiny. I regret that the Hon. Mr Lucas and other members of the Opposition did not support my amendments at the beginning of this debate because, had I been given the opportunity in debate on clause 14, I would have been much stronger than the Hon. Mr Lucas has been.

The Hon. T. CROTHERS: I rise reluctantly to oppose the amendment.

The Hon. R.I. Lucas interjecting:

The Hon. T. CROTHERS: Part of my reluctance was that I thought you might interject. I rise reluctantly to oppose the amendments moved by the Hon. Mr Lucas.

The Hon. R.I. Lucas: I supported you last night, too.

The Hon. T. CROTHERS: I know you did, and let me tell you: keep going like that and you will not go wrong. While I understand the intention of the Hon. Mr Lucas's amendment—the intention itself is very good—one of several problems that I have with it is that I do not think it will work. I shall explain why I do not think it will work, which may well have an effect on some members who may entertain some doubts as to whether support or opposition to this amendment is in order. With respect to the wording of the amendment, we seek to add a new clause to provide that the holder of the gaming machine monitoring licence cannot hold any other licence under this Act. It is not clear to me whether or not this means that that is a licence that is issued under this Act (I think that is what he means, but it is not saying that), or whether in fact it is any other form of licence that the Act embraces in the verbiage that goes to make up the Act. So, for a start, I think it is poorly worded.

As I said, I understand the intentions, but the other problem I have is that, as the Hon. Mr Feleppa said, far from preventing any form of graft or corruption on a grander scale than does the present Bill, I think it may well have the opposite effect to that, because graft and corruption

have always thrived in areas where there is more than one opening, more than one aperture for people to squirm into and to work their way around things. At least, as the Bill before us will allow, if the monitor's licence and the gaming machine dealer's licence are held by the one entity, I should imagine that from the point of view of the licensing commission it is much easier for that person to apply the type of controls that are demanded by the type of industry in which the gaming machines are involved, as happened at the Casino.

For instance, just in a different vein, we do not say that the holder of a hotel licence cannot hold a motel licence or a general facility licence; we do not impose that restriction. We do not say that, but I am confused as to what the verbiage of the amendment really means.

I understand what the honourable member is trying to do: it is a very good aim, but I do not think that because we create another linkage in the chain it will be an actual fact of his amendment. I would hope that we would never have to entertain any suggestion here of graft or corruption in the Casino or in any of the other gaming industries that now flourish around the Casino. It is my view that we make it much simpler and much more subject to control if we have everything channelled into the one entity and not have a spot hived off here, another hived off there and another hived off somewhere else again, where the poor old licensing commissioner may be having to look forward in two directions at once and over his or her shoulder, as the case may be, in another direction. As I said, I understand the intention that the Hon. Mr Lucas is trying to achieve, and I commend him for that. However, because of the looseness of the wording and, more importantly, because I do not believe it will have the effect that he wants it to have—I think it will have the opposite effect—I oppose the amendment.

The Hon. BERNICE PFITZNER: I support the amendment. Last night, when I supported the Hon. Mr Feleppa's amendment to clause 3 with regard to the Lotteries Commission, it was not to support the amendment in its entirety; it was to support the proposition that the Lotteries Commission should have an equal chance with the Independent Gaming Corporation. This amendment, 21a, splits the dealer's licence from the monitor's licence. Although one could say it is much easier to have the one commission handling both licences, because it can be streamlined, it is also easier to corrupt and to be encroached upon by criminal elements.

I am not quite sure what the Minister means by encouraging hypocrisy. This amendment states that we are very suspicious of one group holding both licences. A monitor's licence is a licence for checking the whole gaming area, and the dealer's licence should be separate. I think there is a greater likelihood of crime and corruption in a system in which one person holds the two licences. This gaming industry has to be treated with great suspicion because it is a high risk industry. The more checks, balances and restrictions that we put on it, the better it will be.

The Hon. T.G. ROBERTS: I had one shot at the amendment moved by the Hon. Mr Feleppa, and that was lost. I indicate that I shall not be supporting this amendment. That is not on the basis of some of the contributions that have been made; it is because I think it gives rise to ambiguity. I think that the investment that the IGC would have in the monitoring licence, if it makes a successful application to hold any other licences under the Act, will be a monitoring penalty in itself not to breach the guidelines that will be set under the Act. The investment and the commitment that the IGC will have, if it is successful, will be an indicator of its commitment to making sure that the monitoring licence and any other licence that it may be successful in holding is a disciplinary factor in making sure that the right thing is done in the application of any other parts of the Act.

I indicate that I did not send an unsigned note to anybody. Everybody else seems to be indicating their position on that matter. I sent a note to the Hon. Mr Davis on matters relating to the arts debate, but I will not indicate what was in that. The prescriptive description of the IGC's position makes its financial vested interest a strong enough monitor in itself in maintaining its position and integrity within the industry without the necessity of an amendment that splits the responsibilities under this Act.

The Hon. BARBARA WIESE: I oppose this amendment for much the same reasons as have been expressed by the Hon. Terry Roberts. I agree with the points that he has made.

There is one other point that is worth consideration by members in determining their positions on this matter. Any organisation or individual who applies for a monitor's licence must satisfy certain criteria as to being a fit and proper person, the associates will be scrutinised, and there are various other matters which are designed to keep out corruption. The same sort of conditions apply to anyone who wants a dealer's licence. If we are suggesting that the Independent Gaming Corporation and its members are suitable and fit and proper people to hold a monitor's licence, there is no reason why they should not also be fit and proper people to hold a dealer's licence. It makes sense to me that the same organisation should be able to hold a dealer's licence and to work on behalf of the industry that it represents in gaining access to bulk purchasing opportunities and some of the other things that the Minister for the Arts and Cultural Heritage referred to when she spoke on this amendment. I can see no problem in allowing an organisation with a monitor's licence to hold other licences.

The safeguards are in the Bill. The safeguards are the criteria upon which these people will be judged. Those criteria are very strong, very strict and very stringent. We must also bear in mind that overseeing this whole process is a Government agency. The Liquor Licensing Commissioner and his staff will be overseeing the whole process and ensuring that it is free from corruption and that the operation is above board. I can see no reason to draw the distinction that is being drawn by some members. Therefore, I shall be opposing the amendment.

The Hon. K.T. GRIFFIN: I support the amendment. I acknowledge that the amendment might allow some clever manipulation to establish other entities which could have the same or similar membership to hold a dealer's licence. However, the principle is important: if we are to monitor the operation of all gaming machines operated pursuant to gaming machine licences under this legislation, we should not have another finger in the pie and be a manufacturer of gaming machines and prescribed gaming components and be able to sell, supply and install approved gaming machines, prescribed gaming machine components and gaming equipment. There is a basic inconsistency in the duties of the two licence holders. One might even describe it as a conflict, bearing in mind that there can be more than one gaming machine dealer's licence.

If the amendment were not to be carried, the Independent Gaming Corporation would hold the monitor's licence. It may be a dealer and hold a dealer's licence, and there may be a number of others who also hold dealer's licences. We then have the monitor being responsible for monitoring the operation of all the gaming machines: its own gaming machines or those which it has manufactured and installed,

as well as those of other dealers. I think that immediately raises the question of potential conflict in the application of the monitoring regime. Notwithstanding that there may be some drafting deficiencies in the amendment, I think it establishes the principle—

The Hon. Diana Laidlaw interjecting:

The Hon. K.T. GRIFFIN: Of course, I am hoping that the Bill will be thrown out at the third reading, but at least I can acknowledge that there is a principle involved. If it passes the third reading it may go to a conference, and we can then tidy it up if need be, but as a matter of principle, if the monitor does not involve itself in other areas of gaming activity, that is one way of ensuring that there is an arm's length arrangement between the monitor and dealers.

The Hon. R.I. LUCAS: I will respond briefly to one aspect of what has been said in this debate—and I thank members for their views, irrespective of what attitude they are taking—and that is what I would describe as a furphy or a red herring from the Minister that in some way this amendment would prevent bulk buying. Nothing in the amendment before the Committee would stop a group of hoteliers or club owners in the South-East of South Australia, should they want to, from banding together and purchasing 500 or 10 000 machines from Ainsworths, the IGC or from one of the manufacturers who holds a dealer's licence. Nothing in the amendment before the Committee can prevent them negotiating a bulk purchase or a bulk arrangement, because the amendment simply says that if, for example, IGC holds the monitor's licence, it cannot hold a gaming machine dealer's licence, which would mean that it could not manufacture, sell, supply or install approved gaming machines.

I want to put that to rest, because I would not want it to be seen that this amendment had some hidden or unseen intent which would prevent clubs and hotels getting together and organising for themselves bulk purchases at perhaps a slightly discounted rate should this legislation pass and should this amendment remain part of it.

The Committee divided on the new clause:

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

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

Majority of 4 for the Ayes.

New clause inserted.

Clause 22—'Minors not to hold licence, etc.'

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

Page 10—

Line 6—Leave out 'Subject to subsection (2),'.

Lines 10 and 11—Leave out subclause (2).

Clause 22 provides that a minor cannot hold a licence or occupy a position of authority in a body corporate that holds a licence. But subclause (2) then provides:

This section does not prevent a minor from being a shareholder in a proprietary company that holds a licence.

Clause 3 (2) provides that a person occupies a position of authority in a body corporate if the body is a proprietary company where he or she is a shareholder in the body corporate. That exception means that a minor can be in a position of authority. The Commissioner would then have to determine whether the minor was a fit and proper person to be in that position of authority.

It seems to me that that is a contradiction in itself so that, effectively, you can still have a minor at least being in a position of authority. It is because of that contradiction that I want to delete that. There is another reason. Ordinarily, minors are not shareholders in companies. In some instances accountants and even some lawyers allow minors to hold shares, but there is a significant legal difficulty in that, because minors cannot contract unless it is for what are called 'necessaries'. I do not think that holding shares in a company which holds a gaming licence can be regarded as a 'necessary' under the fairly narrow definition of that in the common law.

Another difficulty is that, if a minor did in fact hold shares—even though I think legally there is a significant difficulty in that—if the minor holds 51 per cent of the shares, the minor controls the company. Therefore, the minor controls the licence, although, under the definition in clause 3, there is no requirement for a shareholder in a proprietary company to be a majority shareholder. Any shareholder is deemed to be a person occupying a position of authority in a body corporate. For all those reasons, it is inappropriate to provide an exception. We should say that minors cannot hold licences in their own name; nor can they occupy a position of authority in a body corporate, and that includes holding shares. It is as simple at that. When they reach 18 and if they acquire shares, they come under the ordinary scrutiny of the Commissioner.

The Hon. Diana Laidlaw: What if they are bequeathed?

The Hon. K.T. GRIFFIN: If they are bequeathed shares, they are not transferred. A properly advised trustee would not transfer shares to a minor. The trustee would hold those shares until the minor attained the age of 18, 21 or 25, and perhaps distribute the income depending on the terms of the trust. We have no difficulty with that. I do not think that minors will be disadvantaged if we delete subclause (2) and it puts it beyond doubt that minors cannot be involved in positions of authority in bodies corporate that hold licences, and therefore can circumvent the general proscription that they should not hold licences.

The Hon. ANNE LEVY: I oppose the amendment. A check has been done with the Australian Securities Commission and there is nothing in law to prevent minors from holding shares in a proprietary company, and there is no way they can be prevented from doing so. There are proprietary companies that hold liquor licences in this State, and there are proprietary companies, with minors who are shareholders, holding liquor licences. This clause in the gaming legislation is absolutely identical to section 55 of the Liquor Licensing Act, which makes very clear that a minor cannot hold a liquor licence in their own right, nor can they occupy a position of authority in a body corporate that holds a liquor licence. However, this does not prevent a minor from being a shareholder in a proprietary company that holds a liquor licence. The provision in the Gaming Machines Bill is identical to that in the Liquor Licensing Act.

There are examples in South Australia of proprietary companies where minors hold shares but are certainly not in positions of authority, and the companies hold liquor licences. This clause would enable those companies which already hold liquor licences to apply for a gaming licence. It does not mean to say they will obtain one, of course, but they would be eligible to apply. The Hon. Mr Griffin's amendment would provide that there are holders of liquor licences in South Australia who would be ineligible to apply for gaming licences, and I refer to liquor licences held by people in very good standing. Minors certainly have no control over the liquor licence, and it would be subdividing liquor licence holders into two categories: those who are eligible to apply for a gaming licence and those who are not—not on the basis of whether they are fit and proper persons but merely whether there might happen to be minors

who are shareholders, not being in positions of authority but merely shareholders in the company.

It would be unfortunate to discriminate in this way and thus affect not only the business decisions which such liquor licence holding companies can take but also their business opportunities in a way which would be most unfair to all the highly fit and proper persons who are adult, responsible and decent citizens and who would, by the Hon. Mr Griffin's amendment, be prevented through no fault of their own from undertaking business activities which they may wish to take.

The Hon. K.T. GRIFFIN: I did not say that the law prevented minors from holding shares. In fact, I acknowledge that there are some companies where minors do hold shares. I am saying that minors are not able to contract in relation to the shares. I know there are companies where shares have been issued to minors, but the whole basis upon which that is done is fatally flawed in my view. Although it exists, that does not mean that it has been undertaken in a way that complies with the principles of the common law which are quite clearly identified as being provisions which will not allow a minor to enter into a legally binding contract. In practice I have had difficulties on occasions when people have said that they wanted shares in the name of a minor, but the minor has no legal capacity to accept or apply for the allotment of shares, or even to transfer those shares. Having done that, those who have done it are generally stuck with it.

The difficulty that exists is that, under subclause 3 (2), a minor who is a shareholder actually occupies a position of authority in the body corporate, and any person who occupies a position in a body corporate must be approved by the Liquor Licensing Commissioner. That means that, whether the minor is five years old or 15 years old, I suggest that the Liquor Licensing Commissioner will have to address the issue whether that minor is a fit and proper person to be in a position of authority. The subsection provides that, notwithstanding that the minor does occupy a position of authority, the minor can still be a shareholder. As I said in my earlier contribution, the difficulty with that is: where do you draw the line? Do you use minors as a basis for getting around some of the provisions of the legislation in relation to control? I do not know. I am raising it as an important issue.

I agree that it would be unfortunate that those who have minors as shareholders and who hold liquor licences should be deprived, by reason of that alone, of the ability to hold a gaming machine licence, but I suggest that they would have to endeavour to rearrange that shareholding to remove minors from it, particularly because there is so much focus in the legislation on the undesirability of minors being involved in the proposed gaming areas and in the holding of a licence. If a minor did have a large proportion of the shares in a company, it effectively circumvents clause 22 (1). For those reasons, notwithstanding the arguments that the Minister has put, I intend to adhere to my amendment.

The Hon. BERNICE PFITZNER: I support the amendment in principle because the Bill is very concerned about minors not being attached in any way to this new industry. This clause provides that a minor cannot hold a licence; yet a minor can be a shareholder. Looking at Division 3 about offences relating to minors, the Bill provides that minors must not be employed in a gaming operation and they must not enter or remain in a gaming area. Clause 52 provides that a licensee must erect warning signs advising that minors must not enter and remain in gaming areas. Clause 53 relates to powers in relation to minors in gaming areas. It seems illogical and irrational when we are putting up such strong restrictions about minors not entering gaming areas that we are allowing them to be shareholders.

The Committee divided on the amendments:

Ayes (8)—The Hons L.H. Davis, M.S. Feleppa, K.T. Griffin (teller), Diana Laidlaw, R.I. Lucas, Bernice Pfitzner, R.J. Ritson and J.F. Stefani.

Noes (12)—The Hons T. Crothers, Peter Dunn, M.J. Elliott, I. Gilfillan, J.C. Irwin, Anne Levy (teller), Carolyn Pickles, R.R. Roberts, T.G. Roberts, C.J. Sumner, G. Weatherill and Barbara Wiese.

Majority of 4 for the Noes.

Amendments thus negatived; clause passed.

Clause 23 passed.

Clause 24—'Independent Gaming Corporation.'

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

Page 10, lines 23 and 24—Leave out all words in these lines.

This is consequential on the insertion of new clause 21a.

Amendment carried.

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

Page 10, line 25—Leave out 'first'.

This is a drafting matter. Clause 14 (2) provides, 'There will be only one gaming machine monitor licence.' Paragraph *(b)* of this clause refers to 'the first gaming machine monitor licence issued under this Act'. As there is only one licence, I think the word 'first' ought to be deleted.

The Hon. ANNE LEVY: The Government accepts the amendment.

Amendment carried; clause as amended passed.

Clause 25—'Conditions.'

The Hon. R.I. LUCAS: Subclause (7) provides:

The Commissioner cannot fix hours during which gaming operations may be conducted pursuant to a gaming machine licence that are outside the hours during which the premises are authorised to be open for the sale of liquor.

In relation to the average club, if there is such a thing, what sort of hours can they open and what hours will gaming machines be able to operate in such clubs, particularly, and in hotels throughout South Australia?

The Hon. ANNE LEVY: The information so far as I can gather is that it is virtually impossible to generalise. There are enormous variations in hours of opening for clubs. At one extreme might be clubs that might open only two evenings a week for a couple of hours each time through to others where, at the other extreme, some would probably open seven days a week for Saturday and Sunday afternoon sport and through into the evening.

There is no prohibition on a club going all night but none do and there has never been any suggestion that they would wish to. There is enormous variation. While talking about clubs, I seek leave to table the list requested yesterday by the Hon. Mr Lucas of all 170 places that have general facility licences in South Australia, together with a summary of them by category, which is probably easier to understand than the full list of 170 places.

Leave granted.

Clause passed.

Clause 26—'Certain gaming machine licences only are transferable.'

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

Page 11, line 26—After 'Commissioner' insert 'may exercise the same powers and'.

This is essentially a drafting amendment designed to ensure that on an application for transfer the Commissioner not only must consider the same matters as he or she is required to consider in respect of an application for the grant of a licence but he may also exercise the same powers as he is able to exercise in relation to an application for a grant of a licence. It seems to me that a transfer is equally as important as the grant of an application and it ought to be

clear that the Commissioner can exercise the same power in relation to a transfer and its assessment as he can in relation to an application.

The Hon. ANNE LEVY: I am personally happy to support the amendment.

Amendment carried.

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

Page 11, line 27—After 'she' insert 'may exercise, or'.

The Hon. ANNE LEVY: I support the amendment.

Amendment carried.

The Hon. BERNICE PFITZNER: As a point of clarification, why do clubs look as though they are discriminated against, in that a hotel licence and a general facility licence are transferable, but club licences are not?

The Hon. ANNE LEVY: Under the Liquor Licensing Act a club liquor licence is not transferrable. A hotel liquor licence is transferable and this provision makes it exactly the same for gambling machines as for liquor licences.

The Hon. BERNICE PFITZNER: Why are liquor licences in clubs not transferable?

The Hon. ANNE LEVY: Presumably because Parliament decided so.

The Hon. BERNICE PFITZNER: I seek the logic behind the decision.

The Hon. ANNE LEVY: Seriously, it is because a club licence is granted to a club, which is a group of people who have formed an association for a particular purpose. If a bowling club has been granted a liquor licence, it is granted for the purpose of an association of people who play bowls and such a licence is not transferable to an association of people who are interested, for example, in surf lifesaving. Another association can apply for its own liquor licence.

Clause as amended passed.

Clause 27 passed.

Clause 28—'Objections.'

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

Page 12—

Line 30—Leave out 'If' and insert 'Before'.

Line 31—Before 'variation' insert 'proposed'.

Line 32—Leave out all words in this line and insert 'and a reasonable opportunity to make submissions on the matter'.

This clause deals with objections and I pointed out in my second reading contribution that in subclauses (5) and (6) there is a potential inconsistency. Subclause (5) provides:

> The Commissioner may allow a person who has made an objection to vary the objection at any time before the determination of the proceedings.

Presumably, that is the point of the decision. Subclause (6) provides:

> If the Commissioner allows an objection to be varied pursuant to subsection (5), the Commissioner must cause the parties to the proceedings to be given notice of the variation a reasonable time before the hearing of the proceedings.

Presumably, that means before they commence so that it is possible that the variation may occur during the hearing and there may not be a reasonable opportunity to respond. What I am seeking to do is ensure that, even during the course of the proceedings where there is a variation to the objection, there be a reasonable opportunity to make submissions on the matter, and I think that puts the issue beyond doubt and maintains consistency.

The Hon. ANNE LEVY: I oppose the amendment. Although I appreciate the concerns of the honourable member who has moved it, it is introducing a formality, a legal process, legal argument and the involvement of lawyers, potentially, in a situation that is meant to be, as in the Liquor Licensing Act, one where it is easy for local residents to come forward with objections and one in which they can be sure that they are be heard in a relatively informal manner. If this extra formality was introduced, in the experience of the Liquor Licensing Commissioner, local residents could be put off by such strict formalities and in consequence they would not feel able to come forward to voice objections and any feelings that they may have. It may not be logical that they may feel this way but in his experience they do feel this way, and he would hesitate to prevent them or have procedures that would discourage them from expressing their feelings in these matters.

The Hon. K.T. GRIFFIN: This is not a big issue of principle. I was just trying to clarify some of the procedures. I would not have thought that what I am proposing is unreasonable. I am saying that, where the Commissioner has allowed a person who has made an objection to vary it before the decision is finally made, the parties to the proceedings will be given notice of the variation and a reasonable opportunity to make submissions on the matter, particularly if the variation is made during the course of the proceedings. I would not have thought that there was any difficulty with that. I would have thought that it was implicit in subclause (6) that, having been given notice of the variation a reasonable time before the hearing of the proceedings, and if during the course of the proceedings the variation is allowed, it would be appropriate, if (for example) one of the parties does not happen to be there, that notice be given and reasonable opportunity to make submissions be granted. That does not introduce any undue formality or technicality; it just provides fairness.

The Hon. ANNE LEVY: As I understand it, the current situation with regard to liquor licences is that people can come along and speak to their objection to the hotel down the road or whatever and the Commissioner can say, 'That seems reasonable to me', make a variation and let the parties know. What the honourable member is proposing, I agree, is for gaming, not for liquor licensing, but the Commissioner obviously would prefer the procedures to be the same for both. I think that what the honourable member is proposing would mean that before any variation could be made, however minor, all the parties would have to be notified, there would be another hearing and it would open up proceedings and formalise what may be very minor and trivial objections. In his experience, the average person is not prepared to go through with all that and consequently will keep quiet rather than voice their feelings on the matter.

Amendments negatived; clause passed.

Clause 29—'Intervention by Commissioner of Police.'

The Hon. ANNE LEVY: I move:

Page 12, line 39—Leave out 'a particular gaming machine licence' and insert 'the application'.

This amendment mirrors section 83 (1) *(b)* in the Liquor Licensing Act and makes clear that the Police Commissioner would be able to intervene on all applications, not just a certain category of them.

Amendment carried.

The Hon. M.S. FELEPPA: I move:

Page 12, after line 40—Insert new subclause as follows:

(2) The Commissioner of Police is a party to any proceedings in which he or she has intervened.

The clause allows the Police Commissioner to intervene in any proceedings before the Liquor Licensing Commission when an application for a licence is made. My amendment will ensure that the Police Commissioner will be a party to any proceedings. Mr Terry Groom in the other place moved an amendment to clause 8 dealing with the right of the Police Commissioner to be represented by counsel; Minister Blevins said:

> It restricts the Commissioner of Police to intervention. It allows the Commissioner of Police to only intervene when he becomes a party. We want it much broader than that and, accordingly, the Bill permits the Commissioner of Police to intervene

on any matter and make any submission, whether or not he is a party.

I endorse the Minister's view, and for that reason I seek to add new subclause (2), which makes clear that, when the Police Commissioner intervenes in the granting of a licence, the Police Commissioner is a party to the proceedings.

The Hon. ANNE LEVY: I am happy to support the amendment. It is very much the intention of the Bill and is complementary to the amendment to clause 8 which was passed yesterday.

The Hon. K.T. GRIFFIN: I think the amendment is reasonable.

Amendment carried; clause as amended passed.

Clauses 30 to 33 passed.

Clause 34—'Revocation or suspension of licences, etc.'

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

Page 14, line 8—Leave out 'indictable offence' and insert 'offence punishable by imprisonment'.

Under clause 34 the Commissioner may reprimand a licensee, exercise his or her power to add to, or vary, the conditions of the licence, suspend a licence for a specified period or until further order or revoke a licence if the Commissioner is satisfied that certain things occur, one of which is that the licensee has been convicted of an indictable offence. Under the courts' restructuring package, basically that will be an offence for which a penalty of more than two years imprisonment is provided in the statute establishing the offence. I think that is an unreasonable limitation and that any 'offence punishable by imprisonment' ought to be substituted. After all, the Commissioner has a discretion but, if a licensee has been convicted of an offence where imprisonment is a penalty, that ought to be reviewed by the Liquor Licensing Commissioner. I think that we need to be fairly tough on licensees. As I said, the Commissioner has a discretion and can ensure that no unintentional injustice is created.

The Hon. ANNE LEVY: I am happy to support the amendment.

Amendment carried; clause as amended passed.

Clauses 35 to 38 passed.

Clause 39—'Discretion to grant or refuse approval.'

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

Page 15, lines 19 and 20—After 'Commissioner' insert 'may cause the person's photograph and fingerprints to be taken and'.

This clause grants similar powers to the Commissioner as in relation to clause 19 dealing with the criteria to be satisfied by all applicants, allowing the Commissioner to cause a person's photograph and fingerprints to be taken in the context of the discretion to grant or refuse approval in relation to the matters covered in Part 4. I think that the Commissioner ought to have the same power to make it consistent with the earlier clause.

The Hon. ANNE LEVY: This is quite consistent with a prior amendment. I am happy to support it.

Amendment carried; clause as amended passed.

Clause 40—'Intervention by Commissioner of Police.'

The Hon. M.S. FELEPPA: I move:

Page 15, after line 29—Insert new subclause as follows:

(2) The Commissioner of Police is a party to any proceedings in which he or she has intervened.

The wording of this clause is similar to that of clause 29, but it deals with certain approvals. Therefore, what I have said in relation to clause 29 applies also to this clause, so I will not repeat it.

The Hon. ANNE LEVY: This is the intention of the Bill and I am happy to support it.

Amendment carried; clause as amended passed.

Clause 41 passed.

Clause 42—'Offence of being unlicensed.'

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

Page 16, line 16—After 'fine' insert 'or division 5 imprisonment'.

This amendment takes up the theme of imposing imprisonment for certain offences. The present penalty is a division 3 fine, which is $30 000. I am proposing also a division 5 imprisonment, which is two years. This effectively makes it a summary offence, but I think that is appropriate. Imprisonment is an effective deterrent for the matters referred to in clause 42.

The Hon. ANNE LEVY: I am happy to support this amendment and I indicate that I will support the Hon. Mr Griffin's amendments to clauses 43, 44, 45 and 47; if he so wishes, he can move the amendments speedily.

Amendment carried; clause as amended passed.

Clause 43—'Offence of breach of licence conditions.'

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

Page 16—

Line 21—After 'fine' insert 'or division 4 imprisonment'.

Line 22—After 'fine' insert 'or division 5 imprisonment'.

In the case of an offence committed by the holder of a gaming machine monitor licence, I am proposing a division 4 imprisonment, which is four years, and in any other case a division 5 imprisonment, which is two years.

Amendments carried; clause as amended passed.

Clause 44—'Offences relating to management and control.'

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

Page 16—

Line 30—After 'fine' insert 'or division 5 imprisonment'.

Line 33—After 'fine' insert 'or division 5 imprisonment'.

This also relates to the question of penalties. The Bill provides for a division 3 fine, which is $30 000. I am proposing maximum imprisonment of two years, which is division 5 imprisonment.

Amendments carried; clause as amended passed.

Clause 45—'Offence related to employment in gaming areas.'

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

Page 16, Line 41—After 'fine' insert 'or division 7 imprisonment'.

This relates to an offence by a person employed by the holder of a gaming machine licence where that person carries out prescribed duties when that is forbidden. The Bill proposes a division 5 fine, which is $8 000. I am proposing also a division 7 imprisonment, which is six months.

Amendment carried; clause as amended passed.

Clause 46 passed.

Clause 47—'Persons who may not operate gaming machines'.

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

Page 17—

Line 15—After 'fine' insert 'or division 7 imprisonment'.

Line 21—After 'fine' insert 'or division 7 imprisonment'.

Line 26—After 'fine' insert 'or division 7 imprisonment'.

Line 30—After 'fine' insert 'or division 7 imprisonment'.

This is a series of imprisonment provisions, a division 5 fine, which is $8 000, and I also propose division 7 imprisonment, which is six months imprisonment in each of the instances where the offences are covered by clause 47.

Amendments carried.

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

Page 17, line 34—After 'fine' insert 'or division 7 imprisonment'.

Again, this is in relation to imprisonment.

Amendment carried; clause as amended passed.

Clause 48—'Prohibition of lending or extension of credit.'

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

Page 18, line 4—After 'fine' insert 'or division 5 imprisonment.'

I am proposing here division 5 imprisonment which is two years, and the fine is already a division 3 fine or $30 000. This clause relates to the prohibition of lending or the extension of credit by the holder of a gaming machine licence or a gaming machine manager or a gaming machine employee making loans or extending credit.

Amendment carried; clause as amended passed.

New clause 48a—'Prohibition of linked jackpots.'

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

Page 18—After clause 48 insert new clause as follows:

48a. The holder of a gaming machine licence must not cause, suffer or permit any gaming machine on the licensed premises—

(a) to be fitted with linked jackpot equipment;

or

(b) to be linked in any manner that allows the winnings, or part of the winnings, from the machine to accumulate with the winnings, or part of the winnings, from any other gaming machine.

Penalty: Division 3 fine.

This is a consequential amendment in relation to clause 3. As I explained yesterday, I believe that linked jackpots are dangerous for a number of reasons. The Committee yesterday agreed with the amendment.

The CHAIRMAN: The Hon. Mr Elliott's amendment is identical to the amendment on file from the Hon. Mr Burdett.

New clause inserted.

Clause 49 passed.

Progress reported; Committee to sit again.

SOUTH AUSTRALIAN LOCAL GOVERNMENT GRANTS COMMISSION BILL

Returned from the House of Assembly without amendment.

STATUTES AMENDMENT (ILLEGAL USE OF MOTOR VEHICLES) BILL

The House of Assembly intimated that it had agreed to the recommendations of the conference.

SUBORDINATE LEGISLATION (EXPIRY) AMENDMENT BILL

Returned from the House of Assembly with the following amendments:

No. 1. Page 1, after line 12—Insert new clause 1a as follows:

Commencement

1a. This Act will come into operation on a day to be fixed by proclamation.

No. 2. Page 1, after line 12—Insert new clause 1b as follows:

Amendment of s. 10—Making of regulations

1b. Section 10 of the principal Act is amended by striking out subsection (2).

No. 3. Page 1, after line 12—Insert new clause 1c as follows:

Insertion of ss. 10aa

1c. The following section is inserted after section 10 of the principal Act:

Commencement of regulations

10aa. (1) Subject to this and any other Act, a regulation that is required to be laid before Parliament comes into operation four months after the day on which it is made or from such later date as is specified in the regulation.

(2) A regulation that is required to be laid before Parliament—

(a) may come into operation on an earlier date specified in the regulation if the Minister responsible for the administration of the Act under which the regulation is made certifies that, in his or her opinion, it is necessary or appropriate that the regulation come into operation on an earlier date;

but

(b) may not come into operation earlier than the date on which it is made unless that earlier operation is authorised by the Act under which the regulation is made.

(3) Subject to any other Act, a regulation that is not required to be laid before Parliament comes into operation on the day on which it is made or from such later date as is specified in the regulation.

(4) A document appearing to be a certificate under subsection (2) will, in the absence of proof to the contrary, be accepted as such in any legal proceedings.

(5) A certificate under subsection (2) cannot be called in question in any legal proceedings.

No. 4. Page 1, after line 12—Insert new clause 1d as follows:

Amendment of s. 10a—Regulations to be referred to Legislative Review Committee

1d. Section 10a of the principal Act is amended by inserting after subsection (1) the following subsection:

(1a) If a Minister issues a certificate under section 10aa (2) in relation to a regulation, the Minister must cause a report setting out the reasons for the issue of the certificate to be given to the committee as soon as practicable after the making of the regulation.

No. 5. Clause 2, page 1, lines 13 to 18—Strike out this clause and insert new clause 2 as follows:

Amendment of section 16a—Regulations to which this Part applies

2. Section 16a of the principal Act is amended by striking out paragraphs *(e)* and *(f)* and 'and' appearing between those paragraphs.

Consideration in Committee.

Amendments Nos 1, 2, 3 and 4:

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

That the House of Assembly's amendments Nos 1, 2, 3 and 4 be agreed to.

This package of amendments has been the subject of discussion between the Government and the member for Elizabeth in another place, Mr M. Evans, who introduced a private member's Bill which provided that regulations would not come into effect until four months after they were made, with the exception that those regulations that came into effect less than four months after they were made stayed in effect for only 12 months and then had to be remade presumably four months before that, so that they could be continued.

The rationale behind this was for there to be parliamentary scrutiny of regulations before they came into effect, but the 12 months duration of some regulations was included in recognition of the fact that some regulations need to come into effect immediately. In discussions with Mr Evans, I pointed out to him that I thought that would create the potential for confusion, not just within Government departments but possibly for the courts and in the public mind. Accordingly, I put to him the proposition which is now before us, which makes clear that, as a general rule, a regulation comes into operation four months after the day on which it is made.

In normal circumstances, that would enable parliamentary scrutiny of the regulation and disallowance motions to be moved before the regulations came into effect, unless, of course, there was the unusual circumstance of Parliament not sitting for four months. That is not usually the case, but it is the reason that four months was chosen instead of a lesser period because, if it were three months or a lesser period, it might mean that the Parliament would be in recess for three months in some cases—it usually is during May, June and July—and therefore there might be a category of regulations that could come into effect without parliamentary scrutiny. The four months was picked because, unless the Parliament reverts to the days of Sir Thomas Playford when there were no autumn sittings and the Parliament did

not sit at all in the first half of the year, the four months would be adequate to ensure scrutiny.

However, the proposal that I put to deal with situations where the Government might want to make regulations to come into effect earlier than the four months would be dealt with by a ministerial certificate indicating that it was necessary or appropriate that the regulation should come into operation at an earlier date.

The other proposition is that where the Minister so certifies the Minister must report to the Legislative Review Committee setting out the reasons for the issue of the certificate as soon as practicable after making the regulation. Some consideration has been given to the types of regulation which may need to come into operation earlier than four months after the day of making. The following list is not intended to be exhaustive, but rather an indication of the types of regulations for where a Minister may certify earlier operation. There may be others. For instance, the regulation revokes a regulation without making any provision in substitution for that regulation. The regulation corrects an error or an inaccuracy in a regulation. The regulation is required for the purposes of an Act that will come into operation on assent. The regulation imposes a fee, tax or other duty or is otherwise of a financial nature, or the regulation grants an exception from compliance with certain legislative requirements but does not operate to prejudice the rights of any other person.

There is, therefore, in the proposal, an absolute discretion in the Government to shorten the four month period by means of a ministerial certificate. However, there is mechanism for scrutiny by the Parliament of those certificates through the Legislative Review Committee and, if a Government is abusing the general provision by using the ministerial certificate in circumstances where it is unnecessary, the Legislative Review Committee would investigate that matter and could report to the Parliament about it. The Parliament could then consider whether its original intention was being adequately implemented by the Government and, if it was not, could move to tighten up the provision.

However, I do not think that the Government would use the ministerial certificate unnecessarily, and I think it is essential for good government that the provision which we have now suggested be agreed to rather than that which was originally proposed by Mr Evans. One example of the sort of situation you could get yourself into if you did not have this provision is that a large 60-page set of regulations in relation to a significant Act could be compiled and then come into effect four months later. During that period of four months, you could find that a minor amendment is necessary to take out some words or perhaps there might be a typographical error or some lines left out, but unless you have a flexible procedure you would have to give four months notice of that minor amendment, or if you adopt Mr Evans's proposal you would have to introduce it but it would only stay in existence for 12 months and you would have to re-do it. So, in my view you would create a very confusing situation. This proposal avoids that, but it places the onus on the Government to comply with the spirit of the legislation. In doing that, it also gives the Parliament oversight through the Legislative Review Committee. If the Parliament is unhappy with the way the Government is utilising this procedure, it can report and take appropriate action.

The Hon. R.I. LUCAS: Members of the Liberal Party have mixed views about the package of amendments that lie before us at the moment. The Liberal Party is certainly not generally violently opposed to the intent of the amendments of Mr Evans (the member for Elizabeth) and now supported by the Government. Indeed, on a number of occasions some members of the Party have been critical of the very quick way in which regulations can be introduced and put into effect and of the whole regulation-making process.

The Liberal Party considered its position and tried to rationalise its varying points of view in relation to this issue. The Liberal Party's position through the debate has been that it is such a significant change in the processing of regulations by Parliament that it ought to be given due consideration by the parliamentary standing committee system that has been established. Those committees were established only three or four months ago after lengthy debate late last year.

Part of the argument of the member for Elizabeth, in particular, and other members who supported the current structure of the committee system was that the committees would be the appropriate forum for debate on substantive issues such as the one that is before us at the moment. That is certainly the view of the Liberal Party. It is not one of violent opposition to the intent of the package before us but rather that we believe it ought to be given due consideration by the Legislative Review Committee so it can bring the package back to Parliament for proper consideration in the August session.

This package of amendments has some history. The member for Elizabeth introduced in another place a separate Bill, the Subordinate Legislation (Commencement and Expiry) Amendment Bill. It was opposed by the Government. Mr McKee spoke on behalf of the Government in the other place on the original form of the Bill and it was subsequently withdrawn by the member for Elizabeth because, as I understand it, he was unhappy with the attitude that the Liberal Party intended to adopt with respect to referral to the Legislative Review Committee. A refinement of that package of amendments was moved as a separate Bill, this Subordinate Legislation (Expiry) Amendment Bill, and it was passed in another place with the support of the Government. For those reasons, the Liberal Party will oppose this package of amendments, the intention being that the package be referred to the Legislative Review Committee and that we further consider it in the August session.

The Hon. I. GILFILLAN: I support the amendments. This is a significant change, which has been welcomed by the Democrats. The procedure of instantaneous effectiveness of regulations, delayed action, deliberation and possible movement for disallowance has always seemed illogical and an unfortunate juxtaposition of activity. From that point of view, it is welcome.

It seems to me that the matters which could be debated and which might be subject to variation are the timing aspect, that is, whether four months is appropriate for the delayed operation, and possible conditions which should surround the ability of a Minister to issue a certificate or to certify that an earlier date of operation should be effective. That could be deliberated on in a committee situation and some variation made of it, but I can see how the option for instantaneous or earlier introduction of the effectiveness of a regulation must be catered for because the character of certain regulations, some of which the Attorney-General described, demands it.

One such matter concerns a regulation that has an immediate effect on the value of land or an action which, once signalled that it is in train, would trigger off an absolute avalanche of the very activity which the regulation is designed to prevent. I do not see any point in referring these amendments to a committee as a delaying tactic before this measure comes into effect. Experience is the only way that the

ultimate answer will be found for these questions which a standing committee could decide. Unless the Legislative Review Committee has virtually nothing to do, I do not see any point in saddling it with another task now before introducing this long overdue amendment. Recognising that there may need to be some fine tuning, we support the amendments.

Motion carried.

Amendment No 5:

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

That the House of Assembly's amendment No. 5 be disagreed to.

Members will recall that, in this place, section 16a of the principal Act was amended by striking out paragraphs *(b)*, *(e)* and *(f)* and substituting a new paragraph *(f)*, which had the effect of exempting regulations made by a person, body or authority other than the Governor from the regulation expiry procedure.

Paragraph *(b)*, which was deleted, provided that regulations made by an authority established or incorporated under an Act relating only to the internal affairs of the authority or to the use of its land, premises or property were exempt from the regulation expiry program. Paragraph *(e)* of the principal Act provided that rules of court were exempt and paragraph *(f)* that prescribed regulations or regulations of a prescribed class were exempt. New paragraph *(f)* provided that regulations made by a person, body or authority other than the Governor were exempt from the expiry program. This new paragraph embraced old paragraphs *(b)* and *(e)* and covered other regulations which have to be laid before Parliament, but not made by the Governor.

The amendment we are now considering to clause 2 will make rules of court subject to automatic expiry as well as those rules and regulations made by some body other than the Governor, although those covered by existing paragraph *(b)* will continue to be exempt; that is, those made for the purposes of internal affairs.

The Government is strongly of the opinion that rules of court should not be subject to the automatic expiry provisions. Rules of court are made by the judiciary to regulate the procedure and practice of the courts. The rules are constantly under review and it is, apart for propriety, a waste of judicial resources to include the rules in the expiry program when the regulation review procedures should be focusing on business, industry and occupational licensing.

There is the further difficulty that, if the amendment is accepted, there will be very little time for the courts to identify, examine and re-do rules which were made before 1 January 1976, as these will expire on 1 September this year. The new District Court and Magistrates Court Acts will mean there is no problem in those courts. The bulk of the Supreme Court rules will also be unaffected because new general rules were promulgated in 1986. However, the Supreme Court has rules made under a plethora of Acts—some of which have been recently completely changed and others which have not. To take just a few examples of ones which will lapse, in whole or in part—Administration and Probate Act rules, Service and Execution of Process Act rules, Legal Practitioners Act Trust Account and other various rules, Settled Estates Act, Trustee Act. Other courts which will be affected, and this is after only a cursory consideration, are the Coroner's Court, the Industrial Court and Warden's Court.

Further, proposed new paragraph *(f)* (the Government's proposal) recognises that the regulation expiry program is resource intensive and is designed to ensure that resources are directed—at achieving the primary aim of the program-business deregulation—to eliminate unnecessary regulations which affect people in their day-to-day dealings. The resources necessary to identify all regulations made by a person, body or authority other than the Governor will be considerable. Present paragraph *(b)* excluded some of these from the program but requires each set of, for example, by-laws to be examined to determine whether they do only relate to internal affairs or use of the body's land, premises or property.

Many bodies are created by statute which may have regulations falling within proposed paragraph *(f)*. They range from rules made by the various disciplinary tribunals under the Legal Practitioners Act, the Dentists Act, etc., to rules made by, for example, the Council of the National Trust of South Australia, the Boy Scout Association, the trustees of the Da Costa Samaritan Fund, or by the board of the Wyatt Benevolent Institution. These latter examples are of bodies created by or continued in existence by private Acts of Parliament, all of which contain rule making powers and the bodies concerned have nothing to do with the Government and are not subject to any scrutiny or control. While some of the rules would no doubt relate to the internal affairs of the body, and therefore be exempt from expiry under paragraph *(b)*, there seems little merit in subjecting such bodies to the requirements to obtain advice as to the status of their rules and to require them to be remade on expiry. There is also the obvious possibility of unintended expiry and the legal consequences thereof. There is the additional practical difficulty that Parliamentary Counsel does not generally draft the regulations encompassed by proposed paragraph *(f)*, so they have no record of them.

There is a real danger that these unidentified regulations will expire without anyone being aware that they have. Given the problems, the Government considers the sensible thing is to exclude the regulations contained in proposed paragraph *(f)* as they are peripheral to the regulation expiry scheme and will require the use of scarce resources for little or no benefit. The Parliamentary Counsel would inevitably become involved in drafting or checking the bulk of the regulations which are encompassed by proposed paragraph *(f)*. Further, somebody will have to take responsibility for locating all these regulations and this will have to be done well before 1 September 1992. I ask the Committee to reject the amendment for those somewhat lengthy reasons.

The Hon. R.I. LUCAS: The Attorney-General, even at this late hour has been eloquent and persuasive for those members of the Committee here at this stage. We will be supporting the position that he has adopted for the reasons that he has given. This amendment was originally moved by the member for Elizabeth at short notice in another place. Liberal members were unable to mobilise a joint party meeting to discuss our attitude towards this Bill and we certainly adopted a position in another place to keep the amendment alive for further debate. The amendment was supported by Liberal members in another place to enable further consideration, discussion and debate. Having had that further discussion and debate and with the valued input of my colleague the Hon. Mr Griffin, the Liberal Party arrived at exactly the same conclusion for much the same reason as just given by the Attorney-General. We support the position of the Attorney-General and oppose the amendment.

Motion carried.

The following reason for disagreement to amendment No. 5 was adopted:

Because the amendment will be impractical to operate and will divert resources from the principal task of regulation review.

ADJOURNMENT

At 11.37 p.m. the Council adjourned until Thursday 7 May at 11.30 a.m.