LEGISLATIVE COUNCIL

Wednesday 28 April 1993

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

ECONOMIC DEVELOPMENT BILL

Her Excellency the Governor, by message, intimated her assent to the Bill.

STATUTES AMENDMENT (FISHERIES) BILL

The Hon. T.G. ROBERTS: I move:

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

Motion carried.

PAPERS TABLED

The following papers were laid upon the table:

By the Attorney-General (Hon. C.J. Sumner)-

Magistrates Court Act 1991-Rules of Court—Port Adelaide—Trial Court

Regulation under the following Act—Workers Rehabilitation and Compensation Act 1986 - Recovery of Payments

Equal Opportunity Act 1984, section 85s—Amended Report of the Working Party reviewing Age Provisions in State Acts and Regulations

By the Minister of Transport Development (Hon. Barbara Wiese)—

Regulation under the following Act—

Road Traffic Act 1961—Declared Hospitals—Ardrossan

By the Minister for the Arts and Cultural Heritage (Hon. Anne Levy)—

Senior Secondary Assessment Board of South Australia—Report, 1992

Regulation under the following Act—

Clean Air Act 1984—Licensing and Transfer Fees

By the Minister of Consumer Affairs (Hon. Anne Levy)—

Regulation under the following Act—

Landlord and Tenant Act 1936—Aboriginal Lands Trust—Commercial Tenancy

AGE DISCRIMINATION

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a ministerial statement on the subject of a report on Acts of the State that provide for discrimination on the ground of age.

Leave granted.

The Hon. C.J. SUMNER: Mr President, I refer to my ministerial statement of 2 April 1993 concerning the report on those Acts of this State that provide for discrimination on the ground of age that is required to be tabled pursuant to section 85s of the Equal Opportunity Act. Unfortunately, certain provisions were inadvertently omitted from the copy of the report which was tabled, due to an information technology failure. These omissions have now been identified and the provisions included in an amended version of the report. I regret any inconvenience caused to members by this mishap. I seek leave to table the amended version of the report.

Leave granted.

QUESTION TIME

STATE ADMINISTRATION CENTRE

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Attorney-General, as Leader of the Government in this Chamber, a question about the State Administration Centre.

Leave granted.

The Hon. R.I. LUCAS: Members will be aware of the proposal by the State Government to shave $5 million off the total cost of upgrading the State Administration Centre, as revealed as part of last week's Economic Statement by the Premier. Members might also recall that plans to upgrade the centre were first revealed by the Government in November 1991. It was then that the *Advertiser* reported that State Cabinet had approved a $15 million upgrade of the aging centre to 'bring the building up to the standards of the 1990s'.

In January last year, the *City Messenger* reported that the State Administration Centre would be given an $18 million facelift before the State Government is forced to build a replacement building. So, in the space of less than two months the cost of the centre's upgrade rose by $3 million. Ironically, the then Public Works Minister, Mr Mayes, was quoted as saying,'It makes economic sense to spend less now upgrading what we have.' By May last year the *Advertiser* was reporting that the State Government was going to spend $23.5 million in upgrading the centre, with Mr Mayes telling the newspaper the Government would be negligent if it did not spend the money to upgrade the building. Interestingly, the article also said the Government had asked building firms to register their interest in carrying out the upgrading work and it was hoped to begin work by June 1992, with completion scheduled for December 1993. Yet, in November 1991 the paper was told work had started on the upgrading.

By July of last year, figures released by Mr Mayes revealed that the refurbishment of the centre had blown out to almost $28 million, almost double the original cost of the work as detailed just eight months earlier. Incredibly, despite this huge blowout in cost estimates the Government claimed it was being prudent with taxpayers' money. Mr Mayes told the newspaper the Government was actually saving nearly $5 million by using existing furniture wherever possible.

The story, however, does not end there. Capital works program figures for 1992-93 now show the total cost as estimated at $29.3 million, including a $9.3 million fitout of the building, completion due in February 1994. Then,

last December, it was revealed that part of the $29.3 million price tag to upgrade the centre included almost $1 million for 104 new toilets for Ministers and staff based in the centre. A spokesman for the Minister of Public Infrastructure, Mr Klunder, was brazen enough to claim the toilets would not be luxurious by any stretch of the imagination. However, at an average cost of nearly $9 500 each some taxpayers might question what was luxurious.

Given the Government has decided to save $5 million on the centre's upgrading—therefore bringing total expenditure on its refurbishment back to more than May 1992 estimates, yet still 62 per cent higher than the original estimate in November 1991—one wonders whether the planned saving might merely be the result of forcing a few more public servants to use existing furniture, or cutting back on a few of the $9 500 loos in the State Administration Centre. My questions to the Attorney-General, as Leader of the Government in this Chamber, are:

1. Will the Attorney-General concede that the Government's announced $5 million axing of the upgrading of the State Administration Centre is mere window dressing, given that the renovation of the building was originally estimated to cost $15 million but blew out to $29.3 million within nine months and given that most of the upgrading should already have been completed?

2. Will the Attorney-General detail the extent of work being curtailed to achieve the claimed $5 million saving and say whether, in fact, the saving will be achieved simply by retaining more of the existing office furniture and limiting the number of new toilets?

The Hon. C.J. SUMNER: Despite my encyclopaedic memory, I cannot cope with providing the details immediately on answering the second question and obviously will have to get details from the Minister responsible, as I will do and bring back a reply. I do not agree that the savings announced are mere window dressing, and I think getting the answer to the second question will provide the honourable member with the answer that he wants to the first question as well. The only comment I would make is that I think that in comparing $15 million to $29 million he is not in fact comparing like with like, and in the $29 million figure much more is included than was included in the $15 million to which he has referred. However, no doubt that issue can be clarified by taking the matter on notice, and that is what I intend to do.

PROSECUTION POLICY

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

Leave granted.

The Hon. K.T. GRIFFIN: I raise an issue about prosecution policy and practice following stories last week and again on Sunday about a court case involving criminal charges of indecent assault as well as issues of sexual harassment. I am sure the Attorney-General would be familiar with at least the newspaper stories involving Mr Tambakis. The court case is alleged to have been resolved upon conditions which included the payment of amounts of $2 000 to each of two Crown witnesses. Following the payment resulting from negotiations in which the lawyer representing the Director of Public Prosecutions was involved a *nolle prosequi* was entered for the Crown. I am told that this may result in the charges being laid again in three months if certain conditions are not fulfilled.

One of the two women involved has contacted me and has said that the $2 000 was proposed to each of them in settlement of sexual harassment complaints through the Equal Opportunity Commission. However, they also say that the two issues (sexual harassment and indecent assault) were inextricably linked in the discussions that took place at the beginning of last week and earlier. The impression gained by the woman who contacted me was that the Equal Opportunity Commission was bringing pressure to bear on her and her colleague to accept the money and drop the charges, and that the prosecutor was very much involved in the settlement discussions.

In fact, I have been told that the prosecutor did seek advice from his superiors—whether that was his immediate superior or the Director of Public Prosecutions is not known—as to the deferral for three months and, when asked by the women what they should do about the offers of payment of $2 000, he is alleged to have said,'I can't advise you what to do but I'd suggest you take the money because I can't see you getting much more.' It is interesting to note that in its handling of the sexual harassment complaints the Equal Opportunity Commission, in the impression gained by the woman who spoke to me, was seeking to bring pressure to bear on them to accept $1 500 each in settlement of the sexual harassment complaints.

That was a day or so earlier than the dealings with the Director of Public Prosecutions officer. This does raise important matters relating to the way in which prosecutions are conducted as well as resolved, and touches upon the concept of plea bargaining as well as the interrelationship between criminal charges and sexual harassment complaints. My questions to the Attorney-General are:

1. Is it the Attorney-General's policy or consistent with that policy that prosecutions can be arranged to be withdrawn upon payment of money and, if it is, is the practice desirable?

2. Is that a practice that is widespread and, if so, will he indicate how many times it has occurred in the past year?

3. Will the Attorney-General indicate now, or if he does not have the information can he bring it back, the basis upon which the case to which I refer was not proceeded with and also identify the relationship between criminal charges and sexual harassment complaints in the way in which this matter was dealt with?

The Hon. C.J. SUMNER: The policy relating to prosecution is laid down by the Director of Public Prosecutions and I have not given him any directions in relation to that general policy except in so far as it relates to victims of crime. The honourable member may recall that at the time the office of DPP was established the Director of Public Prosecutions issued guidelines for prosecution that were made publicly available and, I

believe, tabled in this Parliament. In addition, I tabled directions that I had given to him relating to victims of crime which dealt with the Charter of Victims Rights, of which the honourable member is fully aware.

So, I have given no directions to the DPP about prosecution policy except as to how the DPP should deal with victims of crime, and that does not actually relate to the policy on prosecution but relates to how victims should be handled in the criminal justice system. So, the policy is that of the DPP: it has been made publicly available, and they are the guidelines under which he operates. The Attorney-General does have a reserve power to direct the DPP, but that has not happened since the DPP was established, and I made the point that any directions would be the exception rather than the rule.

The DPP having been established, it is important that he proceed with prosecutions independently, subject to publicly available guidelines with a failsafe provision that enables the Attorney-General, who is accountable to the Parliament, to issue both general and specific directions if that is considered necessary. However, that would be very much the exception rather than the rule and is basically a failsafe mechanism.

That does not mean that the Parliament is not entitled to know what the prosecution policy of the DPP is, and the means of obtaining that is through the responsible Minister, the Attorney-General, so I have no problems with referring this question to the Director of Public Prosecutions.

Apart from press reports, I am not familiar with the details of the case myself, but I will refer the question to him, because the Parliament and the honourable member are clearly entitled to have details of the general prosecution policy, which has been made public already, and to ask questions about particular matters and as to how the policy is exercised in this case. So, I will obtain a report and bring it back for the honourable member.

TRANSPORT REFORM

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister of Transport Development a question about transport reforms.

Leave granted.

The Hon. DIANA LAIDLAW: On 1 April I asked the Minister a series of questions about the establishment of a megadepartment of transport as part of the Premier's forthcoming Economic Statement. I recall that the Minister said in reply that I should not rely on my sources for anything, because invariably they seemed to be wrong.

The Hon. L.H. Davis interjecting:

The Hon. DIANA LAIDLAW: No. Of course, the Premier's Economic Statement last Thursday confirmed that my sources were sound and that by 30 June 1994 the Government intends to reduce to just 12 the number of operational agencies. I trust that today the Minister is rather better informed than she was on 1 April about what the Premier now proposes in relation to her areas of departmental responsibility. Therefore, I ask:

1. When is work to commence on integrating transport agencies?

2. Will the megadepartment of transport embrace not only the STA, the Department of Road Transport, the Department of Marine and Harbors and the Office of Transport Policy and Planning but also the role and function of the Metropolitan Taxi-Cab Board, plus responsibility for some or all of the transport requirements of other State Government agencies? In respect of transport requirements of other State Government agencies, the Minister may like to again suggest that my sources are not reliable, but certainly I have seen papers prepared for discussion outlining options for the future management of passenger transport in South Australia and those papers do canvass the transfer of some or all of the transport requirements of other State Government agencies. Those particular papers nominate the transport requirements of the Education Department and the Health Commission.

3. What cost savings are envisaged as a result of the establishment a megadepartment of transport?

4. Of the 3 000 full-time equivalent Public Service jobs to be cut in the next 14 months, how many jobs does the Minister anticipate will be lost in the transport sector by June 1994?

The Hon. BARBARA WIESE: The Government has taken a decision that 12 agencies of Government will be established by June 1994. Outlined in the Economic Statement is the establishment of three such agencies, and they were named in the statement. As I understand it, work will commence immediately on the establishment of those three super departments. As to the program for the establishment of the remaining nine agencies, that, as I understand it, is a decision that is yet to be taken and will be taken through the Office of Public Sector Reform in consultation with relevant agencies and with Cabinet. At this stage there is no timetable for the commencement of the development of the program for subsequent agencies, other than the ones that were named in the Economic Statement.

As to the question of what shape a transport agency might have, that is yet to be determined. That is not clear at this point because there have been no formal discussions about those matters; they are yet to occur. They will happen, I guess, some time before June 1994, and decisions will be made as to what agencies should form part of such an organisation, if that is what is decided ought to be the structure. Until there are such considerations it will not be possible to determine what cost savings are achievable. It is not possible at this stage, either, to suggest how many public servants within the transport area are likely to take voluntary separation packages or be moved to other locations as a result of the discussions that will emerge through the restructuring proposals. However, no doubt in the fullness of time, once the work has been achieved in the amalgamation of the first three major departments and a program is established for the remaining parts of Government, some of these questions will be answered. It is much too soon to predict the outcome or the particular answers to the sort of questions that the honourable member has raised at this point.

The Hon. DIANA LAIDLAW: As a supplementary question, will the Minister confirm that it is the Government's intention that by June 1994 there will be a mega or super department of transport, and does she

appreciate that the vagueness of the proposition at this stage is causing considerable agitation within Government related agencies dealing with the transport sector? Certainly, that has been related to me in recent days. How is she able to deal with that situation?

The Hon. BARBARA WIESE: I am quite sure that there is a considerable amount of uncertainty within various parts of the public sector at the moment as a result of some of the statements that were included in the Economic Statement, because any restructuring, reorganisation or change is unsettling for most people and, until they have a clear idea of where they will fit into the big picture or what will happen to their own positions, obviously, they will have some apprehension about the idea of change. But everybody agrees that there must be change and that there must be restructuring in Government—

The Hon. Diana Laidlaw interjecting:

The Hon. BARBARA WIESE:—and this includes the honourable member. The Liberal Party has been saying for as long as anyone can remember that we must have a smaller public sector, we must have restructuring, we must do away with public servants. The Government is acting to modernise and restructure the Public Service, and now we have this line of questioning from members of the Opposition about why, what the effects will be and so on.

Members interjecting:

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

The Hon. BARBARA WIESE: The fact is that the Government has outlined its program for the next 18 months in this respect, in broad terms. Discussions will take place with the relevant organisations, with our staff and with the trade unions that cover those people. They will be kept informed of progress in all these areas right across Government. I have no doubt that the work force in the public sector generally and in the transport sector in particular will be patient and cooperative in the restructuring of Government that must take place over the next 18 months or so and that they will assist the Government in achieving the program of change.

RURAL ASSISTANCE SCHEME

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister representing the Minister of Primary Industries a question relating to the Rural Assistance Scheme.

Leave granted.

The Hon. M.J. ELLIOTT: Federal Cabinet yesterday endorsed an assistance package for wool growers and details of the package have been released today. It has been reported by the media to be worth $72.3 million. I understand that most of the money will go into providing interest rate subsidies to eligible growers through the Rural Adjustment Scheme. There will be a cap on assistance for each applicant of $50 000. A report in the *Advertiser* on Tuesday 27 April stated that the boost to RAS would require State Government approval and an injection of 25 per cent of the funds. My questions to the Minister are:

1. Is the State Government prepared to contribute to the package for farmers in South Australia?

2. If so, how soon will it be before farmers can begin applying for assistance?

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

MINISTERS' STAFF

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister for Public Sector Reform a question about ministerial staff.

Leave granted.

The Hon. L.H. DAVIS: Last Thursday the Minister for Public Sector Reform provided a 38 word non-answer to a parliamentary question which I had asked six months earlier about staffing numbers in Ministers' offices. On 27 October 1992 I expressed concerns about budget overruns in ministerial staff and asked Mr Sumner, as the Minister for Public Sector Reform, whether the new Arnold administration would examine ministerial staffing levels in the current severe economic climate. The fact is that the Labor Government has increased the level of ministerial staff from 112 in 1982-83 to a current level of at least 175. This represents an extraordinary increase of 56 per cent in the last 10 years. An extra $3 million per annum at least is now being paid for ministerial staff, compared with 1982-83.

The Hon. Anne Levy: Come off it! Most of them are public servants, anyway.

The PRESIDENT: Order!

The Hon. L.H. DAVIS: Mr Sumner promised to provide an answer on 27 October 1992.

Members interjecting:

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

The Hon. Anne Levy: They're not personal staff; they're public servants.

The PRESIDENT: Order!

The Hon. L.H. DAVIS: I should have hoped the Minister for Arts and Cultural Heritage at least would live up to her portfolio and exhibit a bit of culture and decorum in the Council. On 27 October 1992, the Minister promised to provide an answer—and he did. But it took six months and said nothing. Let me read the answer back to the Minister which he gave me on 22 April, nearly six months later:

> The number of ministerial staff employed in a Minister's office is governed by the number of portfolios held by the Minister. Naturally consideration is'given to the numbers employed and all are justified in this current economic climate.

So, we had nearly six months to receive a 38 word non-answer—roughly two words every week. The Minister for Public Sector Reform has obviously been well wined and dined by Sir Humphrey. Coincidentally, the Minister's answer came on the same day as the Premier, the Hon. Lynn Arnold, delivered his Economic Statement called 'Meeting the Challenge'. In his speech to the Parliament the Premier said:

> The challenge facing South Australia is considerable. It involves cutting Government expenditure following a recession

and at a time of reduced revenue and eroded Commonwealth funding.

The Premier went on to say:

> The Government aims to reduce the public sector by 3 000 full time equivalent positions by the end of 1993-94 financial year...This Government's approach reflects its fundamental decision to take strong action to address this State's finances.

My questions to the Minister are: can he explain why, on the same day the Premier was saying 3 000 jobs had to be slashed from the public sector to reflect the severe economic climate, falling State revenues and soaring State debt, the Minister for Public Sector Reform was saying that the number of ministerial staff were justified in this current economic climate; and, secondly, will the Minister confirm that in fact the level of ministerial staffing now is higher than it was in the last financial year?

The Hon. C.J. SUMNER: I do not have the file any more, but as I recollect it the matter was referred to the Premier for a response, and that was the response that was provided for me. I was somewhat quizzical about the response, I must confess, after all those months. It seemed to me that 38 words did not really do justice to the question asked by the honourable member.

Members interjecting:

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

The Hon. C.J. SUMNER: However, as I explained when the honourable member asked his question, when talking about ministerial staff a distinction has to be drawn between ministerial staff who are personal staff and ministerial staff who are public servants, and that needs to be borne in mind. I have never quite ascertained whether the honourable member was referring to personal or ministerial staff in the broader sense. My own guess is that it was ministerial staff, including public servants and personal staff.

The Hon. L.H. Davis interjecting:

The Hon. C.J. SUMNER: If they are public servants, they may have been seconded from other sections. It is extremely difficult to make comparisons department by department if we are including public servants. What is done in one Minister's office is not done in another Minister's office; the functions vary. I am not sure whether those figures, as I said then, refer to personal or ministerial staff, but I believe it would have included ministerial staff who are public servants and not just personal staff.

As I have explained to the honourable member, I have only one personal staff; I have a press secretary; I do not have any others. Other Ministers have personal staff, but I do not believe that the numbers have increased by the amount that the honourable member has indicated in his question. However, I will concede that the question was not all that informative.

The Hon. L.H. Davis: The answer was not informative.

The Hon. C.J. SUMNER: The answer was not all that informative. I thought I would give it to him anyhow, because it had been hanging around for a while. If I had referred it back, it would have taken even longer to get an answer. I think that in general terms it is not acceptable for an honourable member to ask a question of that kind six months ago and have to wait for that time to get an answer—

The Hon. L.H. Davis: It was a non-answer.

The Hon. C.J. SUMNER:—which the honourable member has described as a non-answer and which I must concede was not particularly informative. Having said that, I can only assume that this one slipped through the system. In my office I have a reasonably good system of following up questions that are asked of me and referred to other departments. This one obviously was not dealt with as expeditiously as it should have been. I am prepared to take the responsibility for it in so far as it should have been followed up within my office. I am happy to refer the matter back to those who are responsible for the preparation of the answer and see whether anything further can be provided.

RAPE IN MARRIAGE

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Minister for the Status of Women a question relating to the judicial administration course on gender bias.

Leave granted.

The Hon. I. GILFILLAN: The determination of the Supreme Court in its rejection of Judge Bollen's remarks, in particular in relation to'rougher than usual handling' of wives, as being acceptable to'persuade' an unwilling wife to have intercourse was a two-to-one majority, in which the Chief Justice dissented from his two colleagues. On 22 April last I asked the Minister a question about this matter, outlining that the Chief Justice had referred to'rougher than usual handling' as consensual'boisterous playfulness', which was pointed out as at least indicating insensitivity to the issue and probably compounding the earlier error of Judge Bollen. However, the Minister gave quite a detailed answer. In it I was interested to hear and read in *Hansard* that the Prime Minister gave a promise that he:

> ...would provide resources to the Australian Institute of Judicial Administration. For those who do not know, that is the association of all judges and magistrates in Australia. He has indicated that resources would be provided for the Australian Institute of Judicial Administration so that it could conduct continuing education courses for its members which, as I say, includes all judges and magistrates in this country, on the question of gender bias, amongst other matters, to ensure that the judiciary remains cognisant of contemporary community attitudes.

At the end of that I asked a supplementary question to inquire whether the Minister had enrolled the Chief Justice in that course, and she replied that that was not necessarily her business, or words to that effect.

I was in some doubt whether to ask the Attorney-General this question, he being the Minister probably more closely associated with the judiciary. However, I have no hesitation because the Minister for the Status of Women has shown admirable determination to highlight this gross distortion of gender impartiality in the judgment of Judge Bollen, compounded, I believe, by the Chief Justice in his dissenting to the majority view of the Supreme Court. From approaches that have been made to me, I understand that many people are concerned that

this education course, unless it is undertaken by all judges and magistrates, will have little effect on those who continue to hold gender bias. It is with that intention that I ask the Minister:

1. Does the course to which the Minister referred have the support and blessing of the Chief Justice?

2. Will she discover and report to Parliament the names of any judges and/or magistrates who are declining to participate in this course?

3. In particular, will she discover and report to Parliament whether Justices Bollen and King are intending to participate or are participating in this course on gender bias?

The Hon. ANNE LEVY: I think that to some extent the honourable member is jumping the gun. As far as I am aware, the Australian Institute of Judicial Administration has not yet established this course. The Prime Minister's announcement, which was made prior to the Federal election as part of his very successful launch of the women's policy, indicated that the resources would be supplied to the Australian Institute of Judicial Administration and that the development of the appropriate curriculum would be under the auspices of Justice Deirdre O'Connor, a very well respected judicial figure from the eastern States. As far as I am aware, Justice O'Connor has not yet established the necessary curriculum for the course. I would be interested to find what time lines are expected before such a course will be fully developed.

I think it is premature to inquire whether people will or will not attend a course when the curriculum and method of providing the course have not yet been fully developed. I will attempt to find out when the course will be available. I suggest that the honourable member should ask his question again when further information is available as to when the course will be held and what arrangements the institute will be making.

The Prime Minister also announced at the same time that he would be asking Justice Elizabeth Evatt, as part of the Law Reform Commission work, to undertake an examination of any gender bias which may exist in our legislation, with a particular emphasis on Commonwealth Government legislation. I know that Justice Elizabeth Evatt has already begun this task. Anyone who heard her on Murray Nichols program last week will have heard her say that she has begun this work, and certainly expects it to take quite a number of months, though she does hope to have a report ready by the end of this year. I presume that Justice O'Connor's task will be less detailed, and one might expect the results of it to be available earlier than those of Justice Evatt. However, I will certainly see if I can find out what timelines the Institute of Judicial Administration is expecting for this particular project.

The Hon. I. GILFILLAN: I have a supplementary question. I thank the Minister for the information, but the first question I will ask again. Will she find out whether or not the Chief Justice supports this course and report to this Parliament? I believe there are many people in South Australia who want to know whether or not the Chief Justice in this State supports this course.

The Hon. ANNE LEVY: Dealings with the Chief Justice are usually done through the Attorney-General. As I indicated in my earlier reply, it seems to me to be a little pointless to ask anyone whether they agree with a course when the course has not yet been devised and when the curriculum has not yet been provided. It would seem that the honourable member is really jumping the gun. The time to ask this question is when a course will be available.

REMM MYER PROJECT

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 loss provision by the State Bank on the Myer Remm project.

Leave granted.

The Hon. J.F. STEFANI: On 8 October 1992 I asked a question about the losses and provisions made by the State Bank on the Myer Remm project. Honourable members will recall that both the State Bank and the State Government have been most reluctant to identify the precise amount of loss which has been funded from the public purse in building this project. The Auditor-General's Report has provided Parliament with some staggering information.

The State Bank had committed funding for an amount which management had established and estimated would reach $744.2 million. This amount did not include any holding charges beyond the date of completion of the project. In addition, the State Bank had been committed through the terms of the Rundle Mall performance guarantee to Myer Stores Limited for a limitless amount which was legally enforceable to provide finance for the completion of the project, notwithstanding the likely substantial costs and the enormity of the risk.

It is of interest to note that, against this background, the State Bank has written off a loss of $436.4 million. This theoretically leaves an amount of $307.8 million as the debt owing to the State Bank or as the book value of the building, which is now owned by the State Bank.

The Myer Remm project has been described as an ambitious project which has failed to meet expectations and, given that in February 1991 Devreal Capital Limited had valued a similar Myer Remm project in Brisbane at about $230 million, my questions are:

1. In view of the independent valuation obtained by the State Bank, will the Treasurer advise if the $150 million valuation by the Valuer-General, which is used for rating purposes, is set too low? If so, why has the Treasurer allowed the apparent forfeiture of the rate revenue to occur?

2. If the Valuer-General's valuation of $150 million is accurate, will the Treasurer advise when the State Bank is likely to make a further provision for the apparent additional loss of $158 million?

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

IMMUNISATION

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister

representing the Minister of Health questions relating to immunisation.

Leave granted.

The Hon. BERNICE PFITZNER: A recent article in the *Australian* of 21 April 1993 raised the issue of poor uptake of immunisation. I will read a few extracts of that article, entitled 'Damning on System'. It states:

Australia had'very poor immunisation uptake when compared with even impoverished countries such as Vietnam.' There had been a big increase in Australian cases of measles and a six-fold rise in the incidence of whooping cough, Dr Hanna said.

Dr Hanna is the Director of the Centre for Disease Control in Cairns. The article further states:

'The statistics are damning on our public health system—a system that has failed, with the exception of Victoria and New South Wales, to respond to the National Health and Medical Research Council's 10 year old recommendation for all States and Territories to introduce school entry immunisation' Dr Hanna said. Britain had just recorded its first year without a death from whooping cough or measles as a result of a vigorous immunisation campaign. In the United States, President Clinton's first legislation announced had been a $US200 million ($280 million) child vaccination campaign. A big problem here was the lack of reliable data. The Australian Bureau of Statistics in 1989-90 found a little more than half of all children were fully immunised while a study in North Queensland found only 60 per cent were fully immunised by age two.

Looking at the ABS latest statistics based on the 1989-90 census we note that the national average for full immunisation for children nought to six years was in the range of 70 per cent to 85 per cent, which is not quite as bad as the article makes out. Our own State of South Australia appears to follow the national trend for immunisation uptake. However, we note that there are areas of relatively poor uptake or compliance for full immunisation. Such areas are whooping cough (70 per cent), which means 30 per cent are unimmunised, polio (72 per cent) and mumps (70 per cent). My questions to the Minister are:

1. What system is being used by the South Australian Health Commission in order to collect reliable data?

2. What strategies has the SAHC in hand to target these areas of poor compliance?

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

CLEVE TO KIMBA ROAD

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister of Transport Development a question on the Kimba to Cleve road.

Leave granted.

The Hon. PETER DUNN: This road is under the care of the Department of Road Transport. It is not a local road and therefore the Kimba local council is not responsible for the maintenance of the road. The distance of the road is about 60 kilometres and some 5 kilometres of that has been sealed at each end. However, 30 kilometres of the northern end is, in fact, a disaster. The maintenance has fallen away, there has been little road grading, and it is now covered in potholes. It is also covered in signs alerting people of the rough terrain. I was told the other day that driving along it was like doing a bending race, going in and out of these signs. As a result it has a lot of dust on it and should it rain the problem would be compounded. One truck owner, a fertiliser distributor in the area, has broken three springs in his truck just this week. There is now no train delivering fertiliser to Kimba so all of it must be transported by road. I understand that other vehicles have had suspension failures on this part of the road. The road has had a long history of difficult maintenance because of the terrain and the roadmaking materials that surround it. Will the Minister have the road sealed as soon as possible and, in the meantime, will she have the road patched, resheeted and graded so that normal trade intercourse can take place?

The Hon. BARBARA WIESE: A question was asked not very long ago in this place by the Hon. Mr Gilfillan about this road and I sought a report on it. His question, as I recall, was in the context of the damage that had been caused to the road from the heavy rains some months ago. As I recall, the response from the Department of Road Transport about the matter was that work was about to commence to repair some of the damage which had been caused by the rains. I am not aware of whether or not that work has been undertaken or whether it is about to commence, but I will certainly seek a further report from the Department of Road Transport about the state of the road and ascertain whether it is intended to undertake further work in the near future.

STATUTORY AUTHORITIES

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister for the Arts and Cultural Heritage a question about statutory authorities.

Leave granted.

The Hon. DIANA LAIDLAW: The Premier's Economic Statement issued last week notes on page 42:

Work has been commenced by the Office of Public Sector Reform to identify statutory authorities which could be eliminated and the parliamentary Economic and Finance Committee has a specific brief to examine further opportunities.

The Minister would appreciate that in the arts and cultural heritage portfolio, possibly more than in any other portfolio—

The Hon. Anne Levy: There's a very long list; take agriculture for instance.

The Hon. DIANA LAIDLAW: There are many statutory authorities in agriculture and there are certainly many major statutory authorities in the arts and cultural heritage portfolio, ranging from the Art Gallery, the South Australian Museum, the State Library, Carrick Hill, the South Australian Film Corporation, the Youth Arts Board, the Country Arts Trust, the State Theatre Company, the State Opera and the Adelaide Festival Centre Trust. Most of these, as the Minister would be aware, have been the subject of review over the past year and would not greet the thought of a further review with any enthusiasm. I ask the Minister:

1. Can she confirm if all the statutory authorities in the arts portfolio will be the subject of review as part of this review of statutory authorities?

2. Does she have any plans for the repeal of any statutory authorities within the arts area and, if so, does she have any idea what recurrent cost savings would arise from such repeal?

3. Are the statutory authorities themselves going to be invited to participate in this assessment of statutory authorities or is a decision going to be made in isolation and be removed from them?

The Hon. ANNE LEVY: I can indicate that certainly at the moment I have no intention of looking to the abolition of any statutory authority in the arts area. If the Office of Public Sector Reform or the Economic and Finance Committee of the Parliament is to undertake a review of all statutory authorities, then obviously that will include the arts statutory authorities because they are part of 'all statutory authorities'.

However, it is well known that most of these statutory authorities underwent review not long ago, and I cannot imagine that any review would take place, be it by the public sector reform group or by the Economic and Finance Committee of the Parliament, without the body being reviewed being involved in such review—

The PRESIDENT: Order! Time having expired for questions, I have to call on business of the day.

LEGISLATIVE REVIEW COMMITTEE

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

That the interim report of the Legislative Review Committee on an inquiry into matters pertinent to South Australians being able to obtain adequate, appropriate and affordable justice in and through the courts system be noted.

Speaking briefly to the motion, I wish to make a few comments that I hope will assist honourable members to appreciate the content of the report, the form in which the report is given and the direction taken by it. First, however, I feel obliged to recognise the effort of the people involved, and I place on record, on behalf of the committee, sincere thanks to all those who have made an effort to contribute to the inquiry by giving both written and oral evidence. The information and ideas contributed by the witnesses provided the committee with the necessary understanding of the issues and allowed the committee to reach the stage of releasing this interim report.

Before I go any further, I would like also to thank our research officer Ms Linda Graham for her great cooperation, our Secretary Mr David Pegram for his constant assistance and the *Hansard* reporters for their great cooperation. The interim report covers all the items listed in the terms of reference. These include the cost of justice, legal aid, delays in the operation of the courts, alternative dispute resolution and a few other minor matters. The committee decided not to publicly advertise its inquiry into these issues, and in a few seconds I will give some explanation of the rationale for this decision.

The committee was aware that the subject it was examining would attract those who have a professional concern with the administration of the justice system. The committee was also aware that it could invite others who it thought would have an interest in the terms of reference. If, on the other hand, the inquiry had advertised itself more widely, it may have invited unnecessarily a flood of personal submissions in relation to individual cases. This was not the intention and the direction in which the committee felt that the inquiry should proceed, as it would have led the committee to be looking at microproblems and individual case outcomes.

There were, however, a number of personal inquiries received by the committee, and these were treated, I believe, with ample sympathy by all members of the committee but, ultimately, they were directed elsewhere into more appropriate channels. The focus of the committee was on the microproblems in relation to the delivery of justice through the courts system, the servicing and administration of the courts and the access of clients to the delivery of justice.

I must stress that the committee was willing to receive and consider submissions from any quarter. However, if one examines the bulk of evidence received, one sees clearly that the response was sufficient for the committee to proceed without having eventually to advertise.

The committee was charged with its task in August 1991 and, from that time until the present, there have been nine Bills before this Parliament dealing with the courts and the delivery of justice. For the benefit of the record, these Bills were: the District Court Act, the Statutes Repeal and Amendment (Courts) Act, the Strata Title (Resolution of Disputes) Amendment Act, the Enforcement of Judgments Act, the Justices Amendment Act, the Justice of the Peace Act, the Evidence Amendment Act and the Magistrates Court Act.

Generally, these Acts contained measures in an effort to strengthen the delivery of justice by amending the manner in which courts operate. These nine Acts became operative on 6 July 1992 whilst our committee's inquiry was well under way. Whilst all the legislation referred to anticipated improvements to the delivery of access to justice, it is too early in my view to assess the benefits, and I believe that it will take some reasonable time before any such benefit can be counted or discounted.

In addition to this legislation, there were some relevant Acts associated with the delivery of justice, namely, the Bill for dealing with the administration of the courts, which has recently been assented to, and another Bill dealing with the reforming of the legal profession. At present the administration of the courts is controlled by the Executive arm of Government under the Attorney-General through the Court Services Department. The Courts Administration Act, when it comes into operation some time later, will hand the administration of the courts to the State Courts Administration Council, placing the courts administration directly under the Chief Justice, the Chief Judge and the Chief Magistrate.

This, I believe, should benefit the delivery of justice by removing the administration of the court from the control of the Executive. It will then be seen that the courts are becoming more truly independent by the strengthening of the separation of powers.

The Legal Practitioners (Reform) Bill is intended to protect and benefit clients preparing to come to court and when they are at the bar table of the court. All this legislation will, I am sure, influence the final outcome and the recommendation of the court system inquiry.

However, at this time the interim report as presented contains no recommendations whatsoever. Despite this, it is regrettable that the *Advertiser* saw fit to misreport the content of our interim report, not once, but twice. If members look at the *Advertiser* of Monday 26 April they will see an article on the front page headed 'Shoplifters to face instant fines'. A colleague of mine from the Liberal Party, a member of the committee, referred to expiation fees, which was an issue raised with the committee by the Legal Services Commission during the evidence presented to us. It was certainly not an opinion or a recommendation of the committee. So, the comment made by my colleague the Hon. John Burdett was misinterpreted.

More critically, the next day—Tuesday 27 April—again the *Advertiser* ran an article on page 3 entitled 'Shoplifting fine plan fails to win support'. That article states, in part:

> The Legislative Review Committee proposal, part of a plan aimed at freeing up the court system, would impose a $100 fine on first offenders.

Again, that was completely misleading. It came to me, however, as no surprise; but on this occasion may I thank the *Advertiser* greatly because it ran free publicity for the committee. I hope that all those members of the community organisations who are concerned about this misreporting of information will come before the committee and give us evidence of their concern. That would therefore be fruitful for us when we produce the final report.

As I said, the report contains quotations and comments which led to a number of avenues of inquiry that indicated the direction and the thinking of the committee. Depending on the final response to the question raised in this interim report, the committee will know whether or not its initial thinking was in fact in the right direction. The response will indicate what changes there should be in the direction of the committee's thinking or it will confirm the direction that the committee is taking and allow for recommendations to be finalised.

Without debating the content of the report, I would like to make an observation on a statement on page 28 of the interim report concerning schemes to assist financially those who cannot afford the cost of justice. It states:

> Will the introduction of this scheme result in an increase in the amount of litigation and create an irreversible trend in South Australia towards a more litigious society along American lines?

We could go on and ask ourselves a further question. Would the schemes that enable more people to have access to the court actually compound the problems that exist rather than relieve them? If people want to rush into litigation for the sake of revenge or to antagonise, or if they are seeking to make a profit from litigation, then the operators of assistance funds would be failing in their responsibility if they allowed the funds to be used for the client's selfish purpose. In my view, anyone approaching litigation with a degree of malice or profit in mind should be expected to invest his or her money in the outcome. If they cannot afford the investment they cannot afford to hate. Justice is not in that direction in my view: justice is made up of fairness and compromise.

It is for the professional lawyer, as an officer of the court, to direct the client to pursue justice rather than malice. The law should educate. I emphasise that the lawyer should be an educator. The lawyer should teach the client that justice is found in equity and fairness and, ultimately, in the client's peace of mind. Indeed, I would suggest that every law waiting room should have signs reading: 'The wise person knows when to comprise and the wise person knows when to quit.' If these maxims are taught and taken to heart, resolution to problems will be found more quickly.

That is what should be at the heart of alternate dispute resolution. When clients who act maliciously are sifted out there will still be many cases of genuine need for justice. Speaking to the point, if assistance is available there might be an increase in the amount of justice. If there is an increase in the general demand for justice there must currently be hidden injustice in the community, which seems not yet to have been properly addressed. An increase in the amount of litigation will not necessarily mean that the community is becoming a more litigious society along the American line, which I indicated earlier. There may or may not be hidden injustice, but if there are injustices they should be addressed as rationally as possible.

However, the demand for justice by those who cannot afford it at present should not lead these less wealthy members of our society to be sneeringly branded as litigious. With these few comments I commend the report to the Council and, once again, I wish to thank all my colleagues on the committee for their consistency and for the great help given to me.

The Hon. J.C. BURDETT: I support the motion moved by my colleague the Hon. Mr Feleppa, and I join him in thanking all those responsible for the interim report, especially the Secretary, David Pegram, and the research officer, Linda Graham—and it was she who wrote the report. The report was varied slightly after comments offered by various members of the committee. I also join in thanking the witnesses, because what the report essentially does is to set out the proposals raised by the witnesses. It specifically does not make recommendations.

In the introduction it is stated in bold type that'no recommendations are made and the report does not necessarily reflect the views of the committee collectively or of the individual members:' This has been specifically ignored by the *Advertiser.* It is clearly stated in the Presiding Officer's letter and also in the introduction that the purpose of the report was to make known to the public—to anyone who wanted to read the report—what the issues raised by the witnesses were. There was no indication of support or non-support for any of them.

The report on the front page of Monday's *Advertiser,* the editorial and I guess the cartoon and the *Advertiser* of yesterday have been referred to by the Hon. Mr Feleppa, but (and I will say this very clearly) the report does set out all the issues raised by witnesses before the committee. Not only this issue, but every one that was raised is set out in the same way, without any support or

opposition from the committee. In the case of on-the-spot fines (which was the issue that the *Advertiser* chose to pluck out of a heap of far more important issues), the principal witnesses were the Legal Services Commission and the South Australian Council of Community Legal Centres, and this is clearly set out in the report. I repeat that the report makes clear that no recommendations are made and that comments are invited. The *Advertiser* talks of recommendations and proposals made by the committee. The *Advertiser* did not read the report; even the editorial refers to recommendations of the committee, but there were none. These are recommendations that were never made, but never mind, do not let the truth spoil a good story.

As the Hon. Mr Feleppa said, I was reported as making a comment. The reporter did speak to me, but I did not make that comment. I pointed out twice that this part of the report, in any event—that relating to on-the-spot fines—was peripheral to the main thrust of the report. In response to questions raised by the reporter, I did agree that the evidence given by the Legal Services Commission and the Community Legal Centres raised this question of on-the-spot fines, from the point of view of relieving pressure and congestion in the courts and relieving the workload. That was the basis on which it was raised. She asked me if I thought it would significantly reduce the workload, and I said'No'.

The report expressly made no recommendations and no proposals. The proposals were from the Legal Services Commission, as I have said, and the South Australian Council of Community Legal Centres, and again I would say that the report lists all the significant suggestions made. In his foreword to the report, the presiding member states:

> The committee has released this report to enable any interested party to comment on the issues raised in this paper and to advise on any relevant matter considered appropriate but not identified. All comments received will be considered and, if necessary, further witnesses will be called or past witnesses recalled prior to the committee's deliberations on its final report. In order to collate all responses prior to the August sitting of Parliament, it is requested that all comments be received by Wednesday 30 June 1993.

The committee has not committed itself at all at the present time, and I am sure that all members of the committee have an open mind. I trust that all persons who have a comment on any part of the report will convey their comments to the secretary within the time frame suggested (by 30 June), and I would suggest that it is more appropriate to convey their comments to the secretary than through the *Advertiser*. The particular part of the interim report that relates to on-the-spot fines for shoplifting, as I said and as I told the *Advertiser* journalist, is peripheral to the general thrust of the inquiry. I support the Hon. Mr Feleppa's motion.

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

TRANSPORT REFORM

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

Leave granted.

The Hon. DIANA LAIDLAW: I refer to an answer given by the Minister of Transport Development during Question Time today, following a question I asked on transport reform. It was implicit in the Minister's reply that everyone was in favour of public sector reform. By 'everyone' it is implicit that my colleagues and I are included. I would indicate that I support public sector reform, but not that proposed for the transport sector by the Government and particularly the Minister. I do not believe that a megadepartment, as proposed, is good for transport services in this State, nor that it will realise service efficiencies and improvements, because of the very diverse nature of those areas within transport that the Minister would be seeking to pull together.

TRANSCONTINENTAL RAILWAY

The Hon. DIANA LAIDLAW: I move:

That this Council calls upon the Commonwealth—

I. to comply with its obligations under terms of the Northern Territory Acceptance Act 1910 to construct, or cause to be constructed, the section of the transcontinental railway between Alice Springs and Darwin; and

II. to commence forthwith the survey of the remaining 300km of the line from Alice Springs to Darwin that was not completed by Australian National in the early 1980s.

It is almost 121 years to the day since the South Australian Parliament debated the issue of a transcontinental railway linking Adelaide with Darwin. On 17 April 1872, Sir Arthur Blyth tabled the following resolution:

> That a railway from Port Augusta to Port Darwin would materially conduce to the prosperity of this province, and that with a view of promoting the formation of such a railway, it is expedient a Bill be introduced providing for the grant of blocks of land to be situated alternatively on the east and west sides of the line, such land not to include any at present held either on free or leasehold.

Sir Arthur went on to outline his grant of land proposal, involving the sale of land packages of 100 000 acres in size at one shilling an acre, which he claimed would provide £5 000 per mile for the construction of the 2 000 mile track. The motion followed the construction a year earlier of the overland telegraph line, an initiative funded by South Australia. The overland telegraph line generated great excitement among South Australians in the streets and in this Parliament and prompted the discussion about the need for a north-south transcontinental railway. When Sir Arthur introduced his motion in 1872, the line stretched from Adelaide to Kooringa in the north.

Eighteen years later, in 1890, a light railway stretched north to Oodnadatta and. south from Darwin to Pine Creek. South Australians paid for this initiative. They also paid for the offices, the schools, police stations, residences, water supplies, health facilities and other civil infrastructure along the line north to Oodnadatta and from Darwin to Pine Creek. This was a mighty effort, considering that South Australia's population was only 160 000 at the turn of the century.

In 1890, the South Australian Parliament again debated the funding of the railway, noting the recommendation of the Commission on the Transcontinental Railway, namely, '...that the railway should not be constructed out of loan money, but built on the land grant system'.

I have read the debates of 1872 and 1890 with great interest. I have been struck by the fact of how little we have achieved since those impassioned debates by men that we would have to acknowledge were men of great vision. I have been struck by the fact of the enormous opportunities that we have lost over the past 80 to 100 years whenever we have ceded our rail rights to the Commonwealth and trusted it to honour its legislative obligations to promote this State's rail interests.

Mr President, following federation the House of Representatives passed the following resolution on 10 September 1902:

> ...that in the opinion of this House it is advisable that the complete control and jurisdiction over the northern territory of South Australia be required by the Commonwealth upon just terms.

In 1911 South Australia ceded the Northern Territory to the new Australia Commonwealth under the terms of the Northern Territory Acceptance Act 1910. Part III, section 14(b) of this Act incorporated the following obligation:

> ...that the Commonwealth in consideration of the surrender of the Northern Territory and the property of the State of South Australia therein shall.. .construct, or cause to be constructed, a railway line from Port Darwin southwards to a point on the northern boundary of South Australia proper (which railway, with a railway from a point on the Port Augusta railway to connect therewith, is hereafter referred to as the transcontinental railway).

Eighty two years later South Australia is still waiting for its compensation for ceding its property and investments in the Territory to the Commonwealth in 1911. But what makes me really mad about this whole deal is that this 1911 Commonwealth commitment has not been buried in the dusts of time. It is not a little known appendix to some ancient legislation. The 1911 Commonwealth commitment was reinforced in 1949 when the Commonwealth Parliament passed the Railways Standardisation (South Australia) Agreement Act. Section 21 reads:

> The Commonwealth shall undertake—
>
> (a) the conversion of the standard gauge of the 3'6" gauge lines of the Commonwealth Railways from Port Augusta to Alice Springs;
>
> (b) the construction of new standard gauge railway from Alice Springs to Birdum; and
>
> (c) the conversion to standard gauge of the 3'6" Commonwealth railway line from Birdum to Darwin.

Section 22 of this 1949 Act reads:

> The Commonwealth shall bear the cost of carrying out the works in the last preceding clause.

It is worth repeating that in 1949 the Commonwealth Parliament deemed that the Commonwealth—not the private sector, not the Northern Territory Government and not the South Australian Government—should bear the cost of carrying out the works on the standardisation and construction of the Adelaide-Darwin line. Of course, today we are told by the Commonwealth that everybody but the Commonwealth is now responsible for construction of the line.

Mr President, if the 1949 provisions under the Railways Standardisation (South Australia) Agreement Act are not deemed to provide sufficient evidence of the continuity of the Commonwealth's 1911 commitment, South Australia's rights were reinforced some 25 years later—in 1973—when the Northern Territory Acceptance Act was amended following the passage of the Tarcoola to Alice Springs Railway Act. At that time, in 1973, no change was made to Part III, section 14(b), which contained the original 1911 obligation on the Commonwealth, namely,'...to construct, or cause to be constructed, a railway line from Port Darwin southwards to a point on the northern boundary of South Australia proper...'.

So, just 20 years ago the Commonwealth Government and the Commonwealth Parliament reaffirmed the Commonwealth's 1911 undertaking'...to construct, or cause to be constructed...' this missing link in the transcontinental railway. In the past 20 years the Commonwealth, through the auspices of AN, has built a new standard gauge railway from Tarcoola to Alice Springs, but in 1975-76 the Commonwealth also closed the 500 kilometres of narrow gauge line from Birdum to Darwin and has disposed of its assets on this route without attempting to convert it to standard gauge, as it agreed to do under the 1949 Railway Standardisation (South Australia) Agreement Act. It is probable that this action breached Commonwealth agreements with South Australia, but this action was not litigated, nor, it appears, even complained of by South Australia at the time.

Prior to the 1983 Federal election, the then Prime Minister, Malcolm Fraser, promised that a Liberal Government would build the line between Alice Springs and Darwin, but he lost the election—and South Australia lost as a result. In May 1983 the new Prime Minister, Bob Hawke, said he would honour the undertaking only if Territorians contributed 40 per cent of the cost. This was a no-win proposition that the Chief Minister, Paul Everingham, had good reason to reject.

The Hon. R.J. Ritson interjecting:

The Hon. DIANA LAIDLAW: It was an impossible and an unreasonable request by the Commonwealth Government for the Northern Territory; I agree with the Hon. Dr Ritson. Anyway, Paul Everingham as Chief Minister rejected that offer. There is no doubt that if the Prime Minister's offer of 60 per cent funding for the railway had been made to the private sector, rather than to the Northern Territory, a fair mix of return, risk and reward may have been achieved and the line would probably have been built by now as a joint Government-private sector development.

The difficulty for project proponents has always been that positive cost benefits generated by the railway are external to the railway project itself; there are environmental, defence, balance of payments and Asian partnership advantages. As these are incapable of being captured to any meaningful extent by commercial investors, the very failure to attract investor interest is represented by opponents as indicating the line is not viable.

In 1984 Mr David Hill, appointed by the Commonwealth to inquire into the viability of the line, found a negative cost benefit of $340 million over its life. However, Mr Hill concentrated on domestic freight and paid little attention to national resource savings. Incidentally, a subsequent study by Canadian Pacific Consulting Services, engaged by the Northern Territory Government, analysed all the material placed before David Hill. It found that the project produced a positive result of at least $54 million. In fact, it demonstrated that fuel savings alone, in comparison to the road expenditure, would pay for the line. This year, Australian National announced that the Hill report was 'fatally flawed' because it failed to consider the economic benefits to the nation through flow-on effects to States, including South Australia, Victoria and New South Wales. The conclusion followed a major review by AN of the economic benefits and costs of the Alice Springs-Darwin rail link—a review which found the project to be viable. In the meantime, the Northern Territory Government has been active in seeking a commercial solution to fund the missing Alice Springs-Darwin link.

The Northern Territory set up a Railway Executive Group (REG) to prepare a commercial feasibility study to attract private sector investor finance to the line. This work culminated in the production of a comprehensive report in 1986. The REG report remains a benchmark for subsequent studies.

It confirmed that on certain assumptions the project could be made to work commercially, but only for investors who would be prepared to wait 20 years before their investment return was achieved. The report was circulated widely without securing commitment.

The company, Railnorth Pty Ltd, formed by the Northern Territory Government at the end of 1987, was then expanded to include Kumagai (New South Wales) Limited(25 per cent), a nominee of EIE Developments (25 per cent), and Henry Walker (25 per cent) as shareholders. It secured an exclusive railway mandate from the Territory Government over a reasonable term.

Railnorth commissioned engineering consultants, Crooks, Michell, Peacock, Stewart Pty Ltd (CMPS), to re-examine the fundamentals of the project from a commercial perspective and to produce a development plan. In 1988 CMPS reported that with new wharf facilities there was potential for Darwin to become a gateway port for Australia and that there were'sufficient grounds for implementing a total transport system'. Considerable effort was invested in representing the project to potential investors, particularly in Japan, where long-term investment funds were most likely to be sourced on the basis of the CMPS approach. However, again, no commitments were received.

Kumagai, who recognised that Japanese investors would prefer an analysis of the project conducted by a firm known to them, decided to appoint Nippon Koei to form a team which analysed the project. They produced a comprehensive report in 1990, concluding that the railway would provide'significant regional and national benefits' for Australia. Early in 1991, Kumagai and EIE decided to withdraw from the company. Their exit was formalised on 1 November 1991, and the company is no longer active.

During 1991 the large American rail company, Morrison Knudsen (MK), conducted an independent review of the feasibility of the line and reported its findings to the Northern Territory Government in February 1992. MK proposed that the Territory should fund an implementation program for their business plan. As the plan's feasibility depended upon freight flows of an order of magnitude above those previously deemed probable, this proposal was not accepted.

Fundamentally, MK sees the rail corridor developing quickly into a major conduit for goods entering and leaving Australia rather than achieving gradual commercial growth. Their economies of scale and the use of heavy duty track standards with rapid transit trains represent perhaps the only chance for the line to provide an acceptable investment return without (or with) achievable Government involvement. Unfortunately, the private sector view has also been that the MK plan was too bold in the face of current circumstances.

I am also aware that during 1992 the Westpac Banking Corporation constructed a sophisticated computer model to assist in the financial evaluation of the railway, building in the latest Federal taxation concessions on project funding. In September 1992, Westpac reported that, using a project capital cost of $930 million, with 3 per cent inflation, aggressive operating and construction assumptions and the need for at least 10 per cent per annum after tax return on investment by commercial investors, the model indicated that at least $500 million in support grants would be needed. Coincidentally, this level of Commonwealth contribution ($500 million) to recognise national resource savings is the same 60 per cent proportion as the Hawke Government was prepared to offer the Territory in 1983.

The Northern Territory should be commended for its tireless efforts to ensure that this project goes ahead, but I believe that the Northern Territory Government would now concede that its efforts have allowed the Commonwealth Government off the hook and to distract public attention from the fact that the Commonwealth Government, not the Northern Territory Government, nor the South Australian Government, nor even the private sector alone, is responsible for ensuring that the project proceeds.

During the most recent Federal election campaign, enormous efforts were made by the media in South Australia and the Northern Territory by the Northern Territory Government, by local councils in the Upper Spencer Gulf region, by all State and Federal South Australian members of Parliament, by the Liberal Party and by the Labor Government in this State to pledge funds, plus a starting date, for this important railway project. My earnest plea during that period was that both major parties would devote the same commitment and energy to this project as they were prepared to pledge to compensate South Australia for the sale of the State Bank.

I did not get my wish. The Liberal Party in South Australia and the coalition Government in the Northern Territory managed to extract from the Hewson-led coalition a commitment in Government to spend $3 million to complete the surveying work necessary for the rail link. Following representations by Liberal Leader Dean Brown and Chief Minister Marshall Perron to

shadow Cabinet during the campaign, we found that this commitment was made by the Coalition, and two days later Prime Minister Keating matched the promise.

Only 300 kilometres of the 1 400 kilometres of track from Adelaide to Darwin remains to be surveyed. Some 75 per cent of the survey work (1 200 kilometres) was undertaken between 1981 and 1984 by a team led by South Australian, Mr Des Smith. That work comprised 930 kilometres northwards from Alice Springs to a latitude north of Daly Waters; 130 kilometres from Katherine northwards to Burrundie; and 60 kilometres from Adelaide River to Livingstone Road. The work included:

1. research and consultation with Aboriginal people to ensure minimum impact on sacred sites;
2. sampling and testing of surface and shallow subsurface materials for earthworks and bridge foundations;
3. explorations to locate, and drilling to prove, quarry sites for crushed rock ballast (33 per cent of that work has been completed);
4. the establishment of water supplies for use during construction (overall, 40 per cent of this work has been completed);
5. preparation of engineering plans for earthworks, bridges and culverts (overall, 40 per cent of that work has been completed); and
6. preparation of draft and final environmental impact statements, which received a favourable environmental assessment report from the Department of Home Affairs in 1984.

It is important that the survey work be completed, as completion of this work will help to ensure that the commercial viability of the project can be more accurately sustained and a date will be set for the project to commence.

My motion seeks to maintain on the Federal Government the pressure that was generated throughout the election period to get the Commonwealth to comply with its obligations to South Australia under the terms of the Northern Territory Acceptance Act 1910 to construct, or cause to be constructed, the section of the transcontinental railway between Alice Springs and Darwin. The motion also calls on the Commonwealth to commence without delay the survey work on the remaining 300 kilometres of line from Alice Springs to Darwin that was not completed by Australian National during the early 1980s.

Finally, I wish to refer briefly to concerns that are being expressed openly about the potential effects of the new line on the future prospects of the port of Adelaide. Such concerns include fears that the line may jeopardise the survival of the port and the development of Adelaide as a transport hub. In this context I note that the Chamber of Commerce and Industry in South Australia is a strong and leading advocate of both the transcontinental line to Darwin and the transport hub for Adelaide.

I also note that analysis of gross imports and exports through the port of Adelaide identifies that, if the flows up and down the north-south line emerge in the manner outlined in all reports since the 1984 Hill report, with the possible exception of the Morrison Knudsen report, there will be a minimal effect on trade through the port of Adelaide. In fact, it is suggested that the line will actually strengthen Adelaide's prospects of developing a viable transport hub.

Effectively South Australia will use two ports, and there will be a substantial clock-wise flow of cargo using Singapore, Darwin and the Adelaide triangle. Certainly some produce may flow out of the loop to the east at Crystal Brook, and some will flow into the loop from the east through Tailem Bend, but with very close or possibly even common management of the ports of Adelaide and Darwin we should be able to produce the best result possible for customers, exporters and importers, and to generate much needed growth for South Australia's advantage.

Growth is what this State needs, as all honourable members would be well aware, and certainly growth was what the Premier was seeking to achieve when he released his Economic Statement last week. So, I believe it is opportune to move this motion, not only to keep the pressure on the Federal Government following its recent interest in this project at the time of the Federal election but also because it is important that we seek to press for this project because it is necessary for South Australia's future growth. Therefore, I urge all members to support the motion.

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

STATUTES REPEAL AND AMENDMENT (PLACES OF PUBLIC ENTERTAINMENT) BILL

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage) obtained leave and introduced a Bill for an Act to repeal the Places of Public Entertainment Act 1913; and to amend the Adelaide Show Grounds (By-laws) Act 1929 and the Tobacco Products Control Act 1986. Read a first time.

The Hon. ANNE LEVY: I move:

That this Bill be now read a second time.

This is a Bill to repeal the Places of Public Entertainment Act 1913 and to make provision in other legislation for a limited number of sections in the repealed Act which it has been thought necessary to continue. In mid 1992 the Places of Public Entertainment Act 1913 was reviewed by a working party consisting of representatives from the Department of Public and Consumer Affairs and the Office of Business Regulation Review. The working party advertised widely for submissions and contacted certain interest groups specifically affected. Some 39 submissions were received and subsequently a green paper was produced and circulated for further public comment. A further 15 submissions were received for the green paper.

As a result of the review, it was determined to repeal the legislation but it was also recognised that some of its safety provisions should be placed in other, more modern and appropriate pieces of legislation. The Places of Public Entertainment Act was first introduced to protect the public from injury through fire in picture theatres. As such, it established a licensing regime for theatre firemen and for projectionists who were, at the time, handling flammable nitrate film. It is proposed that this regulation will cease as modern technology has made such controls

redundant. Also to be deregulated are controls over patrons in drive-in theatres and the regulation of operating hours on Sunday, Christmas Day and Good Friday, with the exception of operating hours for the Adelaide Showgrounds, where regulations will be set under relevant legislation prohibiting trading on Sunday before 10 a.m.

It is proposed that safety controls for temporary structures such as circus tents and fire safety provisions for fixed seating in cinemas will be controlled under the new Building Code of Australia and the regulation of amusement devices will become the responsibility of the Occupational Health and Safety Commission. Smoking in auditoriums, which was prohibited in the Places of Public Entertainment Act, will be subject to the authority of the Minister of Health through the Tobacco Products Control Act.

Finally, a public order power previously vested in the Minister of Consumer Affairs will be placed under the jurisdiction of the Police Commissioner pursuant to existing provisions in the Summary Offences Act. The Bill has much to recommend it, Mr President, as an example of sensible and considered deregulation and the removal of outmoded legislation which at the same time continues to ensure that the public remain properly protected. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Clause 1: Short Title

Clause 2: Commencement

Clauses 1 and 2 are formal.

Clause 3: Interpretation

Clause 3 is a standard clause for Statute Amendment Bills.

PART 2

REPEAL OF PLACES OF PUBLIC ENTERTAINMENT ACT 1913

Clause 4: Repeal of Places of Public Entertainment Act 1913

Clause 4 repeals the Places of Public Entertainment Act.

PART 3

AMENDMENT OF ADELAIDE SHOW GROUNDS (BY-LAWS) ACT 1929

Clause 5: Amendment of long title

Clause 5 amends the long title of the Adelaide Show Grounds (By-laws) Act 1929 to include the regulation-making power of the Governor.

Clause 6: Substitution of s. 1

Clause 6 changes the short title of the Adelaide Show Grounds (By-laws) Act 1929 to Adelaide Show Grounds (Regulations and By-laws) Act 1929.

Clause 7: Insertion of s. 2a

Clause 7 inserts section 2a into the Adelaide Show Grounds (Regulations and By-laws) Act. The proposed section provides that the show grounds must be closed to members of the public at the times prescribed by regulations made by the Governor. However, the Society may, with the written approval of the Minister, open the showgrounds at times when they are required to be closed by the regulations provided the Minister's approval is published in the *Gazette* at least 14 days before the showgrounds are opened.

PART 4

AMENDMENT OF TOBACCO PRODUCTS CONTROL ACT 1986

Clause 8: Amendment of s. 3—Interpretation

Clause 8 amends the Interpretation section of the Tobacco Products Control Act 1986 by inserting definitions of 'entertainment' and 'place of public entertainment'. 'Entertainment' is defined as meaning (1) all kinds of live entertainment and without limiting the generality of that meaning, including a lecture, talk or debate, and (2) the screening of a film. 'Place of public entertainment' is defined as meaning a building, tent or other structure in which entertainment is provided for public enjoyment and in which the audience is seated in rows.

Clause 9: Insertion of s. 13a

Clause 9 inserts section 13a into the Tobacco Products Control Act. The proposed section provides that a member of the public must not smoke a tobacco product in the auditorium of a place of public entertainment at any time before the entertainment commences, during the entertainment or after it has concluded.

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

EQUAL OPPORTUNITY (COMPULSORY RETIREMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 March. Page 1656.)

The Hon. K.T. GRIFFIN: This Bill seeks to extend the operation of the sunset clause included in the principal Act in March 1990 and by so extending will defer for another two years from 1 June 1993 that provision in the principal Act that makes it unlawful to discriminate in employment on the basis of age. This provision specifically refers to compulsory retirement ages. The principal Act was passed in March 1990. The Government has therefore had three years within which to address the issues relating to the removal of retirement age and now proposes an extension of two years, and I quote '...because of the general economic situation, high unemployment, particularly among youth, and the need to maintain maximum flexibility in dealing with the public sector work force as we deal with the difficult State budgetary situation'.

The Bill was introduced with no consultation with any interest groups and took employer and other groups by surprise. It was introduced on 24 March 1993 with just over two months to run until the sunset clause expired. The second reading explanation was quite misleading in referring to the need for the Government to maintain maximum flexibility in dealing with the public sector work force as the Government deals with the difficult State budgetary situation. The fact of life is that the Equal Opportunity Act, as it relates to age discrimination, does not override the Government Management and Employment Act, the Education Act and other legislation relating to public sector employees, where there is a specific retiring age of 65 specified for men and women. So, the rationale for the Bill was not related to providing maximum flexibility for the Government.

When the Attorney-General brought in this Bill, he blamed the difficulty created by the impending sunset clause operation on the delay in the report of the working

party reviewing age provisions in State Acts and regulations. The blame was quite misplaced, because the Commissioner for Equal Opportunity was on time in conducting the review pursuant to statute. In fact, she had until 1 June 1993 to complete that report, and the working party had until that date to complete the report, and for it then to be tabled in Parliament. The Commissioner for Equal Opportunity, her officers and the working party were actually ahead of time in having the report prepared and tabled in Parliament last week: it was tabled six weeks ahead of the deadline.

The Bill is a very short one, but the issue that it raises is by no means simple. A number of organisations have made representations on the Bill, and I will deal with those briefly in a moment. But for now, I want to return us to the debate in February and March 1990, when the issue of the sunset clause was addressed. In the Committee stage of the consideration of the Bill the Hon. Mr Davis, who had the conduct of that Bill, asked a question of the Attorney-General as follows:

> Does the Attorney-General not accept that to have proposed section 85f(6) [the sunset clause] automatically expiring on the second anniversary of the commencement of Part VA, irrespective of the problems that the working party may find, is a rash act?

By way of response the Attorney-General said:

> No, it is very courageous. It is part of the Bannon Government's policy of pressing ahead with social reform at a vigorous pace following its resounding victory at the previous election.

Of course, it did not have a resounding victory; it received less than 48 per cent of the two Party preferred vote.

The Hon. R.I. Lucas: It fell over the line.

The Hon. K.T. GRIFFIN: Yes, it fell over the line. The Attorney-General went on to say:

> The Government has considered this matter and believes that a two year period will be adequate to consider the issues. We do not think that it should come into effect by proclamation at some later stage...
>
> The Government is confident that the issues can be dealt with in that time. I suppose that, if it turns out not to be possible, we can always come back and look at the legislation again. However, the Government does not envisage that being necessary.

What the Hon. Mr Davis moved at that stage was a provision that would enable this provision of the principal Act to be brought into operation by proclamation and, in any event, not earlier than three years after the date of the proclamation. But no, the Attorney-General and the Government declined the offer of cooperation and decided to press ahead in this so-called spirit of reform. Well, the snake has turned, and we find that the Government now comes back with a very simple Bill with very significant consequences, proposing that there be another two years in which to consider this issue.

One of the difficulties was of course that, in the principal Act, in section 85f I think it was, the working party was to report within two years after the Act was proclaimed to come into operation and, at the same time, the sunset clause was to expire. So, there was no period within which the report of the working party could be considered. At the time of the debate three years ago, the Attorney-General also said that three years was unnecessarily long. He said:

> This is considered to be unnecessarily long, especially given that it is likely some other States will be abolishing compulsory retirement ages as from the date of proclamation of their Acts so as to take immediate effect.

So, we now have the Attorney-General coming back with a proposition for change. It is interesting to note that in New South Wales (and I have not had an opportunity to look at other States' legislation) its amendments in relation to compulsory retirement were passed in December 1990. In so far as they affected the public sector, they came into operation on 1 January 1991, a mere three weeks after the New South Wales Act was assented to. For employees of a county council or council of an area within the meaning of the Local Government Act the operative date was 1 January 1992, and in relation to persons who are employed in the public sector in firefighting or fire prevention, employed at a State coal mine, and all other employees in New South Wales, whether or not employed subject to an award or agreement, the abolition of compulsory retirement from employment on the ground of age came into effect on 1 January 1993.

As I understand it, there has been little difficulty with that in New South Wales, although some employer groups at the time the legislation was being considered were concerned at the legislative amendment to contracts of employment and to other legislation that were not adequately addressed in transitional provisions. I suppose that can be one of the criticisms of the way in which this was dealt with back in 1990, although we drew attention to it at the time and the Attorney-General said that that was not expected to create a problem either.

The interesting feature of the New South Wales legislation is that it was applied to the public sector almost immediately and no transitional provisions were felt to be necessary. In the working party report reviewing the age provisions in State Acts and regulations there is a reference to a number of pieces of legislation affecting Government or other public sector employees. I think it ought to be made clear that the Bill that was passed in 1990 did not deal with those employees who were subject to Federal awards, and that still cannot be addressed, subject to other Federal law, or to public sector employees, where a retirement age was specifically referred to in the legislation. In the Government Management and Employment Act, 65 years is the retiring age for men and women. In the Education Act, it is 65 years, and in those two, at least, the passing of the principal Act really did not alter their position.

Whether or not there is a deferral of the sunset clause will not have any impact upon those who work for the Government. That will require specific legislation addressing the recommendations of the working party's report. The working party report specifically refers to the Education Act, where 65 is the retirement age for officers. The recommendation of the Minister responsible for that Act, and confirmed by the working party, is that that provision ought to be repealed.

In relation to the Government Management and Employment Act, where 65 years is the compulsory retirement age, the recommendation of the relevant Minister was repeal and the working party confirmed

that. A retirement age of 65 for academic staff at Flinders University is contained in the university's statutes. The relevant Minister has proposed its repeal and the working party agrees with that. However, Flinders University says that it needs further time and I will address the university's submission later.

There are other interesting provisions referred to in this comprehensive report. As I said the other day, however, there is nothing in the report that I can see that actually addresses the issue of the Planning Act and the retiring age of planning commissioners.

The Hon. C.J. Sumner: The judiciary is excluded.

The Hon. K.T. GRIFFIN: They are specifically referred to in the report, but the planing commissioners were not.

The Hon. C.J. Sumner: They're the same thing.

The Hon. K.T. GRIFFIN: They are not the same thing, because at least with planning commissioners the advice that the Government has—and it relates to the question I raised last week—is that the Governor can impose a retiring age by imposing a condition. I know that the Attorney-General says that there is some conflicting advice on that. Nevertheless, it is different from the judiciary, where there is a fixed age. It is interesting to note, if I can just digress for a moment, that in the report there is a number of propositions for repeal where appointment is determined by years of experience in relation to some tribunals and bodies. I just wonder whether that is taking the whole issue of age discrimination too far, because I would have thought, at least on a *prima facie* basis, that if one had no experience as a legal practitioner, for example, one would be less likely to be competent to exercise quasi-judicial functions or other responsibilities than if one had been admitted for at least five years, seven years or some other period.

In relation to other areas, where there are recommendations to repeal the 18-year minimum age for the exercise of certain functions—for example, one has to be over 18 to be licensed as a land agent—it is suggested that that be amended. However, there are other areas where 18 is the age below which one cannot hold a particular position or undertake a particular area of work. They are areas where there is a need for the person with the licence or the registration to enter into contractual arrangements. The proposition in some instances to repeal those minimum age limits does not take adequate cognisance of the significance of the age of majority in the law, particularly as it relates to contractual capacity. However, that is an issue which I am sure the Attorney-General will look at and on which he will provide us with a report and a response in due course.

Even with legislation like the Mines and Works Inspection Act, where one has to be at least 18 to work underground, to suggest that there should be a repeal of that provision does rather indicate that we might be going back to the days prior to the industrial revolution, when children worked in factories. It is very difficult to place upon employers, for example, the obligation to determine suitability for a particular task, such as working in an underground coal mine, without some reference to age. We probably have to accept as a fact of life that in some instances age does have to be a relevant consideration. I would hate to see the minimum age for working underground removed because it will then place intolerable burdens upon employers, but, more particularly, it will place unreasonable pressures upon those who have not yet attained the age of majority. That is a digression from the issue before us.

A number of bodies have made representations to me in relation to the Bill before us. The South Australian Employers Federation has indicated that it will support the Bill, although it is highly critical of the Government for not consulting on the proposal, because employers have been advancing retirement packages in anticipation that the sunset clause would expire on 1 June 1993. Therefore, they have incurred considerable expense in trying to meet the deadline of the principal legislation. It indicates in its letter that it has consistently argued that the 1993 date for abolition of retirement age is too soon and that a better community education process needs to be implemented to facilitate recognition of the inherent value of abolishing retirement ages. It also states that it is still debating with the Equal Opportunity Commission its proposal for absolute dependence upon formal performance appraisal processes in order to justify employment decisions. It holds the view that formal performance appraisal systems are not applied and cannot easily be applied to a substantial portion of the work force. In many cases implementation of such systems creates substantial disruption and concern. It says that it was not consulted about the Bill and that it came like a bolt from the blue when it read that it was being introduced.

The point that the Employers Federation makes is an important one in the broader context of the relationship of equal opportunity legislation to industrial relations legislation. There is always the concern, unless there is proper legislative backing and proper implementation, that performance appraisal assessments, whilst relied upon by an employer and being properly undertaken, may nevertheless not preclude the prospect of wrongful dismissal actions in the Industrial Commission. So, employers are caught by the tension between the industrial relations system on the one hand and the equal opportunity obligations on the other. That issue has not been adequately addressed and resolved, although I must say that many employers these days are implementing proper assessment procedures for employees on a regular basis.

The Chamber of Commerce and Industry makes the point quite rightly that there is no compulsory retiring age for employees at present but that the pensionable ages of 65 for men and 60 for women are unfortunately misconstrued by many as compulsory retirement ages, which in fact they are not. The Chamber states:

> The Chamber opposed the original legislation as an unnecessary intrusion into management's right to manage, given that any unfair exercise of those rights by way of dismissal of an employee is able to be challenged under section 31 of the Industrial Relations Act (SA) 1972.

Notwithstanding that, however, the Liberal Party takes the view that proper principles ought to be applied and that employment on merit, whether it relates to sex, age or disability, ought to be the primary criterion for determining employment and continuation of employment. But it is recognised that, as I have already

said, there may be applications for compensation for wrongful dismissal on the Industrial Commission, even on the basis that appropriate standards have been set under the Equal Opportunity Commission.

The Chamber then makes the point that there are some implications under Federal superannuation legislation, but that is not within our control, although I would urge the Government, regardless of what happens to this Bill, to make some representations to the Federal Government that regulation 18(b) under the Occupational Superannuation Standards Act, which is predicated on the assumption that a retirement age (usually 65 years) applies, ought to be amended to accommodate the growing mood in Australia in favour of the removal of mandatory retirement or usual retirement ages.

The Chamber of Commerce and Industry also draws attention to a problem with the WorkCover legislation. That is flagged in the working party report on page 35, relating to weekly payments under section 35(5) of the Workers Rehabilitation and Compensation Act. The working party makes the observation that WorkCover has considered the removal of the current provision of weekly benefits ceasing at normal retiring age but says that an actuarial assessment of the likely impact on the scheme estimates that the increase in outstanding claims liability at 31 December 1992 would be $21 million. I am told that WorkCover has recently increased that to about $40 million. As I recollect, section 35 does deal with the normal retiring age, but in any event it refers to 70 years of age or whichever is the lesser and, with the removal of the normal retiring age concept, there may be a problem in that legislation which needs to be addressed.

The working party makes the observation that to abolish the age criteria would be to change the philosophy of the WorkCover scheme, which has been structured to provide benefits up to return to work or retirement from the workforce. Benefits would then continue until the death of the worker, and the impact on the scheme would be significant. Consequently, the WorkCover board recommended an exemption from section 35(5) of the Equal Opportunity Act. The Chamber of Commerce and Industry is therefore in favour of the legislation.

The Flinders University and Adelaide University raise concerns about the legislation. In their submissions to the working party, they sought limited time exemptions. The Flinders University sought a period of three years initially for reasons which it set out in an extensive submission, particularly in relation to the age profile of the staff of the university, both academic and non-academic staff. That university makes the point that the age and tenure profile of the university is a major factor which to date has frustrated the university in its efforts to increase the opportunities for the employment of women, particularly at senior levels.

Some staff at Flinders University who were employed by the former South Australian College of Advanced Education prior to the merger of the Sturt campus with Flinders University on 1 January 1991 are subject to the provisions of a Federal award, which specifies a compulsory retirement age and is thus not covered by State legislation. So, on that campus in any event, there will be a continuing problem of some staff not being subject to such a retiring age and other staff being so subject. Flinders University does make the point that:

> It is implicit in the guidelines issued by the Commission [the Equal Opportunity Commission] to accompany the Amendment Act, that the abolition of compulsory retirement will require the university to strengthen its arrangements for performance management and appraisal for academic staff. It is likely that the introduction of such changes will be strongly contested by the academic staff unions.

We referred to that point in the debate on the principal Act when it was before us in 1990. The university then talks about competition and tenure and is concerned that the early removal of the sunset clause will not enhance its capacity to restructure the age profile of the university's staff and provide the opportunities for women to gain access to a number of those positions.

The point I make in relation to the two universities is that there is power to apply for an exemption under the provisions of the Equal Opportunity Act, and I would suggest that that is the place for considering an exemption, rather than this legislation. The University of Adelaide has made a similar submission for a relatively short period exemption—three years—with similar problems to those of Flinders University. It states that it may be necessary for a further period of three years exemption to be granted, because change will be slow, not because it is its wish to move slowly but because of the way in which either staff contracts will come up for renewal or staff will retire when they reach retiring age. I repeat the point that it ought to consider applying to the Equal Opportunity Tribunal for an exemption, because there is conflict between various initiatives which it seeks to achieve.

The Youth Affairs Council of South Australia opposes the Bill. It states that it is not supported and that:

> Arguments justifying the extended delay on the grounds of the current (unacceptably) high levels of youth unemployment are not supported by YACSA. There is, quite simply, no evidence to sustain the assertion that compulsory retirement will create further job opportunities for young people. The job substitution effect is not apparent, could only be marginal at best, and is in any case, not a desirable strategy for tackling youth unemployment.

I think it is important to read some of the responses by the Council on the Ageing, where it says:

> I note with interest that the second reading report mentions in its second paragraph the social and economic issues purported to have influenced Government, and the budgetary situation—but then ignores these and goes on to argue the matter on the grounds of timing of changes to specific State legislation.
>
> We would accept that the Government may now face a timing issue. This is fairly appalling since it has had three years to prepare since the passage (rather than proclamation) of the Act. However reality may require some delay in terms of equity between public and private sectors—but not two years!
>
> We would urge the Opposition:
>
> (1) not to accept the Bill as presented;
>
> (2) to push the Government as to what it will do if the current Bill is rejected, since in our view its Bill represents the easy way out for them;
>
> (3) to ask the Government for some commitment to sympathetically examine cases of individuals who have been planning on the abolition of compulsory retirement coming into effect as Parliament decided;

(4) if you are convinced a delay is the only realistic way of dealing with the current situation, to amend the Bill to provide for a delay to 31 December 1993. This should be sufficient time to take necessary action.

That also is the view of the Youth Affairs Council of South Australia. Their preference is not to see the Bill pass, but if some extension is to be supported then it is 31 December 1993.

The Commissioner for the Ageing issued a press statement at the time that the Bill was introduced and referred particularly to the frustrated expectations among older people. The Commissioner says:

Some South Australians in their mid-60s will have been anticipating the abolition of compulsory retirement and looking forward to continuing work they have been performing with competence and enjoyment.

The deferral decision is likely to frustrate these plans. For some people, it will mean an early and unexpected onset of the sense of waste, lowered self-esteem, and boredom which can arise from retirement from a familiar job, undertaken with interest and pride.

For others, it will mean a sudden reduction in income, and other dramatic life-style changes.

It is impossible to know precisely how many people will be directly affected by the decision.

Up to a decade of experience overseas has shown abolishing compulsory retirement to have had a minimal impact on labour force participation by older people.

Australian estimates suggest that about a third of workers reaching 65 would like to remain in some form of employment. For the large majority, however, this preference will be for a period of gradual retirement—not for an indefinite continuation of full-time work.

In New South Wales, compulsory retirement has been progressively abolished since early 1991 and appears to have aroused little concern amongst either public or private sector employers.

I interpose there and say that my office and the offices of many members of Parliament, I suspect on both sides of the House, have been inundated with calls from people who have been expecting to continue in employment after they reach retirement age and are concerned about the possible passage of this Bill. Some of those have been people who are in Government employment, and I think that they were probably not aware that the Bill immediately only dealt with non-public sector employees, and that the public sector employees would have to be dealt with by special legislation at a later stage. The Commissioner for the Ageing then goes on to talk about postponement of human rights, and says:

South Australia earned wide acclaim by being the first State to introduce age discrimination legislation.

The deferral decision does not appear to undermine the Government's commitment to tackling discriminatory practices in our society. However, it does suggest that the pace of change can be dictated by current economic circumstances.

This has significant implications for the advancement for equal opportunity in this State.

South Australia's severe economic difficulties are acknowledged. However, it is difficult to see how forcing less than 2 per cent of the labour force to retire over the next two years will make any significant contribution to their resolution—especially when most older workers would probably choose to retire by 65 in any case.

The Public Service Association indicates that it does not support the Bill, although many of its members will not be directly affected by it but rather will be affected by the Government's action on the working party report. It would be safe to presume that, because of the Government's introduction of this Bill, even the removal of the public sector retirement would be postponed for something like two years. So, indirectly Public Service Association members would have been affected by the probable delay in amending legislation such as the Government Management and Employment Act and the Education Act. The association says that it is aware that 'some people have refused offers of other employment, have made financial commitments, have shifted in their place of residence, all with a view of working in their current position for past their 65th birthday'.

It is important to note that in the public sector some chief executive officers have made decisions that certain persons can continue to work in departments beyond the age of 65 years, but in other departments chief executive officers have been very strict in their application of the retirement age of 65 years. The PSA then concludes:

In summary, our concern is that a small number of our members will be very severely disadvantaged if this amendment is enacted. The impact it would have on unemployment, on the recession and on the community generally would be very minimal.

It makes the earlier point that, because of the non-replacement policy within the Government, even when persons do retire their positions will not be filled.

The South Australian Council of Social Service says that it 'continues to strongly support the position expressed by the Council on the Ageing which considers the proposal to defer both unjust and inappropriate'. So, it strongly supports opposition to the Bill.

It is interesting to note that the Council on the Ageing did write to the Premier and sent a copy of that letter to the Leader of the Opposition. It is rather revealing to see what is in that letter to Mr Arnold. The Council on the Ageing says:

The reasons advanced by Government spokespersons for Cabinet's decision on this matter have been both inconsistent and unsustainable:

(1) The primary rationale apparently relates to perceived added difficulty in reducing public sector employee numbers unless compulsory retirement is maintained. We were appalled to learn that a delay of at least five years was originally proposed on these grounds.

I would like the Attorney-General to address that issue when he replies: did the Government originally contemplate five years deferment? If it did, it ought to be condemned in the light of the pressure it put on the Parliament three years ago to ensure that a maximum of two years was allowed for transition.

The letter from the Council on the Ageing to the Premier reiterates that the private sector was not consulted about the proposed delay. The council says:

(3) The suggestion that a two-year delay is required because reports on changes to State legislation will not be ready is incorrect. Work on this report is, we are reliably informed, on schedule.

The council reiterates the views that I have already expressed: that many people were planning their future in

the expectation of compulsory retirement being abolished in 1993. It also states:

The ancillary argument that abolishing compulsory retirement is inappropriate in times of high youth unemployment flies in the face of both the research evidence and social justice considerations.

First, there is no evidence of a direct substitution effect between retirement patterns and youth unemployment, the latter being a function of much wider and more complex factors. Second, compulsory retirement creates comparative injustice for employees who have not been in the work force for as long as others, whose employment may have been interrupted by periods of unemployment, or who have financial dependants and/or commitments beyond the current retirement age. Third, it should be noted that unemployment among older workers is also a major social injustice, with most of the long-term unemployed in this cohort.

So, there is a very persuasive argument for rejecting the Bill. Equally, one can understand the concern expressed by the universities and employer groups, but the major concern is that there was no consultation before this Bill flopped onto the table. I should have thought that if there was serious concern it could have been flagged last year when questions were asked of the Government about that particular report when we were considering amendments to the Equal Opportunity Act in relation to advertising for young workers. At that stage the Attorney-General said that the report was on time.

The Government must have been sensitive to the concerns that were being expressed about the sunset clause; they must also have been sensitive to the plans of many people in the community for continuing to work after what was normally regarded as the retiring age because the sunset clause would operate on 1 June 1993.

I think the Government has been negligent in the way in which it has dealt with this issue. It cannot blame the Commissioner for Equal Opportunity and the working party, because that report has always been envisaged as being necessary by 1 June 1993. The Government should have been considering the issues of public sector employment and compulsory retiring ages well before the working party reported, following the lead in New South Wales. It is quite a simple exercise; it should have been addressed diligently; but the Government has sought to take the easy way out now and to bring in legislation merely to extend the sunset clause. It has not addressed the issues diligently and responsibly. Whilst public sector employees will be in a different position from private sector employees, the Liberal Party's view is that they ought to be dealt with together so that one is treated no differently from the other.

We will therefore allow the second reading to pass. We will then seek to amend the Bill to provide a very limited extension until 31 December 1993 to enable the provisions of the working party's report to be addressed diligently and legislation to be introduced, particularly in relation to the retiring age of public sector employees. Office holders and other provisions can be left until a later stage. At that point both public and private sector employees will be in an identical position. It will also give the Government an opportunity to examine the difficulty with the Workers Rehabilitation and Compensation Act when the normal retiring age provisions are abolished; it will enable universities to apply for exemption; and it will enable the Government to make representations to the Commonwealth in relation to regulation 18b of the Occupational (Superannuation Standards) Act when normal retiring age is removed.

On that basis, we support second reading of the Bill; we do not support the extension of the sunset clause until 1 June 1995; and we will concede a very short-term extension to the end of December 1993. We recognise the concern of employer and other groups, but we think that this issue has been around for so long now that the soft option for the Government is not one of which it ought to be allowed to take advantage.

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

TRADE MEASUREMENT BILL

Adjourned debate on second reading.

(Continued from 30 March. Page 1759.)

The Hon. K.T. GRIFFIN: The Liberal Party supports the Bill. This is the principal legislation of a package of two Bills to modernise the law relating to trade measurements. It simplifies current State laws and it is uniform legislation with that of other States, although its companion Bill, the Trade Measurement Administration Bill, does not have to be uniform across Australia provided that it does not make substantial changes to the Trade Measurement Bill.

The Minister responded to a letter that I wrote to her seeking information about the present position in respect of the introduction of the model uniform trade measurement legislation in other States and Territories. She indicated in her reply that the legislation has been passed and is in operation in New South Wales, Queensland, the Northern Territory and the ACT. In Western Australia it has not yet been introduced; it may be in late 1993 or early 1994. In Tasmania, it is on the legislative agenda, but there is no indication when it will be introduced. The same applies in Victoria.

I sought an indication from the Minister whether there had been any departures from the model uniform legislation in those States and Territories where the legislation has been introduced, and her response was that there had been no reported departures from the model legislation and that South Australia similarly does not propose any departure.

The Bill is binding on the Crown. The Trade Measurements Act 1971 in South Australia was not explicitly binding on the Crown, but as a result of amendments to the Acts Interpretation Act, passed several years ago, and because of High Court decisions, it probably became so. Some instruments regulated by other Crown authorities are exempt from the provisions of the Bill, and I shall address those shortly.

The Minister, in her second reading explanation, said that control over these instruments will be introduced progressively following consultation with the relevant authorities. Those instruments include those related to the reticulation of electricity, gas or water, the supply of telephone calls, taxi fares, motor vehicle hire charge

fees, tyre pressures and those which measure the expiration of the time for parking a motor vehicle.

Perhaps at this point I could raise some issues which the Minister can address either now or in Committee. I would like to know specifically what the problem is with the application of the new legislation to the reticulation of electricity, gas or water. I would have thought the supply of telephone calls was regulated by Commonwealth law, but there may be some aspect of that that I am not aware of or have missed, and I would like to have some clarification of that. In any event, it seems to me that the supply of telephone calls is an issue which potentially is controversial, because one frequently reads items in the newspaper about people who are complaining about their telephone bill, and who sometimes get satisfaction and at other times do not.

If there is some exemption of the supply of telephone calls insofar as they may be regulated at the State level, why is that specifically to be excluded, and what is the timetable for the implementation and application of this legislation on those calls? As to the issue of taxi fares and motor vehicle hire charges, I would like to have some information as to why they are not included. I can understand tyre pressures because if one goes to a service station and tries to test one's tyres I do not think there is any one tyre gauge that will operate to exactly the same measurement as any other, and I think that is very largely because of the mistreatment—

The Hon. Anne Levy interjecting:

The Hon. K.T. GRIFFIN: Well, may be, but it may also be the way the operator operates the tyre gauge. So, I do not really raise a particular concern about that, because that is very largely in the hands of the motorist testing his or her tyre pressures. It may be that there will be some proposal to regulate that in the future and I would like to have some details about that. The last one mentioned concerns the instruments which measure the expiration of the time for parking a motor vehicle. I am surprised that this might be excluded. Certainly there is a large number of these meters which measure the time during which one is entitled to park. There are not so many now as there used to be with individual parking meters, but I would have thought that, because of the consequences to the motorist, it would be most desirable that these instruments be subject to the legislation. The consequences of parking over time involve significant fines.

I would have thought that dependency upon the accuracy of the instrument is something which motorists rely on when they park, particularly if they are running short of time. I would be concerned if they were not subject to some monitoring, and ultimately to some application of this provision. Further, it would be interesting if the Minister could indicate whether radar speed cameras are likely to be the subject of this legislation. I suppose they are not trade measurement instruments but, nevertheless, they are measuring devices.

The Hon. Anne Levy: They are not trade.

The Hon. K.T. GRIFFIN: They are not trade, but nor are parking meters in some respects, and I think one does need to address that issue. Perhaps the Minister could address that matter for me. All measuring instruments, other than those to which I have referred, used for trade have to bear an inspector's or licensee's mark. It is an offence if it does not do so. Part III of the Bill deals with verification, reverification and certification of measuring instruments, and transactions conducted by reference to measurement. Prepacked articles are not affected by this particular provision, but this part does deal with provisions applicable to the sale of meat (clause 25 of the Bill).

I wrote to the Minister about this—mainly because she has more research capacity than I have—seeking some information about the consistency of that provision relating to the sale of meat with current provisions, and she replied that clause 25 has been enacted in the same form in other States and Territories where the model uniform trade measurement legislation has been enacted. It seems to me that the provision is similar to the provisions which already apply under the current Trade Measurements Act (section 32 and regulation 193a), as well as regulation 6.1.1 of the Packages Act of South Australia. There are variations, but I think the object is similar.

I raise that particular issue because I sent the Bill to a number of bodies, some of which replied while others did not. One of the responses came back from the Meat and Allied Trades Federation, and I think it is important that I read it. It is as follows:

1. Why does there need to be a special provision for sale of meat in the Act, which is normally general legislation? I note that currently regulation 193a refers to this matter where I would have thought it should remain.

2. The trade is opposed to this restriction and believes that it should be possible to sell portions of meat by piece: for example, a lamb leg. It is our belief that the consumer prefers to know the total cost rather than the price per kilogram before asking to purchase. When we package meat in supermarkets we believe that eight out of 10 consumers would know the total price, but have no idea of the price per kilogram, even though it is on the pack. We note that it is possible to sell a bag of oranges, cauliflower and a cabbage at a unit price, and we see no reason why this should not apply equally to meat. It should be noted that this sort of legislation is almost impossible to follow with an item such as a shashlik.

3. We believe that the reference in 25(3)(b) of price per kilogram is too restrictive in current circumstances, and we should be permitted to price in addition per 500, 250 and 100 grams. My travelled associates advised me that this is the case in Germany, Japan and Singapore, and we believe poses no problem to the consumer. As a housekeeping matter it would be more efficient for the penalties to be referred to by division and gathered together in one section, for example the Occupational Health and Safety Act, section 4(5), to make future amendments much simpler.

In response to that, I suspect that it is because of the uniform penalties and the fact that other States do not use divisional penalties that the specific amounts have been referred to. There is another response from Wintulichs Pty Ltd, and they make a number of observations which also need to be addressed. They say in relation to the Trade Measurements Act:

Page 14, line 12, section 25(3)(b): In view of the fact that this Act is for the future I believe that overseas experience should be taken into account. Shoppers are increasingly purchasing daily requirements as opposed to weekly. Hence in Germany, Singapore and Japan meat is displayed for sale at a price per 100

grams in lieu of price per kilogram. I suggest that at this stage the option of 100 gram pricing should be allowed for. I also suggest that the retailers be asked for their opinion with regard this suggestion. There are two sides to the suggestion.

1. At per 100 gram pricing the consumer sees the meat as being cheaper and thus purchases more.

2. At per 100 gram pricing the consumer thinks 100 grams and purchases in smaller quantities.

Page 17, line 4, section 29(2)(a): Why should articles packed outside Australia be exempted from complying with regulations that Australian packed articles must comply with, especially when exported Australian packed articles must comply with the regulations of the importing country?

Page 19, line 10, section 34(1)(a): In some cases of packing a product which continues to lose weight it is almost impossible to foresee at what maximum time after packing that the product will be sold. By recognising the USE BY date from the regulations under the Food Act this would give a cut-off date at which the pre-packed article should still comply with the weight statement.

Page 30, line 29, section 64(1)(b): If an inspector seizes a measuring instrument, article or package and no proceedings are commenced or the defendant is not convicted, the inspector and the administering authority have an obligation to return the measuring instrument, article or package to its rightful owner and compensate them for being deprived of the said item or items. The person should not have to make application for the return of the said item or items.

Line 31, section 64(2): The administering authority should return the measuring instrument, article or package to the person from whom it was seized and not dispose of it by any other means.

The Hon. Anne Levy interjecting:

The Hon. K.T. GRIFFIN: Well, I think the point is that if there is no ultimate conviction then it should be an automatic return. I would appreciate it if the Minister could address those issues. There is another issue under the Trade Measurement Administration Act that I will deal with relating to that matter. The general thrust of this Bill is supported because it does remove some aspects of regulation, and it is important to remove as many burdens as possible.

One other matter relates to the Hotel and Hospitality Industry Association. It is relevant to this Bill but it is also relevant to the other Bill and if I raise it now the Minister can decide which is the most appropriate place to respond. She may actually have received a copy of this letter from the Executive Director, Mr Ian Horne. He says:

Only two areas are of concern.

1. Dining Rooms/Restaurants: Previously exempt, but concern for those venues that invest in expensive and sometimes customised glassware to reflect the ambience of their venue e.g. Hyatt, Intercontinental, Oxford Hotel, etc., etc. If dining rooms/restaurants cannot be exempt then short of changing their glassware they will have to ensure no bulk product is dispensed. That means that a customer wishing to enjoy a beer will need to purchase a 375ml stubbie or 750ml bottle which would not look aesthetically pleasing being left on the table and, in a dining situation, one could argue that people are attracted to the venue for the food, the service, the ambience and not to consume a 285m1 glass of beer. The beverage is ancillary to the overall experience.

The Hon. Anne Levy: You get a stubby brought and they pour it into a glass.

The Hon. K.T. GRIFFIN: He is talking about a better class of restaurant.

The Hon. Anne Levy interjecting:

The Hon. K.T. GRIFFIN: Anyway, he is raising a legitimate issue and it would be important to have some response. He goes on to say:

The consumer is arguably not concerned whether it is a 200m1, 230m1, etc. as the size bears no relevance to the price. The price is determined by the operator and is a reflection of the cost infrastructure, level of service, quality of decor, etc., etc. That is why a 'glass of beer' can vary from $1.50 to $6 depending on the restaurant and its style.

2. Phase-In Period: The costing of both new glassware and approved dispensers is such that the industry has an expectation of a reasonable phase-in period. A phase-in period of at least two years is enjoyed by the other States. In fact a phase-in period does not in any way impact on the retailer's obligation to dispense spirits in lots of 15ml, 30m1, 60m1. They are legally required to do that now. They break the law now, regardless of the type of dispenser (approved or otherwise), if they fail to dispense correctly. It would therefore seem fair and reasonable for a minimum of two years to apply because of the potential expense involved for some operators. Again the customer's rights are protected as they are currently.

The only other issue under the Trade Measurements Bill that is relevant is the issue of the sale of wood. I have not had time to research what is likely to happen with the sale of wood. The Minister may remember a number of occasions when this issue has been raised in Parliament, and publicly, about the quantities that can be sold by woodyards, whether they are sold by net mass or whether they are sold by volume—there are a whole range of issues—and there are some special provisions dealing with the sale of wood. Can the Minister indicate what, if any, difference of approach there will be in relation to the sale of wood from the position that applies at the present time?

I was tempted to raise some other issues relating to powers of entry and other matters of an administrative nature but because they are largely of a uniform nature across Australia I decided not to pursue them. There are reasonable protections in relation to entry to a domestic premises by the requirement of a warrant. There is no protection against self-incrimination, although a person answering a question is entitled to rely on the provision in clause 66, that an answer is not admissible against a person in any criminal proceedings other than proceedings for an offence under section 73. So, they are the major matters to be addressed in the course of the consideration of the Bill. I would appreciate some responses from the Minister but indicate that, because it is uniform legislation, and legislation which is sensible—not like the Mutual Recognition Bill—we will not be raising objections to the passing of the legislation.

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

TRADE MEASUREMENT ADMINISTRATION BILL

Adjourned debate on second reading.

(Continued from 30 March. Page 1751.)

The Hon. K.T. GRIFFIN: The Minister will again be pleased to know that we are not going to oppose the second reading of this Bill. It is the administrative provision dependent upon the passing of the Trade Measurement Bill. It largely deals with administrative matters, such as appointing the Commissioner for Consumer Affairs as the person responsible for the administration of the principal Act. It appoints the commercial tribunal as the body to hear appeals, and sets out the basis upon which the regulations may be made for the purpose of fixing fees and charges. However, there are two issues which are likely to be the subject of amendment. One is that the Bill provides in clause 11:

A prosecution for an offence under this Act or the principal Act may be commenced at any time within two years after the date of the alleged commission of the offence or, with the authorisation of the Attorney-General, at any later time within five years after the date of the alleged commission of the offence.

We have usually taken a view that five years is a very long time and have ordinarily sought to make that a much shorter period. Even the two year initial period is in my view too long. We would normally limit that to a period of, say, 12 months but, on the basis that the two year period remains, I will be proposing an amendment that the period of five years be reduced to three. There must be some certainty in the administration, and those who might be under investigation have a right to have proceedings taken at the earliest opportunity rather than the issue dragging on for five years, during which time witnesses would have forgotten many of the facts, recollections are blurred, witnesses may have died and, generally, no good purpose may be served by such a long delay.

In all prosecutions, whether under this or other Acts, the essence should be speed. The citizen who is under investigation should, if there is *prima facie* evidence of a charge, be proceeded against as soon as possible, and matters should be dealt with at the earliest opportunity through the legal process. The other matter that might be contentious is in relation to clause 15, 'Search warrants'. Subclause (2) provides:

If a magistrate to whom application for a search warrant under subsection (1) is made is satisfied that the inspector suspects on reasonable grounds that in the premises to which the application relates there is anything with respect to which an offence against the principal Act is being or has been committed...

And it goes on. The focus is on'suspects on reasonable grounds'. That is a different standard from what is in the principal Bill, which we have just dealt with. The principal Bill talks about a reasonable belief, and I think there ought to be consistency between the two. Unless there is some persuasive argument to the contrary, I will be proposing that the two be brought in line. There is some information I will require when we reach the Committee stage but, if I can flag it now, it might help.

Under clause 6(1)(b) I would like some indication as to the criteria by which the Minister will appoint an inspector and what sorts of persons are likely to be appointed. The same applies in respect of the power of the commissioner under clause 6(1)(a). In relation to clause 9, dealing with fees and charges, subclause (2) provides that regulations may provide that a charge be imposed by way of calculation on a time basis, and I would like some idea as to what the Minister has in mind in relation to the calculations, the sorts of fees that might be imposed and the sort of work for which the time basis may be used. In the same clause, subclause (3) provides:

The regulations may provide that a licence or permit fee be a set amount or an amount calculated in a specified manner.

Again, I would like some idea as to the way in which that is likely to be applied and the circumstances in which it may have some application. Unless something comes up as a result of the answers, they are the major issues that I raise in relation to the Trade Measurement Administration Bill, except for the question of fees. There is reference in the fourth paragraph of the second reading explanation that the fees will be fixed at levels comparable to those applying in other States operating on a full cost recovery basis. Could I suggest to the Minister that that may not necessarily reflect a reduced cost that might be applicable in South Australia by reason of lower wages or a more efficient application of and exercise of the responsibility.

One of the concerns I had under the national companies and securities scheme was that the base fees were set generally by reference to what was charged in New South Wales, and then they were escalated by CPI regardless of the relationship to the amount of work involved. We found that it was a windfall for South Australia because our fees, while recovering costs, were very much lower than those in New South Wales, and we found that there was a growing gap between the cost of administration and the amount of the fees that were recovered. So, in the end, when the corporations law replaced the national companies and securities scheme, the Government was pocketing something like $9 million in revenue from fees imposed under the National Companies and Securities Code, which was not being put back into administration. I would be concerned if that sort of precedent were followed in this case. Whilst it may not be possible to give a clear indication of the likely costs of operating this legislation at this stage, if the Minister is able to comment upon that issue in relation to fees and the policy of the Government, I would appreciate that. So, I indicate support for the second reading of the Bill.

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

ELECTRICITY TRUST OF SOUTH AUSTRALIA (SUPERANNUATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 April. Page 2024.)

The Hon. L.H. DAVIS: This is the latest in a series of amendments to superannuation legislation in South

Australia. It seeks to enshrine amendments into existing legislation to take into account the requirements of the Commonwealth's superannuation guarantee charge legislation. That legislation, which of course has been introduced at the national level, has required all employers, whether they be in the public sector or the private sector, to pay a minimum superannuation contribution into a scheme for all employees.

This Bill seeks to recognise the requirements of the Commonwealth superannuation guarantee charge legislation and that has also involved, in this amendment to the principal Act, the establishment of a non-contributory scheme. The Commonwealth legislation requires that a separate fund must be established for employees who are not making a contribution to superannuation. So, this style of scheme is designated as a non-contributory superannuation scheme. The requirements of the legislation mean that employers must place 5 per cent of the employee's salary into a scheme that is styled a non-contributory superannuation scheme.

This 5 per cent increase in employers' costs, whether it be in the public or private sector, of course would have had a dramatic impact on profitability. However, this superannuation scheme—requiring a one-sided contribution, that is, from the employer only—is achieved by trading off other benefits, such as wages, and also making adjustments to productivity levels.

The Liberal Party supports the thrust of the legislation, notwithstanding its inevitability. We see that it is a good thing to have compulsory superannuation. However, the nature of the superannuation scheme is something about which I have previously expressed concern. It is a one-sided contribution; that is, from the employer only. It saddens me to think that this nation is one of the few in the world where the employee is not required to make any contribution whatsoever to superannuation. That, of course, is not so in all cases, but certainly in the non-contributory scheme, which generally operates for blue collar workers—

The Hon. Anne Levy: And judges.

The Hon. L.H. DAVIS: It generally operates for blue collar employees, although there are some notable exceptions. This puts the onus on the employer without any corresponding obligations from the employee. I think if the employee is making a contribution to his or her future retirement fund, there is a greater appreciation of that fact and greater financial planning, and I think also a sharing of responsibility. That is generally seen as the Liberal Party approach to this matter, but this is not the time to debate that point at length.

The Bill also introduces other measures, such as providing for portability and preservation of benefits. In addition, it recognises that pensions cannot be assigned, and provides that the rules governing superannuation should be over-sighted by the Treasurer of the day.

As I said, this is a relatively straight forward measure. The Electricity Trust of South Australia has had superannuation benefits for employees for a long period of time. It is regarded, I think generally, as a generous fund. As we have seen, particularly in Eastern States press, there has been well—justified criticism of the huge ballooning in unfunded liabilities in superannuation schemes. That is particularly true in Victoria, where the unfunded liabilities are estimated to be in the vicinity of $17 billion. I think it is true to say that in South Australia, where the estimated unfunded liabilities of Government superannuation schemes are in the order of $3 billion, the magnitude of the problem is not the same. Nevertheless, it is a matter of importance to the Parliament. Of course, it is also a matter of public interest, particularly to the taxpayers of South Australia.

On a comparative basis, with Victoria's population being roughly three times that of South Australia, one could make the judgment that Victoria's unfunded liabilities, after taking the population factor into account, are roughly twice those of South Australia. In other words, if an adjustment were made for the population factor, South Australia's unfunded liabilities are only half those of Victoria on a *per capita* basis. However, there is no room for complacency.

I think it should also be put on the report that one of the reasons why the South Australian superannuation unfunded liabilities are in better shape than those of other States is due, at least in some part, to the very strong and consistent stand that the Liberal Party has taken on the extraordinary generosity of superannuation funds in South Australia. Members who have served in this Chamber for some time will remember a motion which I moved with the support of my Liberal Party colleagues and which forced an inquiry into public sector superannuation in South Australia. That inquiry resulted in the closing some seven years ago of what was then described as the most generous public sector superannuation scheme in the world and the opening of a new fund, which was much more in line in so far as it offered benefits more comparable with those of the private sector. So, at least the public sector superannuation schemes are in better shape in this State.

The Liberal Party supports the provision that prevents the assignment of pensions. This really only brings the Electricity Trust of South Australia Superannuation Scheme into line with other public sector superannuation schemes in South Australia. It is also a matter that has to be introduced in so far as the Occupational Superannuation Standard Act, which is Commonwealth legislation, has as a requirement that pensions cannot be assigned. I support this Bill and indicate that the Liberal Party has no opposition to it.

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

[Sitting suspended from 5.53 to 7.45 p.m.]

STATUTES AMENDMENT (FISHERIES) BILL

At 7.47 p.m. the following recommendations of the conference were reported to the Council:

As to amendments Nos I to 4:

That the House of Assembly do not further insist on its disagreement to these amendments.

Consideration in Committee of the recommendations of the conference.

The Hon. T.G. ROBERTS: I move:

That the recommendations of the conference be agreed to.

I guess that the decisions that the conference had to make were vexed, and the Council's position was in the end agreed to. The difficulties were debated over many a

long session, and hopefully the final consideration of the Bill will take place at a later date.

The Hon. K.T. GRIFFIN: I support the motion. The essence of the problem was that the Council decided that it was not prepared to accept the Government's attempts to impose proportionate liability upon licence holders for the Gulf St Vincent fishery. In those circumstances, we took the view that it was not pressingly urgent and could be left until later in the year or early next year without any prejudice, so we successfully arranged to have the issue deferred. It means that there is now an opportunity for more surveys of the fishery.

It is unlikely that the fishery will be opened in November. Even if it is, the Government still has the capacity to manage the fishery. It was put to us that if that part of the Bill that related to the Gulf St Vincent was passed it would enable the Government more effectively to manage the fishery. Some of us took the view that that was nonsense and that the Bill only imposed a liability directly on individual fishermen from the fund rather than leaving it as it is where the Government can still impose a surcharge, if it wants to do so, and that is part of the licence fee. We took the view that that part of the Bill which is related to the amendments was not urgent. I think that good sense now prevails and the Gulf St Vincent fishery will be further addressed after the recess, whether or not there is an election at some time.

The Hon. M.J. ELLIOTT: The Democrats support the motion. The Gulf St Vincent prawn fishery is an issue in which I have been involved for close to seven years. At the time of the rationalisation of the fishery the Government was providing advice, via the Department of Fisheries, that the fishery would recover and that there would be a catch of 400 tonnes per year. The fishers—there is at least one woman licence holder—who were staying in the industry agreed to the buy-out on the basis of a fishery that was to recover.

We now know that the fishery collapsed subsequent to those recommendations. I think it bottomed out at about 160 tonnes, as distinct from the 400 tonnes being predicted. The consequence was that the fishery has now been closed for over two years. The boats have been tied up, and the only reason they have left the wharf has been to carry out sample runs to ascertain how many prawns are in the gulf. The most recent sample run occurred between the time we last debated the legislation in this place and the present time while the conference was under way. I understand from talking to fishermen that the trial runs have been rather disappointing. While there has been an increase in the weight of the catch in the sample runs, the recruitment, in particular the number of small prawns, is dramatically down. The only reason that the weight—

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: They didn't give the whole story to the *Advertiser,* and that is what the Department of Fisheries has done repeatedly in relation to this fishery.

The Hon. R.I. Lucas: Did you see that story in the *Advertiser?*

The Hon. M.J. ELLIOTT: Yes, I saw that story.

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: A source, I imagine. Of course, that source did not tell the whole story. The catch weight is up because there were a number of very large prawns in the catch, and there were a number of large prawns because the fishery has not been fished for several years.

So, the reasonable recruitment two years ago is now quite large prawns. However, we are in a situation where the recruitment this season has possibly been the poorest on record. So, it would be irresponsible of this Parliament to be putting further potential imposts onto the fishers without our knowing that the fishery has indeed recovered. I believe there will be at least two more sampling runs through the gulf before an opening will be contemplated, which may be around November. Not until then do I believe we will be in a position finally to resolve this problem. Any resolution we try now would be farcical at least and quite potentially inequitable in the way it finally applies.

I want to make our position quite plain. If the fishery recovers, as the department insists will happen, the debt of $3.4 million should be recovered in full. It is something to which the fishery agreed. If the fishery does not recover and if we end up with no fishery, or a smaller fishery, that situation must be reassessed. My guess is that we will end up with a fishery perhaps half the size of that predicted, and we may have to come up with another formula. My personal belief is that we should have a direct linkage: a levy linked to catch. That is the way to recover as much of the debt as we can. Anyway, that is still hypothetical, and I expect now that we may be debating this issue again around November. If the fishery is opened and if the fishers have been out there, depending upon what they actually catch, we can then make the sensible decision.

Motion carried.

EQUAL OPPORTUNITY (COMPULSORY RETIREMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 March. Page 1656.)

The Hon. R.I. LUCAS (Leader of the Opposition): This Bill deals with the extension of the sunset clause included in the principal Act in March 1990 and defers for another two years from 1 June 1993 that provision in the principal Act which makes it unlawful to discriminate in employment on the basis of age. In speaking to this Bill I really want to address only one specific issue as it relates to my own portfolio area and to support the general views that the Hon. Mr Griffin put on behalf of the Liberal Party in his contribution earlier today. As the Hon. Mr Griffin indicated, we will be opposing the proposition by the Government in relation to this Bill and will be supporting an amendment by way of an extension of the exemption only to 31 December 1993.

As shadow Minister of Education I have been contacted by a good number of teachers in the past few weeks who have expressed great concern about the Government's move in relation to age discrimination and this Bill. Many of those teachers indicated to me and to my office that they had made personal arrangements in

relation to financial and other commitments over the past year or so on the basis that they anticipated that they would continue to work after the compulsory retiring age. Obviously what has occurred within the Education Department and, as I understand from many of my colleagues, within other Government departments as well, is that Government departments and agencies have not really understood the provisions of this legislation as it relates to the Education Act and other Acts.

Many of the teachers who have contacted me have not been in full possession of the facts and have therefore been organising their circumstances in anticipation of action by the Government in relation to other pieces of legislation, an action which had not yet been taken by the Government. These teachers have worked on the basis that they would be able to continue to work after the compulsory retiring age of 65 years provided in the Education Act. However, the equal opportunity legislation does not override the Education Act and other Acts which include a compulsory retiring age.

So, we have a situation where teachers, who may turn 65 between now and the end of this year, will have no right to continue to work as teachers in South Australian schools or other education units. That was not the understanding of many of these teachers as they organised their financial and personal affairs over the past year or so. As I said, there is a lot of confusion in the education arena and in the public sector generally about the interrelationship between the Government's intentions under the Equal Opportunity Act and its lack of action thus far in relation to the GME Act in particular and the Education Act as it relates to the teaching service.

The teachers who have been contacting me and other members urging Liberal Party opposition to the Government's move and support for the original intention of the equal opportunity legislation have, in effect, been misled by the actions of this Government and those of officers within their own department and other Government departments. Many of them find themselves in difficult circumstances at the moment as a result of this situation. If the Government's Bill is passed by this Parliament, their circumstances will be made much more difficult again.

The Liberal Party's position, as outlined by the Hon. Mr Griffin, is that the sunset clause be allowed to continue only to 31 December 1993. That would give the Government, and the Attorney-General in particular, about seven months to introduce legislation to amend Acts such as the Education Act, the Technical and Further Education Act, the Government Management and Employment Act and those other Acts which currently contain compulsory retiring age provisions that are contrary to the intentions of the equal opportunity age discrimination legislation.

If the amendment to be moved by my colleague, the Hon. Mr Griffin, is successful, and if the Government does not take the action over the next seven months, and in particular during the August to December sitting period of this Parliament, the responsibility for the further chaos that will ensue will rest squarely on the shoulders of the Attorney-General and the Arnold Government.

As I said, criticism already rests squarely on the shoulders of this Government for its lack of action thus far, and the confusion that has ensued, but the position that is being adopted by the Liberal Party in relation to this will support that extension to 31 December and within that period we believe that many of these matters could and should be sorted out by the Government.

The only other matter that I want to refer to concerns the report of the working party reviewing age provisions, State Acts and regulations that was tabled only today by the Attorney-General. It highlights the Education Act, for example, an Act which includes a compulsory retiring age, and it does I think highlight some of the other associated problems that we are going to have as a Parliament in tackling the age discrimination legislation and the associated changes that will need to be made to other pieces of legislation as well. For example, I note that under the State Transport Authority we currently have regulations that state:

> Persons must not occupy seats reserved for aged or physically impaired persons.

The working party is recommending that we should repeal that recommendation because of its interpretation of the equal opportunity legislation. Equally, it is recommending that the regulation that says 'seated persons under 21 to surrender seat to an adult not seated', also ought to be repealed. So, it is recommended that that age old provision where children or young people are asked to stand whilst our more elderly citizens take those particular seats be repealed.

The Hon. T.G. Roberts: That's us!

The Hon. R.I. LUCAS: It is increasingly close to becoming us. Equally, it is recommended that the provision that someone should not occupy a seat reserved for aged or physically impaired persons ought to be repealed. So, it is a fairly literal interpretation of the problems in the Equal Opportunity Act and age discrimination legislation and I think this particular report should open the eyes of members and people in the community generally as to what a literal interpretation of this legislation could well mean in relation to a whole range of other pieces of legislation and regulation generally. I think that some people will not support this notion that as a result of age discrimination legislation we ought to have to make all those other changes.

The other matter I will raise quickly concerns regulations under the Health Act which state that every room in a nursing home occupied by more than one patient shall have floor space of at least so many square metres for each adult and so many square metres for each child up to 14 and so many square metres for each child nursed in a cot. The working party is recommending that those regulations be repealed because those measures in square metreage are determined on the basis of age. So, the working party is saying that those sorts of regulations have to go because that is age discrimination.

Again, that is a very literal interpretation of the age discrimination legislation. I am not a lawyer so perhaps it is correct, although I note that in relation to other areas, where for example people under 18 cannot vote—and there is a whole range of other age provisions in legislation—the working party says that, while they

are age related, they are obviously important enough to be retained rather than repealed. So where we draw the line between retaining an age provision, such as the voting age of 18 or the consent for medical procedures age of 16, as it currently is, or where we ditch it, as is recommended in relation to the health regulations, is obviously a very grey area.

I think members really do need to look closely at the recommendations in this working party report. I raised that reference in relation to the nursing homes because of the regulations that currently exist under the Children's Services Office. I cannot find any reference in this report to the CSO regulations but I put a question to the Minister as to what the advice of the working party has been in relation to the CSO regulations, because, as I understand them, there are different recommended areas for children over two or three and for children under two or three. Again, it is age related, as were the nursing home regulations. It is recommended that the nursing home regulations be repealed and I seek from the Attorney-General some indication of what his response and recommendation of the working party is going to be in relation to the CSO. With those few words, I indicate formal support for the second reading of the Bill but would indicate that I will be strongly supporting the position and the amendments to be moved by my colleague the Hon. Trevor Griffin.

The Hon. DIANA LAIDLAW secured the adjournment of the debate.

The Hon. J.F. STEFANI: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

DEVELOPMENT BILL

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. DIANA LAIDLAW: I would like to know what day the Government intends that this Bill will be proclaimed and also if all parts are to be proclaimed on a single day or over a period of time. Are some parts to be suspended as is provided for under the Acts Interpretation Act?

The Hon. ANNE LEVY: As I understand it, the first matter will be to set up the statutory bodies that form part of the Bill, and the Minister concerned has not specified any particular time. Obviously, he would like to get it into operation as soon as possible, but it cannot be brought in until all the statutory bodies and other things have been brought into existence first.

The Hon. Diana Laidlaw: So, those parts are likely to be proclaimed first, or the whole Act as one?

The Hon. ANNE LEVY: The idea would be to proclaim the pieces that relate to the statutory bodies so that they are in existence, and then the substantive parts at a later time.

The Hon. M.J. ELLIOTT: Can the Minister give any indication as to when the Bill is expected to be in full force, when most of it will be proclaimed?

The Hon. ANNE LEVY: The only response I can give realistically is that it will be a number of months. There are forms to be prepared, fees to be set, an education program to be undertaken with all the councils and, if the legislation is to work properly, these must all be done before the Act is fully operative.

The Hon. M.J. ELLIOTT: I had an expectation, probably about this time last year when debate in the public arena commenced on early drafts of this legislation, that we would be seeing other legislation treated cognately with this legislation, in particular, heritage and the EPA legislation. The Heritage Bill has emerged but only very recently; the EPA Bill still has not seen the light of day. Can the Minister give any indication as to what effect on date of proclamation those two Acts will finally have on the proclamation of this Act?

The Hon. ANNE LEVY: As I understand it, the Heritage Bill is currently in another place and it is expected that it will be debated in this place next week, so it will travel with this group of three Bills. It is not necessary for the EPA Bill to have been passed for this Bill to come into operation, because it will replace existing bodies such as the Noise Control Branch and so on, which can be used in the implementation of the Development Bill prior to the proclaiming of an EPA Bill. So, this legislation will be able to function prior to the EPA Act's being enacted.

Clause passed.

Clause 3—'Objects.'

The Hon. DIANA LAIDLAW: I move:

Page 1, after line 27—Insert new subparagraph as follows:

(iv) to encourage appropriate development within the State; and.

I do not intend to speak at great length on any of the amendments I am moving tonight because I note that this is the first of some 159 amendments to 107 clauses of this Bill, so we will be here for some time even if I do not elaborate.

The Hon. Anne Levy: I promise to keep my comments brief.

The Hon. DIANA LAIDLAW: I will endeavour to do the same. I noted during my second reading contribution that I was concerned that, while this is called a Development Bill, there was nothing in the objects that specifically suggested that this Bill aimed to encourage appropriate amendment and that it was more concerned with processes and planning than development, notwithstanding its name. Therefore, I have asked for the amendment to (c)(iv) to read 'to encourage appropriate development within the State'. I note that this amendment is written as number (iv). I suppose my preference would have been for number (i) in the order of issues but, nevertheless, I think it appropriate even at the position of (iv) that, in terms of providing for the creation of development plans, we have some specific statement that the aim of these development plans is to encourage appropriate development within the State.

The Hon. ANNE LEVY: The Government opposes this amendment, not that we disapprove of its sentiments but I would point out to the honourable member that it is already covered in 3(c)(i), which says that the development plans must enhance the proper development of land and buildings. It clearly says that one of its aims is to enhance proper development. Furthermore, 3(c)(ii) talks about facilitating sustainable development. What the

honourable member is proposing as an amendment is superfluous as it is covered already in points (i) and (ii).

The Hon. M.J. ELLIOTT: There are many occasions on which I agree with the Hon. Ms Laidlaw, but this is not going to be one of them. The Minister is right: what the honourable member is trying to achieve is already covered. It talks about facilitation of development and defines that development as being'sustainable', which is a better word than'appropriate', because I think we will have enough arguments about what 'sustainable' means but 'appropriate' is even more wide open to interpretation. Clause 3(c)(i) clearly is talking about defining more what 'appropriate' means, and 3(c)(iii) clearly talks about advancing social and economic interests. That would cover any reasonable understanding of appropriate development and the amendment is unnecessary.

Amendment negatived; clause passed.

Clause 4—'Definitions.'

The Hon. DIANA LAIDLAW: I have a question about the definition of'development'. There is reference in this definition clause to State heritage. I note that in the other place when this matter was being debated the Minister indicated that the Minister of Environment and Land Management would have responsibility for the Heritage Bill but that it was still the subject of consideration by Cabinet, whether that was going to stay with the Minister of Environment and Land Management or come to the Minister of Housing, Urban Development and Local Government Relations. As this matter was debated in another place and following the Economic Statement introduced by the Premier last week has this matter been resolved? Where will heritage ultimately be in the structure of Government—with which Minister?

The Hon. ANNE LEVY: Currently, certainly, the Heritage Act is under the auspices of Minister Mayes. However, I would point out that development control will not be through the Heritage Act, regardless of where that Act may be. Development control is through this Development Bill and will certainly remain with the Minister of Housing, Urban Development and Local Government Relations.

The Hon. Diana Laidlaw: But is there a possibility that heritage will go over to the Minister of Housing, Urban Development and Local Government Relations, or will it stay with the Minister of Environment and Land Management?

The Hon. ANNE LEVY: At the moment, the heritage legislation is with the Minister of Environment and Land Management.

The Hon. DIANA LAIDLAW: I have a further question in respect of the definition of'owner'. It has been suggested to me that the definition of owner of land is confined and that it should include an interest under a contract. Can the Minister explain why this may have been omitted or was it simply an oversight? Could and should it be addressed?

The Hon. ANNE LEVY: The definition of 'owner' here is the same as is currently in the Planning Act. There are occasions under the proposed legislation when owners have to be notified of certain matters. If one included ownership by means of contract there would be no means of knowing whom to notify. Contracts are not registered anywhere. There would be no means of notifying such people, whereas this definition, which has worked well in the current Planning Act, does mean that there is always an owner who can be notified.

Clause passed.

Clause 5—'Interpretation of Development Plan.'

The Hon. DIANA LAIDLAW: I move:

Page 8, after line 8—Insert new subparagraph as follows:

(iv) to encourage appropriate development within the State; and

This amendment arose following discussions that I had last evening with representatives of the Local Government Association. The clause itself relates to the interpretation of development plans. Clause 5(5), in turn, relates to provisions that are to apply in relation to the making of regulations under subclause (2). It makes provision for the advisory committee, which must cause to be published in the *Gazette* or a newspaper circulating generally throughout an area an advertisement advising a number of avenues where people or interested parties can have some input into the proposed regulations.

The Local Government Association has suggested to me, and I think it is fair and reasonable in the circumstances, that as part of this process there should be a specific reference to the fact that a copy of the proposed regulations must be sent to the Local Government Association and the advisory committee in turn must give the Local Government Association a reasonable opportunity to make submissions in relation to the matter. I will not go into great detail about the status of the Local Government Association or local government in general. However, the Local Government Association does feel strongly that as it is a relevant planning authority within the ambit of this Act at least there should be specific provision for such courtesy to be extended to it.

The Hon. ANNE LEVY: Well, it is very interesting that this amendment is put forward. The Secretary-General of the Local Government Association was a member of the reference group which helped draw up this Act for three years and I understand that in those three years he never put forward this proposal. It would seem that he has had a rapid conversion to enhancing the status of the LGA. However, I am prepared to accept this amendment as it is something which would have happened anyway. I feel that, while it is strictly unnecessary in the Bill, it certainly does no harm in being there. In the spirit of goodwill, I will accept it.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 8, line 11—After'public comment' insert'and the submissions received from the Local Government Association of South Australia'.

This is consequential.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 8, after line 14—Insert new subclause as follows:

(6) Where an inconsistency exists between a provision of a development plan which is specifically designated as a regional provision under the plan and another provision that is not so designated, the provision designated as a regional provision prevails.

This amendment relates to the issue of regional planning. There is specific provision in clause 22(3) of this Bill that the planning strategy—which is fundamental to the

whole Development Bill and planning and development in the future—will facilitate strategic planning and coordinated action on a Statewide, regional or local level.

However, the Bill itself provides no processes by which councils can facilitate strategic planning and coordinated action on a regional level. The only means provided in the Bill at this stage for any form of regional planning to progress in the future is by way of ministerial intervention when matters of concern cross several local boundaries and would involve the amendment of several local development plans. A common case that has been cited in this place is the Craigburn development.

However, this Bill is, of course, meant to vest additional responsibility for planning matters with local government, yet it does restrict this responsibility to a council's own specific area and not beyond a council boundary. We believe that, if we are to progress in this State in terms of regional planning (and I know from experiences within the Barossa region how councils are starting to talk and think beyond their own specific areas, particularly in tourism terms), councils should be encouraged to have a process whereby they can consider planning matters on a regional basis. Of course, they meet on a regional basis in the metropolitan area and in the country at this time. So, I would argue that the amendments facilitate regional planning and policy matters and address a situation where there is an inconsistency in local development plans.

I understand that there is some concern among local councils about this proposal. We believe very strongly, however, that it must be floated at this time, and my amendments essentially do that, and seek to promote discussion on this matter. I move them also because I believe that there is a deficiency in this Bill in terms of provision for regional planning that involves local government in a mature manner.

The Hon. ANNE LEVY: The Government opposes this amendment. It implies that the Minister might override local policies in development plans by inserting regional policies into these plans, so that, if there is conflict, regional policies must prevail, but it is building in conflict in a situation where we wish to avoid conflict as much as possible and promote certainty. Rather than promoting the insertion of regional policies which are intended to override local policies and which could create uncertainty and confusion, the intention of the Bill is that any regional-type policies introduced by the Minister will be amalgamated into the development plan for each council area, so that conflicting local policies will be deleted as part of the development plan amendment process. Rather than override them, they can be built into the amendment process, and this will cut down on confusion and enhance certainty.

The Hon. M.J. ELLIOTT: I certainly agree with the sentiments of the Hon. Ms Laidlaw in wanting to see regional planning and, as a member of the Standing Committee on Environment, Resources and Development, I have been very supportive of the need for a regional plan for the Mount Lofty Ranges area, for instance. But what is most important is how such a regional plan evolves, what power structures exist to put it in place and what concurrence there is at the local level. I have grave concern about the way the Government tries to inflict regional planning, and it has done it badly in a number of cases in recent times. The first major Mount Lofty Ranges SDP was an unmitigated disaster and, certainly, the Environment, Resources and Development committee found it so.

The Hon. Diana Laidlaw: Because the Government didn't listen to local government.

The Hon. M.J. ELLIOTT: That is right, because ultimately a few bureaucrats sitting back in their room decided they knew what was best, and they have not yet been brought to account. The fact that they now have the arrogance, four or five months after the report of the ERD committee, to continue on their petty ways is absolutely amazing. So, having said that I like the idea of regional planning, I am very wary of the way we go about getting it, trying to ensure that as far as possible it evolves from the bottom up and not the top down. Clearly, as in relation to the Mount Lofty Ranges review, there is a State imperative which requires State intervention, but it still needs to be done in a less ham-fisted way than the way in which it was done there.

I have some concern about the way in which these amendments that the Hon. Ms Laidlaw is moving go about getting regional planning. I will tackle the issue later by way of some amendments of my own, and perhaps I might talk about those now, because it will make plain why I support this position rather than the honourable member's. The Minister has the power to impose regional planning under a later, related clause, whereby a plan is to cover more than one local government area. The Minister can do so at this stage without any consultation, as this Bill now stands. That is unacceptable. It is my belief that, if there is to be regional planning, while perhaps the Minister may have good reasons to want to see a regional plan and may approach councils, the councils must be given a chance to act first.

Later, I will move an amendment along the lines that, where there is a plan to cover more than one council area, the Minister may request a change of the councils, but they then should be given a chance to tackle that issue themselves in exactly the same way as a single council does. It is only if they are swinging the lead or failing to agree that the Minister ultimately might have the power to override and, even then, the circumstances need to be clearly prescribed. I support the idea of regional planning but the powers must still reside in local government as much as possible, recognising that there may be a State imperative eventually to override. I do not believe the Hon Ms Laidlaw's amendments tackle that issue sufficiently. The Bill is plainly deficient itself on the issue, but I will tackle that later.

Amendment negatived: clause as amended passed.

Clause 6 passed.

Clause 7—'Application of Act.'

The Hon. DIANA LAIDLAW: I move:

Page 9, after line 25—Insert new subclause as follows:

(4) A regulation under subsection (3) must not provide for the modification of any provision of this Act which specifically provides for, restricts or prevents an appeal under this Act.

Subclause (3)(a) and (b) provides for regulations to be made which exempt specified provisions of this Act

applying to a part of the State or with respect to a particular class of development. I appreciate the need for the clause, but, based on the Government's devious and often incompetent experience in the administration of the Planning Act in recent years, it is hard to give the Government the benefit of the doubt that it will administer planning and development matters with more diligence and more integrity in the future. I know this is a matter that the Hon. Mr Elliott addressed during his second reading speech and, certainly, we have seen much abuse by the Government of planning law in this State in terms of a range of individual projects.

Our amendment simply seeks to secure the limited rights of appeal provisions which are incorporated in the Bill and ensure that the rights of appeal provisions are not subject to amendment or exemption by regulation in future. If there are to be such changes in the future, we believe they should be by amendment to the Act with full and open debate in this place. Regulations can be disallowed. Government amendments elsewhere in the Bill, at least in respect of development plans and perhaps in the future in respect of regulations, require resolution of both Houses, not one. However, that is a side issue. We believe that rights of appeal are particularly important and that they should not be the subject of alteration or loss simply by regulations; they must be fully debated in this place. That is the essence of the amendment.

The Hon. ANNE LEVY: The Government opposes the amendment. It feels that if the amendment were passed it would considerably inhibit the flexibility which is felt to be desirable.

The Hon. Diana Laidlaw: I know. That is what we are trying to stop.

The Hon. ANNE LEVY: Let me explain. At the moment about 100 pieces of legislation have a relationship to development of some type. It is intended progressively to bring them all under this legislation, which will make things much clearer and cause a lot less confusion throughout the community. In some of these 100 Acts, for specified items which may be classed as development, there are no appeal rights. It is felt that when such a provision in another Act is to be integrated into the Development Act consideration should be given at that time as to whether the lack of appeal rights should continue or be changed and that that aspect should be considered on a case by case basis for each of the 100 Acts which will gradually be integrated into this legislation.

The amendment moved by the Hon. Ms Laidlaw would prevent such consideration being given and could extend appeal rights which currently do not exist, regardless of whether or not it was felt desirable to do so. The fact that it will be done by regulation means that if Parliament is not happy with appeal rights not being extended at the time—

The Hon. Diana Laidlaw: We cannot amend the regulations.

The Hon. ANNE LEVY: I agree that regulations cannot be amended, but they can be disallowed, and this Parliament has done that on several occasions. It seems to me that it is not denying the Parliament the right to have a say. If it does not like what is happening, it can disallow the regulation. The Bill, as it stands, allows for this flexibility. When a development item from another piece of legislation is being brought under this Bill, at that time, on a case by case basis, one can consider whether or not appeal rights should exist. We are not trying to take away any appeal rights. In many cases there are currently no appeal rights. Therefore, at the time that they are integrated it should then be considered whether there should continue to be no appeal rights—nobody is losing anything—or whether appeal rights should be granted. As I said, that should be done at that time with each one being considered on its merits, rather than having a blanket rule saying that they must all have appeal rights, even if they do not have them now.

The Hon. M.J. ELLIOTT: Will the Minister explain how other Acts will be integrated into this Bill which leads to the purported problem that has been raised?

The Hon. ANNE LEVY: An example that I can use is the Highways Act, where currently there are no appeal rights on, say, a subdivision which creates access to the South-Eastern Freeway. If such a subdivision is made to create an access to the South-Eastern Freeway, there are no appeal rights. Such a process can be regarded as development and be brought under this legislation by amending a development plan, with all the processes involved in amending a development plan, to which we shall come later, or by use of clause 37, which relates to consultation with other authorities or agencies whereby a council becomes a one-stop shop. The council is the relevant authority to which, by regulation, there would be an application for consent to or approval of this access to the South-Eastern Freeway which is to be assessed by the council, the relevant authority, and it then becomes the one-stop shop. Currently there is no appeal on such a matter under the Highways Act. If it is to be done through the Development Act, which would seem highly desirable because it can be regarded as development and the Development Act should cover all types of development and not have them scattered throughout the statute book, whether there should be appeal rights in that situation should be decided on the merits of the particular case. Currently there are no such appeal rights, but it should be decided at that time whether or not there should be appeal rights in a particular case. That would not be possible if the amendment moved by the Hon. Ms Laidlaw was carried.

The Hon. M.J. ELLIOTT: I support the amendment at this stage. We may or may not need to reconsider it. This is one of the dangers of having this sort of legislation so late in the session. It is something that should have been before us two months ago and not been debated with five days of sitting to go. However, I have no responsibility for that. I support the amendment at this stage. I am not sure that I am convinced that the problem to which the Minister alludes exists. We may at a later stage need to reconsider that clause.

Amendment carried; clause as amended passed.

Clause 8—'The Development Policy Advisory Committee.'

The Hon. DIANA LAIDLAW: I was interested to note that clause 8(3) has, in my experience, a new provision in Government Bills and it states:

In making appointments to the advisory committee the Governor must have regard to the need for the committee to be sensitive to cultural diversity in the population of the State.

It goes on to provide that:

(4) At least one member of the advisory committee must be a woman and at least one member must be a man.

That is a more standard provision in these Bills today, but the issue of cultural diversity is not in terms of selection of members. Will the Minister say why this is being introduced at this time and, if it is important to be introduced in the issue of the Development Policy Advisory Committee, why the Government has also not considered it to be necessary for inclusion in the Development Assessment Commission which does have the other provisions that at least one member of the Development Assessment Commission must be a man and at least one member a woman?

The Hon. ANNE LEVY: I point out that section 14 of the Planning Act 1982 provides:

In making appointments to the advisory committee the Governor must have regard to the need for the committee to be sensitive to cultural diversity in the population of the State.

We are merely putting into this Bill what has been in the existing Act for eight or 10 years. It is hardly something new.

The Hon. DIANA LAIDLAW: In my experience it is new because I was not here when the Planning Act went through in 1982. Why then, if it has been seen as important over the past 10 years and again for the advisory committee, is it not seen to be important for the Development Assessment Commission in terms of selection of members?

The Hon. ANNE LEVY: I am given to understand that it is partly a question of size of group. The advisory committee has 10 members: the other one mentioned has only five. With a smaller number of people one cannot juggle too many balls simultaneously. As a legal requirement, though, one would hope that people of the appropriate background and expertise could be found for both. However, there is a difference between making it a legal requirement and attempting to achieve it in a small number. There is also an important difference in function. This committee is making policy.

The Hon. Diana Laidlaw: So, you do not want ethnic diversity when making policy?

The Hon. ANNE LEVY: Yes, but this is making policy.

The Hon. Diana Laidlaw: Sorry, when they are making decisions.

The Hon. ANNE LEVY: This is the committee that makes policy, and the other group merely measures applications against a standard. It is more a judicial role than a policy development role, and it could be viewed as being more important here than in the other case. However, the member is within her rights to move amendments wherever she wishes.

The Hon. DIANA LAIDLAW: Just for the record, the Hon. Trevor Griffin is as diligent as always, and has found out that this cultural diversity provision was inserted in 1987 when, in fact, I was a member of this place. I do not want to make a big fuss about this, but it is interesting that it seems to be appropriate to have reference to cultural diversity when there are a lot of people involved, and it is an advisory capacity in terms of policy, but when it comes to the important judicial capacity and a smaller number of people the Government is not as earnest about this same issue. I feel uncomfortable about the process that the Government has decided upon in this Bill in reference to cultural diversity in membership.

Clause passed.

Clause 9—'Functions of the advisory committee.'

The Hon. DIANA LAIDLAW: I move:

Page 11, line 22—Leave out 'should' and substitute 'must'.

Currently clause 9 refers to the functions of the advisory committee and subclause (2) provides that:

The advisory committee should, in the performance of its functions, take into account the provisions of the planning strategy.

My amendment simply seeks to delete 'should' and insert 'must'. The Liberal Party believes this is important because, if we are to have this certainty that the Minister keeps preaching we need in planning, we must also as many times as possible have reference back to the planning strategy, and that it should be a requirement in the Bill that it be taken into account and not simply a situation at whim: that the planning advisory committee could make reference to the planning strategy.

The Hon. ANNE LEVY: The Government opposes this amendment. I point out that the planning strategy is not a legal document but is a statement of Government policy. If the Hon. Ms Laidlaw's amendment was accepted, it would give the lawyers a field day and could lead to a great deal of litigation.

The Hon. Diana Laidlaw: What is the point of having a planning strategy?

The Hon. ANNE LEVY: The planning strategy is, as I just said while you were talking, not a legal document. The planning strategy is a statement of policy. The clause as phrased shows the intention, but it remains discretionary for the advisory committee as to whether or not they take account of this non legal document. If we insert the word 'must' it will lead to a great deal of litigation and give the lawyers a happy holiday, in that they will be arguing as to whether or not the advisory committee did or did not take into account the provisions of Government policy. One can imagine the endless arguments which they could raise in a court case. To insert the word 'must' would make it mandatory. The word 'should' leaves it discretionary, but is a strong hint to the advisory committee that they should take account of it. However, it is not a legal document of which it is being told to take account. I stress that it is not a legal document.

The Hon. DIANA LAIDLAW: The Minister stresses that it is not a legal document, and I understand, but I wonder whether it is going to be a relevant document. I think that is the critical part here, that if this document is to have any relevance in this whole planning process then we must give it some status as a policy document by this same committee which the Minister says will be advising on policy. I mean, if she is not expecting the Development Policy Advisory Committee to take into account the Government's own planning strategy who does she expect will take into account or give any attention to the planning strategy? I think the argument that the Government wants some certainty is a joke. I am simply saying that they 'must take into account'. The

arguments will be, if there are to be any legal arguments, to what degree they should be taken into account, but I emphasise again that this is simply an advisory committee to Government. I am not too sure where the Minister thinks there is going to be a great deal of legal argument, anyway, and there will still be—

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: Yes, but this is simply an advisory committee to the Minister.

The Hon. Anne Levy: We are trying to keep the lawyers out of it.

The Hon. DIANA LAIDLAW: Well, I do not see where you think the lawyers will have any interest or any potential to be involved in any questions about whether the advisory committee did or did not take this into account. The discretions are still there. I would question it, but if that is what the Minister says the Government wants the discretion is still there in the words'take into account'. But I think if the Government is expecting anybody in this community to take any account of the planning strategy, surely the Government should be insisting that its own advisory committee should take into account the Government's strategies.

The Hon. ANNE LEVY: I merely point out that the advice from Parliamentary Counsel is that when a duty is imposed it can lead to litigation as to whether, in fact, the duty was carried out and I would suggest this is not a place where we want the possibility of litigation.

The Hon. M.J. ELLIOTT: The issue of'should' and must' and'may' and'must' is one that we are going to be debating quite frequently tonight and I think on every other occasion I will be supporting the Hon. Ms Laidlaw. The Minister in her arguments really has raised a number of fictions or half-truths by way of argument. Some of them are not particularly relevant but since she raised them I will tackle them. She said that the strategy is not a legal document. It is not judiciable but it is certainly a very powerful document in terms of it being the instrument which the Minister can use to require development plans to be changed. So, it is a question of what you mean by legal document. It is certainly not judiciable but it certainly gives a Minister the power to force change on local development plans and the development plan as a whole.

I think that the point made by the Hon. Ms Laidlaw is an important one, that this is nothing more nor less than an advisory committee. So, the question of'should' and 'must' loses a lot of its significance because of that. The opportunity for legal action I would see as being somewhere less than nil; but that aside, I would hope that the planning strategy, in fact, would be a living document and one which is subject to change. It is on that basis that an advisory committee should not be totally fettered, which the term'must' would tend to imply. As I said, I think in all other cases where a similar argument comes up I will be supporting the Hon. Ms Laidlaw but I am not in this particular case.

Amendment negatived; clause passed.

Clause 10—'The Development Assessment Commission.'

The Hon. DIANA LAIDLAW: I move:

Page 11, line 31—Leave out paragraph (b).

Page 12—

Line 1, after'urban' insert'or regional'.

Lines 3 to 5, leave out paragraph (e) and substitute new paragraphs as follows:

(e) a person with practical knowledge of, or experience in, environmental conservation chosen from a panel of three such persons submitted to the Minister by the Conservation Council of South Australia Incorporated;

(f) a person chosen from a panel of three persons submitted to the Minister by the South Australia Farmers Federation Incorporated;

(g) a person chosen from a panel of three persons submitted, at the invitation of the Minister, by an organisation that, in the opinion of the Minister, is concerned with the provision of facilities for the benefit of the community;

(h) a person with practical knowledge of, and experience in, urban and regional planning.

I will speak to all my amendments that I have in relation to clause 10(3), which addresses the membership of the Development Assessment Commission. The Government is proposing that there be a five person commission comprising:

(a) a Presiding Member;

(b) a Deputy Presiding Member;

(c) a person with practical knowledge and experience in local government nominated by the Local Government Association of South Australia;

(d) a person with practical knowledge of, and experience in, urban development, commerce, industry, building safety or landscape design—

which is a bit of a pot-pourri of interest—

(e) a person with practical knowledge of, and experience in, environmental management, the management of natural resources or the provision of facilities for the benefit of the community.

The Liberal Party has received representations from a number of groups interested in the composition of the Development Assessment Commission. Amendments propose that the commission be extended in number from five to seven and that we include:

a person with practical knowledge of, and experience in, environmental conservation chosen from a panel of three such persons submitted to the Minister by the Conservation Council of South Australia Incorporated;

a person chosen from a panel of three persons submitted to the Minister by the South Australian Farmers Federation Incorporated;

a person chosen from a panel of three persons submitted, at the invitation of the Minister, by an organisation that, in the opinion of the Minister, is concerned with the provision of facilities for the benefit of the community;

a person with practical knowledge of, and experience in, urban and regional planning.

If we added those four people in addition to those who are provided for in the Bill we would have a commission that was necessarily large in size and one of even numbers. While there are other provisions in this Bill for the presiding officer to have a deliberative and casting vote, we believe that one way to overcome any concern about size would be to delete reference to a deputy presiding member. In that case and also in terms of other amendments in this Bill and in absence we would have an opportunity for a member chosen by those present to

preside. So, we do not necessarily need a deputy presiding member for this purpose without any specific role, function or interest in the matter. So, essentially, in speaking to clause 10(3)(b) I have outlined four amendments that are consequential.

The Hon. ANNE LEVY: The Government opposes the amendments. The current commission has five members. It has worked very well. I have not heard of anyone complaining about the current commission and so it seems unnecessary to increase the membership for no good reason. Furthermore, I think a very important reason, which relates specifically to Ms Laidlaw's amendment, and much less so to the foreshadowed one by the Hon. Mr Elliott, is that members in the commission are going to be appointed on the basis of their expertise.

It is important that it is people's expertise that is taken into account. The Hon. Ms Laidlaw is suggesting that people be appointed from a panel of names picked by a particular group with no indication of any expertise, interest or knowledge for some of those she is proposing. At least the Hon. Mr Elliott's amendment is following the line that people must have suitable knowledge, expertise and skill before they are appointed to the commission. But it does seem unnecessary to increase the size of the commission and it seems inappropriate to appoint people on the basis of their being representative of a particular group.

As proposed, the commission will consist of people with particular skills and expertise, and the combination of skills and expertise covers a wide range, all of which is relevant for the commission. But to have an individual representative of a particular group as opposed to having skill and expertise in that area can lead to people's focusing on narrow interests and not taking an overview for the benefit of the whole community. They could regard themselves as voices of a particular group and not, as members of such a commission should, take an overview of what they feel is in the best interests of everyone in the community. That latter comment applies both to the amendment moved by the Hon. Ms Laidlaw and that on file from the Hon. Mr Elliott but particularly, as far as the Hon. Ms Laidlaw's amendment is concerned, her (f) and (g) do not in any way suggest any skills, knowledge, expertise or experience is necessary. That is not a good basis on which to build such an important commission.

The Hon. M.J. ELLIOTT: I will address the amendments as a whole. They relate to each other and we need to talk about them together. I also have some amendments on file, and there is some overlap between my amendments and those of the Hon. Ms Laidlaw, although not as much difference as there appears to be. The Minister is really only comparing the Hon. Ms Laidlaw's proposed (g) with my proposed (f). Certainly, in relation to our proposed (e) we have an identical amendment. Whilst the Minister is decrying having people representing a particular interest, it is worth noting that the Local Government Association rightly has a delegate and, in fact, that person is a nominee of the Local Government Association as distinct from proposals that we will be looking at from both the Hon. Ms Laidlaw and me that other organisations would need to put up a panel of three. As a matter of course, I have fought vigorously to have single nominees of organisations, but I do understand the sensitivities in relation to a body such as the Development Assessment Commission, and I give way somewhat, recognising that the Minister may want to have some level of choice.

However, I do not think it unreasonable that we have these various bodies nominating a panel from which the Minister would make his or her choice, particularly if one looks at the objects of the Act. If one takes the objects of the Act seriously, those are interests that should be represented. I find it quite bizarre that, when we eventually reach subclause (3)(e), it provides:

> ...a person with practical knowledge of, and experience in, environmental management, the management of natural resources or the provision of facilities for the benefit of the community.

Those are two mutually exclusive, and to choose a person who may represent one or the other is nothing short of bizarre. If you are serious, look back to the objects of the Act, which quite clearly talk about advancing social and economic interests. Social interests are there, as clause 3(c)(iii), and clause 3(c)(ii) talks about sustainable development and protection of the environment. Those are two distinctly separate objects, and you are asking one person to have practical knowledge of and experience in one of the two when you go about setting up the commission.

They are both worthy under the objects of the Act, yet we have this proposal as the Bill stands that there be one person to cover both. That is nonsense. There is a real danger that the interests of the commission will be too narrow and not sufficiently representative of all the interests that legitimately should be involved in assessment. The Government has been very free and easy as to whom it is willing to put on the advisory committee. I did not participate in the earlier debate about its composition and requirement for cultural diversity, etc, but the simple answer to that was that the advisory committee really does not matter too much because it is, after all, only advisory.

When you talk about a body with teeth, there seems to be some resistance to actually having a body that might be in any way representative of the community. At least, that is the way the Bill is structured as I see it. It is very narrow as currently proposed. It must be recognised that this Development Assessment Commission just cannot be an endlessly large body with every possible sectional interest represented. Some sectional interests will be clearly represented and have the potential to be represented by a number of people, over which the Minister has absolute discretion.

As the Bill stands, the Minister would have absolute discretion over the persons mentioned in subclause (3)(a), (b) and (d), and I believe that there is not a problem in picking up many of the cross sectional interests of our community—as long as (b) stays there. So, I am looking for something of a hybrid between my proposal and that of the Hon. Ms Laidlaw, and I think this will be another of those clauses that tomorrow we will be recommitting to look at further. I am loath actually to remove Deputy Presiding Member now. That may be a decision we need to make when we reconsider but, as I said, we must be careful that this commission does not become a huge unwieldy body. I presume that is

the reason why the Hon. Ms Laidlaw struck out Deputy Presiding Member. At this stage I do not support the amendment, but I suspect that that may become necessary. It may not, depending on what other amendments are passed in the later subclauses.

Amendments negatived.

The Hon. DIANA LAIDLAW: I move:

Page 12, line 1—After 'urban' insert'or regional'.

We are concerned that we must not forget that there is a lot of the State of South Australia outside the metropolitan area and beyond Gepps Cross and Gawler in the north and Noarlunga in the south.

The Hon. ANNE LEVY: I have no particular feelings either way.

The Hon. M.J. ELLIOTT: I support the amendment. Of course, once again, later amendments may have an impact on this because the Liberal Party has a later amendment that picks up regional planning (new paragraph (h)), but at this stage that has not been voted on.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 12, lines 3 to 5—Leave out paragraph (e) and substitute new paragraph as follows:

(e) a person with practical knowledge of, and experience in, environmental conservation chosen from a panel of three such persons submitted to the Minister by the Conservation Council of South Australia Incorporated;

I note that the Australian Democrats have exactly the same amendment on file.

The Hon. M.J. ELLIOTT: As the Hon. Miss Laidlaw noted, we at least start off on the same track in that we are seeking to leave out existing paragraph (e). As I said in an earlier explanation, it is really a nonsense to expect one person to represent two such divergent interests. That is recognised by the insertion of the word 'or'. Clearly, both interests will not be represented as the Government proposes. I am seeking to split paragraph (e) so that both those interests are covered, as indeed does the Liberal Party—we do it with slightly different wording. The Liberal Party has covered the same ground with paragraph (g), as distinct from my paragraph (f).

I specifically require a person with practical knowledge and experience and a designated body to nominate three persons. The Liberal Party does not require practical knowledge and experience, nor does it designate a particular body, but we are moving in the same direction.

The ACTING CHAIRMAN: You both want it out.

The Hon. M.J. ELLIOTT: At this point we have agreement. Perhaps we will have a disagreement further down the track.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 12—Insert new paragraph as follows:

(f) a person be chosen from a panel of three persons submitted to the Minister by the South Australian Farmers Federation Incorporated;

As I indicated in reference to an earlier amendment in relation to having some reference to regional development, we are very conscious that so much of this State is outside the Adelaide metropolitan area, and a great deal of that area beyond Gepps Cross, Gawler and Noarlunga is certainly farming property of all types. We believe that many of the applications proposed in this Bill will be of interest and concern to and will have an impact on the farming community in this State and that it should have some representation on this board in terms of making the decisions that are so important in terms of development within this State.

The Hon. M.J. ELLIOTT: I think we should be able to debate separately my proposed paragraph (f), because there will need to be a renumbering or relettering somewhere along the line. These are not alternatives to each other; it is just a drafting matter that they have both been called paragraph (f). We will need to debate this paragraph first, and I will canvass my amendment when Miss Laidlaw canvasses her paragraph (g), which is directly related to the same matter. They are alternatives. I am not offering an alternative to what the Hon. Miss Laidlaw has, other than to suggest that this is a professional sectional interest.

I would suggest that there is a very large number of professional sectional interests that could put a valid case for representation if we accepted the Farmers Federation argument. I have supported amendments on a number of occasions for the Farmers Federation—the old UF&S—being on a number of boards, commissions, committees and whatever. However, in this particular case I do not think the federation can sustain a stronger case than can a number of other professions. I will not support this particular amendment.

The Hon. ANNE LEVY: I reiterate that the Government opposes this. The commission currently has the ability and will retain the ability to appoint specialist subcommittees to deal with specialist areas if it needs to. It currently has specialist subcommittees for mining, waste disposal, and aquaculture and it will have the ability to have these and any others for any specialist area where it feels the need for them.

I also reiterate that, as drafted by the Hon. Miss Laidlaw, the South Australian Farmers Federation Incorporated could put up Hewy, Lewy and Dewy Duck with no expertise, knowledge, experience or interest—

The Hon. Diana Laidlaw: That is an insult to the organisation.

The Hon. ANNE LEVY: If the members care to look at the members appointed by the Minister they will see that they all have to have knowledge and experience in particular areas. The Hon. Miss Laidlaw is putting up a panel which need have no knowledge or experience whatsoever. I am not saying that that is what would happen, but she is not concerned to see that people appointed to this commission have knowledge and experience, or she would not put up an amendment in this fashion.

The Hon. DIANA LAIDLAW: As I said right at the beginning of this debate, I did not seek to protract it, but the Minister's remarks are particularly insulting to the South Australian Farmers Federation.

The Hon. Anne Levy: No; you are the one I am insulting, I hope, because you are not interested in people having experience.

The Hon. DIANA LAIDLAW: Well, you widely missed the mark, if that is what you were seeking to do, because the insult is definitely directed to the Farmers Federation in suggesting that, if given the opportunity to provide a representative to this august body, it would not

be diligent in providing somebody who would make a most worthy contribution to this body.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: The reason is that we have some regard to the South Australian Farmers Federation and we believe that it would be—

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: Those are the words that the Conservation Council was keen to see, as well.

The Hon. Anne Levy: Perhaps we should be consulting with them.

The Hon. DIANA LAIDLAW: No; in fact, if you saw the letters from the Conservation Council on the same amendment we moved in another place, you would see that it has congratulated the Liberal Party already for taking its interests into account and being a champion of its interests in this Bill.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: Yes, it did; the same amendment was moved in another place, Minister, with respect to the Farmers Federation and, for good reason, the Conservation Council took no exception. It is the Minister who is throwing the insults around. They are entirely unnecessary and, certainly, the Hon. Mr Elliott did not see any need to get down to these depths in arguing his case. I know that, if given the opportunity, the Farmers Federation would be keen to participate and would provide people worthy of participating.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 12—Insert new paragraph as follows:

(g) A person chosen from a panel of three persons submitted, at the invitation of the Minister, by an organisation that, in the opinion of the Minister, is concerned with the provision of facilities for the benefit of the community.

This reflects the point that was being made earlier by the Hon. Mr Elliott in dividing up the two interests that the Government has noted in its subclause (3)(e), and the Government was not only providing a person with environmental management experience but also making provision for a person who has an interest in providing facilities for the benefit of the community. We are indicating here that that category of representation is most important and should stand alone, and we advocate therefore that one such person chosen from a panel of three persons submitted at the invitation of the Minister should be represented on this commission.

The Hon. ANNE LEVY: I have indicated already that I oppose the amendment.

The Hon. M.J. ELLIOTT: I will begin by asking a question of the Hon. Ms Laidlaw in relation to this amendment. She uses the term'an organisation' that, in the opinion of the Minister, is concerned with the provision of facilities for the benefit of the community. In an amendment which I have on file but which we have not yet debated I have specifically named SACOSS. I ask of the Hon. Ms Laidlaw what other organisations would she have in mind, other than SACOSS, that would be in a position to nominate a person or a panel of people to this position?

The Hon. DIANA LAIDLAW: I suspect that there are a number of options; certainly, SACOSS is one. When this matter was being discussed within the Party, my personal interest was in having someone who was interested in children's services, such as CAFHS, but that is why it was left open. I do know that, in many of these new subdivisions, interest in children over a range of age groups and adolescents is most important in helping them and their families. That was one of the options that I considered important in the circumstances. Certainly, SACOSS is another.

The Hon. M.J. ELLIOTT: The Minister is sitting there rather grumpily at the moment and will not support anything. It might be helpful if she gave some indication as to whether or not the Government saw any particular advantages or disadvantages in the proposed paragraph (g) and the amendment in my name in relation to SACOSS. There may be reasons why one is better or worse than the other. It is likely that one will be inflicted on the Government, and it might be worth its while to give some consideration and play an active and interested part in this debate.

The Hon. ANNE LEVY: In response to that, I have already indicated, if anyone was listening, that, given a choice, I prefer the amendments to be moved by the Hon. Mr Elliott over those moved by the Hon. Ms Laidlaw. I will repeat that, if it was not heard the first time.

The Hon. M.J. ELLIOTT: I clearly heard what the Minister said in relation to practical knowledge and experience, but I did not recognise that that necessarily related to the second part. I am deeply concerned that I might commit us to SACOSS if another organisation is suitable for putting forward a panel. Indeed, it may be worth while further amending the Hon. Ms Laidlaw's amendment so that, instead of'an organisation' it provides for 'organisations', if there is not one umbrella body. There are a number of ways around this, and I was trying to find the best of all worlds. It appears that this whole thing will be resubmitted, no matter which gets passed, so for the time being, just to keep it alive—

The Hon. Diana Laidlaw: Do you want me to move my amendment in amended form and change 'an organisation' to 'organisations'?

The Hon. M.J. ELLIOTT: It still does not confront the other question of practical knowledge and experience. As I said, we will further amend this later, no matter which one is carried. At this stage, I plump for my amendment because it is consistent with the terminology in the earlier amended paragraph (e), but I am flexible about the possibility that there may be other organisations than just SACOSS provided there at a later stage. I will not support the amendment. It is a matter of getting some sort of wording that possibly works better than the two do at the moment.

The Hon. ANNE LEVY: As the Hon. Mr Elliott picked up, I prefer his wording where he talks about 'practical knowledge of, and experience in'. That is certainly having regard to merit in choosing people. With regard to the particular organisation, I feel that SACOSS is the most appropriate. One could otherwise argue about what are'the provision of facilities for the benefit of the community'. One could say that the Football League provides facilities for the benefit of the community and ask it to nominate a panel of three without any experience at all. For a whole variety of reasons, I

reiterate that I prefer the amendment proposed by the Hon. Mr Elliott.

Amendment negatived.

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

Page 12—Leave out paragraph (e) and substitute new paragraph as follows:

(g) a person chosen from a panel of three persons submitted, at the invitation of the Minister, by organisations that, in the opinion of the Minister, are concerned with the provision of facilities for the benefit of the community.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 12—Leave out paragraph (e) and substitute new paragraph as follows:

(h) a person with practical knowledge of, and experience in, urban and regional planning.

The Hon. ANNE LEVY: The Government opposes this amendment. Subclause (4) provides:

The Presiding Member and Deputy Presiding Member must have qualifications and experience in urban and regional planning, building, environmental management, or a related discipline that are, in the opinion of the Governor, appropriate to the Presiding Member's function and duties under this Act.

The Deputy Presiding Member remains as a member of the commission so there will be two people, the Presiding Member and his or her Deputy, who have experience of urban and regional planning, building, environmental management, and so on. Therefore, there is no need to duplicate'practical knowledge of, and experience in'.

The Hon. M.J. ELLIOTT: The Minister is not very accurate in what she has just said. The crucial word in subclause (4) is'or'. There is no guarantee that either the Presiding Member or Deputy Presiding Member will have expertise in urban and regional planning, because there are three other alternatives in which they have expertise: building, environmental management or a related discipline. Therefore, there is no guarantee that is the case. I am not completely happy with the wording of paragraph (h), but we will be recommitting the whole clause later. At this stage I shall be supporting the general principle that it contains.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 13, line 11—Leave out'(other than an appointment under subsection (3)(c))' and substitute'under subsection (3)(a), (d) or (h)'.

This amendment means that an appointment under paragraph (a), which relates to a Presiding Member, paragraph (d), which relates to a person with practical knowledge and experience in urban development, commerce and so on, or paragraph (h), which relates to a person with practical knowledge of or experience in urban and regional planning,'can only be made under this section after the Minister has, by notice in a newspaper circulating generally throughout the State, invited interested persons with appropriate qualifications to submit (within a period specified in the notice) expressions of interest in the appointment to the relevant office'. I note that the Australian Democrats have the same amendment on file.

The Hon. ANNE LEVY: Paragraph (b) has to go back in because you were unable to knock it out.

The Hon. DIANA LAIDLAW: I seek leave to move the amendment in that amended form.

Leave granted; amendment, as amended, carried.

The Hon. DIANA LAIDLAW: I move:

Page 13, line 12—Leave out'under this section'.

This is consequential.

Amendment carried; clause as amended passed.

Clause 11—'Functions of the Development Assessment Commission.'

The Hon. K.T. GRIFFIN: This clause deals with the functions of the Development Assessment Commission. Subclause (2) provides:

Except where the Development Assessment Commission makes or is required to make a recommendation or report, is required to give effect to an order of a court or tribunal constituted by law, or has a discretion in relation to the granting of a development authorisation, the Development Assessment Commission is, in the exercise and discharge of its powers, functions or duties, subject to the direction and control of the Minister.

I acknowledge the desirability of excluding certain functions from that power of direction and control. Can the Minister give some indication as to the other areas in which the direction and control of the Minister may be exercised, and can she say why the Government feels it desirable that in any event this commission ought to be subject to the direction and control of the Minister?

The Hon. ANNE LEVY: As I understand it, the type of matter which might be considered is where the commission is to meet: that the Minister can say,'I provide the facilities for you to meet at a certain place.' So, the commission should meet there and not incur inordinate expense by deciding to meet on the thirty-first floor of the State Bank building. As clearly indicated, it relates not to its functions where it should be independent but rather to other matters where it is quite right and proper that ministerial control should be exerted. After all, this is one of the very important points in the Public Corporations Act: that direction and control should be possible by a Minister where a Minister is accountable. I should say that it is not anything new. It is exactly the same as a section in the current Planning Act which dates from 1982.

The Hon. K.T. GRIFFIN: I do not think it matters whether or not it is in the Act now. The fact is that we have a new scheme, and I am trying to ascertain those areas in which direction and control of the Minister might be given. On the basis that it is in the Planning Act, can the Minister indicate on what sort of occasions and in respect of what sort of matters direction has been given by the Minister?

The Hon. ANNE LEVY: I understand that such a direction has never been given by the Minister in the 11 years since the Liberal Government inserted this clause, but it is a reserve power which the Tonkin Government thought, and the Arnold Government thinks, desirable.

The Hon. K.T. GRIFFIN: It is reassuring that it has not been used. That is not to say that it will not be used, Mr Chairman.

The Hon. Anne Levy: You asked me when it had been used, so I tell you it had not.

The Hon. K.T. GRIFFIN: It has not been used. That is what I said. The fact that it has not been used is reassuring. What is the problem with that?

The Hon. Anne Levy: I thought you were complaining—

The Hon. K.T. GRIFFIN: I am not complaining, no. I am sorry the Minister misunderstood me. I was not complaining about the fact. I said it was reassuring that it had not been used. If it has not been used in that 11 years, one has to question the need for it, anyway. If it relates only to issues of where the commission meets I would not have thought that it was necessary to have that power there, anyway. However, I am not going to make a big point of it now. The Minister has indicated that it has not been used, and hopefully it will not have to be used in the future.

Clause passed.

Clauses 12 to 16 passed.

Clause 17—'Staff.'

The Hon. DIANA LAIDLAW: This clause relates to the staffing for both the advisory committee and the Development Assessment Commission. Will additional staff be required in the future for both the new structures, or will they remain the same? If they remain the same, what is the number at the current time, and the cost of operating the current advisory body and commission?

The Hon. ANNE LEVY: It is not possible to be exact on this, but it is not expected to change from the current situation where the commission does not have its own bureaucracy but uses staff of the Department of Housing and Urban Development. However, there is flexibility in clause 17 to allow for any contingencies that may arise.

Clause passed.

Clause 18—'Appointment of authorised officers.'

The Hon. K.T. GRIFFIN: Clause 18 provides:

(1) The Minister or a council—

(b) must appoint a person who holds the qualifications prescribed by the regulations to be an authorised officer for the purposes of this Act if required to do so by the regulations.

Can the Minister indicate what qualifications are likely to be prescribed, and in what circumstances the regulations are likely to require the appointment of such a person?

The Hon. ANNE LEVY: Currently, councils employ building officers, who must have certain qualifications to be able to ensure the safety of buildings, and it is expected that it will involve situations such as that: where the regulations would indicate that someone who is concerned with safety matters must have the qualifications to indicate that they are competent to do so.

The Hon. K.T. GRIFFIN: The other question relates to subclause (4) which provides:

An authorised officer must produce the identity card for inspection by any person who questions his or her authority to exercise the powers of an authorised officer under this Act.

I do not have any amendment on file, but I want to express a concern that in other legislation we have provided that the officer 'must' produce an ID card rather than wait for a request. It is volunteered by the officer, and that is much less intimidating for a citizen who might be confronted by an authorised officer. As I say, I have no amendment to require that, but I would prefer to see that authorised officers present the ID card rather than wait for someone to say'Well, by what authority do you purport to act?', which I think is a very legalistic and also difficult way for citizens to be expected to respond. It may be that if the Bill is recommitted we can address that issue. Would the Minister like to think about it as a possibility for amendment on a recommittal?

The Hon. ANNE LEVY: As a matter of practice, it may well work that way, anyway. I would not suggest recommitting this Bill. My guess is that this Bill will go to a conference, and this may be something that can be raised then.

The Hon. K.T. GRIFFIN: You are sensitive to the issues that I raise?

The Hon. ANNE LEVY: I will make sure that the Minister is sensitive—

The Hon. K.T. GRIFFIN: Yes, you are. It may be that we can get an amendment drafted to address that issue, but I think that is a much better way for authorised officers to operate.

The Hon. ANNE LEVY: I could not agree more with you.

The Hon. K.T. GRIFFIN: I think anything we can do to facilitate a good relationship, rather than an immediately aggressive relationship, is desirable.

Clause passed.

Clause 19—'Powers of authorised officers to inspect and obtain information.'

The Hon. DIANA LAIDLAW: I move:

Page 16, lines 12 and 13—Leave out subparagraph (i) and substitute new subparagraphs as follows:

(i) Where the authorised officer reasonably suspects that a provision of this Act is being or has been breached;

(ia) In the case of an authorised officer who holds prescribed qualifications—for the purpose of inspecting any building work;

Clause 19(1) provides:

An authorised officer may—

(a) enter and inspect any land or building—

(i) for the purpose of determining whether the purpose of this Act is being or has been complied with, or of investigating a suspected breach of this Act.

The amendment that I have moved would require that an authorised officer may enter and inspect any land or building:

(i) Where the authorised reasonably suspects that a provision of this Act is being, or has been breached;

(ia) In the case of an authorised officer who holds prescribed qualifications—for the purpose of inspecting any building work.

The insertion of the words 'reasonably suspect' follow the words that were in the draft Bill that was circulated last November. I am not sure why they were taken out between November and the introduction of this Bill. I also note that one sees in clause 19(2) that it is a requirement by the Government that there should be reasonable grounds where an authorised officer exercises powers. So, therefore, certainly the concept of reasonable grounds has been introduced in the past in the provision that we are looking at. It is certainly acceptable for the Government in other parts of this clause. I note that when we moved this amendment in the other place the Minister indicated that it would be the subject of further consultation and consideration in this place and it is my hope that, following the period of time that he has now had to consider this amendment, the Minister will

now see that the amendment is reasonable, fair and one that should be incorporated in this Bill.

The Hon. ANNE LEVY: I am happy to accept the amendment. It seems perfectly reasonable that there should be some suspicion before an authorised officer exercises his or her authority to enter. I do not approve of people invading other people's privacy purely on fishing expeditions, and that includes making phone calls from the ABC.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 18, lines 4 to 20—Leave out subclauses (8) and (9) and substitute new subclause as follows:

(8) A person is not required to answer a question or to produce, or provide a copy of, a document or information as required under this section if to do so might tend to incriminate the person or make the person liable to a penalty.

We are again talking about the powers of authorised officers. I am moving that we delete subclauses (8) and (9), which relate to instances where there is not a reasonable excuse for a person to fail to answer a question or to produce or to provide a document or other information. We believe that there are significant civil liberty implications in the provisions in the Government Bill. My view is that if a citizen is by statute deprived of common law privilege he or she should be informed of that fact. We also believe that the section does not impose any positive requirement on anyone to answer a question and, rather, it creates an offence for failing to answer. We believe that the amendment that I move addresses all of those concerns.

The Hon. K.T. GRIFFIN: I support my colleague the Hon. Diana Laidlaw. It is correct that on occasions there is legislation that provides that one cannot refuse to answer a question on the grounds that it might tend to incriminate but then it may not be used in evidence. It really depends upon the purpose for which that power is required to be exercised. Certainly, the general principle is that a person is not required to produce documents or answer questions that might tend to incriminate the person but there are exceptions to that. However, even if one were to go towards the exception by establishing that there was a substantive reason for overriding the generally accepted principle, I would suggest that subclause (9) of this clause is much too wide, anyway, because it provides:

If a person who is required, under this section, to answer a question or to produce or provide a copy of the document or information claims before complying with the requirement that compliance might tend to incriminate the person, then it is not admissible in evidence.

If for some reason the person is asked a question and his or her attention is not drawn to this right but merely answers the question, then too bad if it is incriminating, because if the point is not taken before the answer is given or the document is produced it is sudden death. It seems to me that that is quite an unreasonable provision, to focus upon the person to whom the question or the request is directed, to take a point before the question is answered or the document provided. So, I certainly support the amendment. Again, if there are some specific reasons why one should move towards the exception rather than the rule, then certainly that can be considered but I really do not see that there is a necessity for it on all the information that has been provided so far.

The Hon. ANNE LEVY: I do not want to make a great song and dance about this but, as the Hon. Mr Griffin agrees, it is not setting a precedent.

The Hon. K.T. Griffin: It is the exception rather than the rule.

The Hon. ANNE LEVY: I agree it is the exception rather than the rule but it is certainly not the first time that the Parliament has had and accepted clauses of this nature. I think one needs to think of it in terms of a safety provision. There may be something about building work which makes it most unsafe. The person may be asked to produce a document that will indicate the degree of 'unsafeness' and the potential injury that could result if such unsafe building practice has not been corrected. It would seem to me valid in that situation to be able to compel someone to produce the document from which the degree of danger can be estimated. Even if the person cannot then be prosecuted for having allowed such danger to occur it is better to know of the danger and be able to correct it, or the question of sudden death to which the honourable member referred may be a literal one and not just metaphorical.

The Hon. M.J. ELLIOTT: The argument for this amendment has been in rather general terms and what I would have preferred to see is a specific case that illustrates how this can go wrong, because frankly I do not see that there will be huge civil liberty problems, as I think was suggested by one speaker earlier, if the Government's clauses stand as they are. The fact is that nothing that is required to be presented or nothing that is said is admissible in evidence so, unless the movers of the amendment can produce an example of where it is capable of being abused I will not support the amendment.

The Hon. K.T. GRIFFIN: All I can say in support of the amendment is that that is one of the basic principles that has been adhered to—not absolutely, I acknowledge, but it is the rule that you should not be required to incriminate yourself. It is a protection against self-incrimination. As I said when I spoke earlier, there are some exceptions. The Corporations Law I think has some exception but there, as I recollect, there is much better protection than that in subclause (9). What subclause (9) does is to put the onus on to a person, an ordinary citizen who might be the subject of inquiry; not a hardened criminal, but an ordinary citizen without very much experience of the law, who is confronted by a building inspector who is asking a whole range of questions that might result in a prosecution for which imprisonment is prescribed and is certainly a potential penalty.

In those circumstances I think it quite unreasonable for a person having been required to answer but who is given a defence that can only be adduced if the citizen happens to know that this provision of what will be the Act says that, before you comply with the requirement, you can take the point that you do not want to incriminate yourself. That is all highly technical, and my preference is to err on the side of caution in favour of a protection against self-incrimination.

If the Hon. Mr Elliott is not persuaded absolutely, all that I can suggest is that he might support the amendment

on this occasion. If it is going to conference, at least it keeps the issue alive. The point I am making in relation to subclause (9) can in fact be given much closer attention to ensure that there are proper safeguards against abuse. There may be some reasons that, having now debated the point, the Minister and her advisers might be able to raise after thinking about the issue. Therefore, I say, at least for the moment, keep it alive. I suggest there is a problem with it. Let us look at it when we get to a conference.

The Hon. M.J. ELLIOTT: I must say this is a matter that I have not spent a great deal of time pondering. I asked whether specific examples of where things might go wrong could be given.

The Hon. Anne Levy: I thought I gave one.

The Hon. M.J. ELLIOTT: No, I meant in terms of the movers of the amendment. I note that the Hon. Mr Griffin felt that there was other legislation containing something similar to that in subclause (9) but he felt that it was done better. I am rather doing this on the run at this stage and have not seen what it is that is done better, so I am not sure.

The Hon. K.T. Griffin: The person subject to questioning is informed, up front and better protection is provided against the information being used against him or her at a later stage, even though the information is required to be provided.

The Hon. M.J. ELLIOTT: I hope to sort this out before conference. I already expect that several clauses of this Bill will need recommittal. I have supported something like the current clauses in the past in other legislation. Once again, I do not recall exactly what the precise wording was. At this stage I am willing to keep the issue alive because it is true that it is a generally accepted principle in law that a person does not incriminate himself, so I will support the amendment, only in terms of keeping it alive at this stage, but I am yet to be really convinced that it is necessary.

Amendment carried; clause as amended passed.

Clauses 20 and 21 passed.

Clause 22—'The Planning Strategy.'

The Hon. DIANA LAIDLAW: I move:

Page 21 line 9—After 'must' insert ', in consultation with the Local Government Association of South Australia.'

This clause starts a major part of this Bill dealing with planning schemes, and the first division relates to the planning strategy. On behalf of the Liberal Party I am seeking to ensure that this planning strategy is not only prepared and maintained by the appropriate Minister but that this whole process is undertaken in consultation with the Local Government Association of South Australia. The Liberal Party believes this is important because the Local Government Association is the relevant planning authority under so many aspects of this Bill, and it is wise and appropriate to keep it involved at an early stage. It is most appropriate that this planning strategy be prepared in consultation with the LGA.

The Hon. ANNE LEVY: The Government opposes this amendment. I reiterate what has been said before. The planning strategy is the policy of the Government. In devising a planning strategy, the Government will obviously consult all the relevant parties. The local councils have a very important role to play in development plans, and no-one denies that. However, in terms of the planning strategy—which is the policy of the Government, not the policy of councils—I do not see why the LGA or councils should be singled out as being more important to consult with than anyone else.

The Government certainly would consult with a wide range of groups, but then it draws up its planning strategy, which is the Government's policy. It is not appropriate in this case to give the LGA a greater role than any other community group or individual. We are talking about the Government's policy.

The Hon. M.J. ELLIOTT: I do not support this amendment. I do not think that it is appropriate that the LGA as a body be consulted in relation to the planning strategy. I do not see that as a role and function that the LGA would rightly have. If there is to be consultation, there is a large number of groups that should be consulted in preparing the planning strategy. In fact, that is an issue that the Liberal Party and the Democrats are addressing in other amendments to this clause.

Amendment negatived.

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

Page 21, after line 10—Insert new subclause as follows:

(2a) The planning strategy should seek to promote ecologically sustainable development and, in particular, should seek—

(a) to enhance individual and community wellbeing and welfare by following a path of economic development that safeguards the welfare of future generations; and

(b) to provide for equity within and between generations; and

(c) to protect biological diversity and to maintain ecological processes and systems,

and may provide for such other objectives or principles as may be appropriate to the creation, maintenance and implementation of a system of strategic planning within the State.

The planning strategy is pivotal to the success of the Development Bill, not just as a legal document but also as an instrument of social, economic and environmental policy. It is imperative that the planning strategy gets things right.

This amendment reflects the need identified at both the Earth Summit last year and in the intergovernmental agreement on the environment to incorporate principles of ecologically sustainable development into policies and legislation. This is something that the former Minister for Environment and Planning, the Hon. Ms Lenehan, was talking about after returning from the Earth Summit and in relation to that intergovernmental agreement. If one believes that such principles should be put into policies and legislation then here indeed is the most obvious piece of legislation into which it should be placed. I believe it is essential that the planning strategy itself, the very core of the workings of this Bill, picks up that concept.

As I mentioned in my second reading speech, it is essential these principles be included in the planning strategy, since it is to be a statement of future directions for the development of this State. These principles are in fact exactly the same as those set out in the draft planning strategy released last July. The words that I am proposing to be inserted are not my words: they are the words of the planning strategy—a strategy which has been developed with very significant community input.

So, I am arguing that we need to incorporate ecologically sustainable development into the planning strategy and it is necessary that not only do we talk about promoting ecologically sustainable development but that we make it very clear precisely what it is we mean by that. That is what paragraphs (a), (b) and (c) of my amendment do.

The Hon. ANNE LEVY: The Government opposes this amendment, basically for two reasons. I maintain that we will be making the Bill unbalanced if there is a detailed reference to ecologically sustainable development without similar references to social and economic issues. They are all important and it is unbalanced to pick out one and not the others. Another reason for opposing it is that the Bill is intended to be neutral in policy terms. The Bill is really establishing a process for making policy rather than stating details of policy. The development policy will be found in the planning strategy and in the development plans. The Bill as a whole is not coming down one way or the other: it is neutral in this respect. It is establishing a process by which policy will be determined in development plans. So, for these two reasons I oppose the amendment.

The Hon. DIANA LAIDLAW: I find the Minister's arguments confusing. This amendment would simply be stating that the planning strategy should seek to promote ecologically sustainable development.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: Yes, but the true meaning of ecologically sustainable development—for those who understand it—in fact embraces not only environmental matters but also social and economic matters. That is really what the Democrats are trying to suggest and what the *2020 Vision* planning strategy suggested when it talked about enhancing individual community wellbeing and welfare. It is an all-embracing concept.

The Liberal Party will not support this amendment. I have spoken at some length with the Conservation Council about this proposal and where we do and do not make reference to ecologically sustainable development, how it is defined, and the like. It has pointed out to me that there is reference in the development plans in clause 23(3)(a)(i), which states:

A development plan should seek to promote the provisions of the planning strategy and may set out or include—

(a) planning or development objectives or principles relating to—

(i) the natural or constructed environment and ecologically sustainable development;

So, there is reference in these important development plans for ecologically sustainable development. While I admire the Hon. Mr Elliott's enthusiasm in seeking to include and guide in this Bill what is to be in the planning strategy, I must admit that minute by minute I am becoming more disillusioned with the planning strategy in that it will have no or very little relevance to the whole process, because it will be simply a Government policy document that no-one—not even the Government's advisory committee—will have to take into account. So, while I admire the Democrats' diligence, I am not sure this will make any difference to the process anyway because no-one will take much notice of the planning strategy.

The Hon. M.J. ELLIOTT: It is true that ecologically sustainable development is mentioned in clause 23. I will move a further amendment to that clause, because nowhere in this Bill is the term'ecologically sustainable development' defined. The Minister herself has already demonstrated a lack of understanding of the term when she responded to the amendment, saying this was unbalanced, because it failed to look at other matters. People who understand ecologically sustainable development understand that we are talking about economy, social issues and the environment. If the Minister cared to read paragraphs (a), (b) and (c), she would see that that is self-evident. Some people seem to go into fits as soon as they see the words 'environment' or 'ecology' mentioned anywhere, and do not take the time to look further. The fact is that the term is 'ecologically sustainable development'. It is about enhancing individual and community wellbeing and welfare by following a path of economic development. It is also about safeguarding the welfare of future generations, providing equity within and between generations to protect biological diversity and maintaining ecological processes and systems.

The quality of life we have enjoyed in South Australia thus far is a mixture of good fortune and a little planning. What people were excited about when the Planning Review was carried out was that, for the first time and in a more organised fashion, the State was going to address the issue of looking to and planning for the future. Coming out of the Planning Review, we saw the first strategy evolving. It recognised the need for ecologically sustainable development and it recognised what that term meant. I find it astounding that, having recognised that within the planning strategy, following the Planning Review, we have a piece of legislation that seeks to implement the strategy and what came out of the review. Ecologically sustainable development, as mentioned under development plans, is never defined. Really, throughout the Bill, it is scarcely taken note of by the very structures and processes that were carried out.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: At the very least that should be happening if any of my other amendments fail. The fact that the terminology occurs means that it should be defined in some way. Nevertheless, while the Hon. Ms Laidlaw is afraid the planning strategy may be ignored, the fact is that it is the instrument by which the Government achieves change. While it is not a justiciable document, the Minister can require all development plans throughout the State to comply with the strategy.

Mentioning ecologically sustainable development in relation to development plans is neither here nor there. If the planning strategy provides that something will happen, the Minister can insist that it happen in the development plan. It is fundamentally important that the strategy is right. I think the Hon. Ms Laidlaw is right to be nervous about this strategy, because as the Bill currently stands there is no guaranteed consultation; it is something that the Minister can whip up on a whim if need be, and no real directions are being provided as to what it should be doing. I do not think it is unreasonable to ask that it be made a requirement that the planning strategy should at least seek to promote ecologically sustainable

development—something the Planning Review itself recognised. I must say that I am disappointed that the Hon. Ms Laidlaw is in a position to say that it is nice to see that we are pushing the amendment but that she cannot support it.

The Committee divided on the amendment:

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

Noes (17)—The Hons J.C. Burdett, T. Crothers, L.H. Davis, Peter Dunn, M.S. Feleppa, K.T. Griffin, Diana Laidlaw, Anne Levy (teller), R.I. Lucas, Bernice Pfitzner, Carolyn Pickles, R.J. Ritson, R.R. Roberts, T.G. Roberts, J.F. Stefani, G. Weatherill, Barbara Wiese.

Majority of 15 for the Noes.

Amendment thus negatived.

The Hon. DIANA LAIDLAW: I move:

Page 21, after line 13—Insert new subclauses as follows:

(3a) Subject to subsection (3b), the appropriate Minister must, in relation to any proposal to create or alter the Planning Strategy—

(a) prepare a draft of the proposal for public consultation; and

(b) by public advertisement, give notice of the place or places at which copies of the draft are available for inspection (without charge) and purchase and invite interested persons to make written representations on the proposal within a specified period of not less than two months from the date of publication of the advertisement; and

(c) arrange for a series of meetings at which members of the public may make personal representations on the proposal; and

(d) ensure (so far as reasonably practicable) that any representation made under paragraph (b) or (c) is taken into account before the Planning Strategy is created or altered (as the case may be).

(3b) Subsection (3a) does not apply in relation to a proposal to alter the Planning Strategy if the appropriate Minister has, by notice published in the *Gazette,* certified that, in his or her opinion—

(a) the alteration is of a minor nature and, in the circumstances, does not warrant public consultation; or

(b) it isnecessary for the proper operation or application of the Planning Strategy that the alteration take effect without delay.

This important amendment relates to consultation on the development of the planning strategy. While I have expressed misgivings about the status and value of the planning strategy in this process for the future, I will keep trying to improve the processes. This is one such amendment to achieve that end.

The improvement that I am seeking on this occasion—and I notice that the Australian Democrats in part have the same amendment—is to ensure that the Minister must, in relation to any proposal to create or alter the planning strategy, go through a series of public consultations; that a draft of the proposal must be prepared for public consultation; that there must be a public advertisement giving notice of places where people may purchase, see and make representations in respect of the draft; that there must be arrangements for a series of meetings at which people can make representations; and that, so far as is reasonably practicable, any representations are taken into account before the planning strategy is created or altered.

This amendment was also debated in the other place. At that time the Minister's criticisms were that we considered that the consultation process could take place over three months. We have limited that process in the Bill to two months. The Minister also suggested that the amendment might be flawed because we did not distinguish between major and minor alterations. We have done so in this amendment.

In respect of major and minor alterations to the plan, we are recommending that the public consultation process that I have outlined in paragraph (3a) would 'not apply in relation to a proposal to alter the planning strategy if the appropriate Minister has, by notice published in the *Gazette,* certified that, in his or her opinion (a) the alteration is of a minor nature and...(b) it is necessary for the proper operation or application of the planning strategy that the alteration take effect without delay'.

It is important that that distinction between major and minor and the Minister's decision on the matter be published in the *Gazette* so that people can judge whether they consider the matter to be major or minor. We are keen for all this to be out in the open rather than to have the Minister, behind closed doors, making such a decision and nobody having any idea of what is going on.

In summary, we are keen to see consultation in the preparation of this plan, and we have proposed that practical amendment in the light of the Minister's objection in the other place to the proposal when it was moved some weeks ago.

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

Page 21, after line 13—Insert new subclause as follows:

(3a) The appropriate Minister must, in relation to any proposal to create or alter the Planning Strategy—

(a) prepare a draft of the proposal for public consultation; and

(b) by public advertisement, give notice of the place or places at which copies of the draft are available for inspection (without charge) and purchase and invite interested persons to make written representations on the proposal within a specified period of not less than two months from the date of publication of the advertisement; and

(c) arrange for a series of meetings at which members of the public may make personal representations on the proposal; and

(d) ensure (so far as is reasonably practicable) that any representations made under paragraph (b) or (c) is taken into account before the Planning Strategy is created or altered (as the case may be).

The Hon. Ms Laidlaw and I have identical amendments, except for one significant difference, that being that the Hon. Ms Laidlaw is allowing the Minister a particular discretion with which I disagree. In the seven years that I have been in Parliament involved in development issues, a couple of underlying problems have exacerbated any development debate. One of those has been the issue of ministerial discretion. Time and again ministerial discretion has been abused in the time that I have been in this Parliament. That abuse has, in the long run, been

against the interests of the community as a whole. It has been as much against the interests of developers as it has been against people who have had some concern about particular developments.

It is plain that the planning strategy can be used as an instrument of abuse. It is plainly a Government document. If the Bill remains as it now is, the Minister would be in a position to change the strategy on a whim, without any notice being given to anybody that there was about to be a change, with the deliberate intent of getting something to happen that the Minister suspects might otherwise be opposed. That is not hypothetical, because it has happened with other discretions.

Craigburn Farm has been the most recent example where discretion after discretion was abused by the Minister on the advice of advisers. An SDP came out of the blue without any of the councils being consulted, even though it had been worked on for some time and agreements were signed with a developer—the owner of the land. Another ministerial discretion relating to development was abused, such that, within 24 hours of the interim SDP coming into effect, the developer had established rights that could not then be undone.

If we have a planning strategy which is open to change in a moment without any notice being given to the public, I have no doubt whatsoever that on current record Ministers will abuse it. I am happy to accept at the end of the day that it is a Government document but, if there is a requirement that there be consultation with the public before there is a change in the strategy, the capacity to use it as an instrument to abuse and get around the law is significantly reduced and the temptation is largely taken away. An amendment—either the Hon. Ms Laidlaw's or my own—is absolutely imperative to give any prospect of the planning strategy being used for its real intent and not being abused and used for wrong purposes.

I disagree with the Hon. Ms Laidlaw on the question of minor alterations, first, because that becomes the window through which we again create a loophole. What or what is not minor becomes a matter of the Minister's discretion, and it will be abused in the same way as the Minister's decision whether an EIS is or is not issued. The Minister decides whether or not it is of significant importance. The Minister has not done that in relation to the Marino Rocks marina and did not do it in relation to Tandanya. Once again, there was blatant abuse because the Minister could decide whether it was sufficiently significant. That is the sort of loophole that the second part of the Hon. Ms Laidlaw's amendment is creating, and I oppose the second part. That is why our two amendments look different.

The Hon. ANNE LEVY: I move:

Page 21, after line 14—Insert new paragraph as follows:

(aa) Make appropriate provision, so far as is practicable and reasonable, for community consultation on the content, implementation, revision or alteration of the planning strategy;

The Government sees the development and implementation of the planning strategy as a fundamental element of this legislation, and we are happy to accept that it will be very important to ensure that there is wide community involvement in its development, implementation and operation. My amendment acknowledges that the Minister should seek to ensure such community involvement, which I think is the aim of the amendments moved by the Hon. Ms Laidlaw and the Hon. Mr Elliott. However, the Government differs in that it does not accept that the legislation should prescribe detailed procedures as to how to go about formulating Government policy. It is a matter for Government as to how it determines policy, and for this reason I oppose the two amendments which have been moved, although I prefer that of the Hon. Ms Laidlaw which does at least acknowledge that, where there is a small and minor adjustment and a full procedure for public consultation, delays of weeks or months would not be warranted, and does not allow that to occur in those circumstances.

The Hon. M.J. ELLIOTT: I said why I did not want to see the second part of the Hon. Ms Laidlaw's amendment carried. I think it is worth noting that if it is of a minor nature I would also suggest that it is not urgent, and I would expect that the planning strategy would be reviewed reasonably regularly. If there is a minor change, it can be picked up at the time of one of these regular reviews which is tackling something of greater consequence. There is no way known that I would ever support the amendment moved by the Minister, which is a Mickey Mouse amendment that does nothing at all and guarantees that everything about which I was concerned can still occur. The fact is that if you do not define how consultation occurs you find the Government saying'but we consulted'. We have had a very good consultation process under the Planning Review where the first stage was very detailed and the public involvement has for the most part been very good. I believe it is imperative that we define the way that further consultations occur. Without appropriate definition, I do not believe that adequate consultation will occur.

Ms Laidlaw's amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 21, line 34—After'2' insert'or 3'.

I argue that in terms of the planning strategy we would not accept the Government's proposition that the strategy is not to be taken into account for the purposes of any application, assessment or decision under part 4 which relates to development controls, other than division 2 which relates to major projects. We believe that the planning strategy should relate to both major projects and to Crown developments (division 3 of part 4), so we have added the words'or 3', which relates to division 3 of part 4. Does that make sense?

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: I am saying that the planning strategy must be taken into account for the purpose of applications, assessments and decisions under divisions 2 and 3 of part 4, and that means that it must be taken into account for both major projects and Crown developments—not just major projects, as the Government would be seeking. So, we bring Crown developments into it.

The Hon. ANNE LEVY: The Government opposes this amendment which, as the honourable member says, provides that the planning strategy is relevant only when one is discussing major projects. That is virtually what the Bill provides. The honourable member's amendment

is saying that the planning strategy is relevant only when discussing major projects or any Crown development, however trivial—be it a dunny. If it is a Crown project the planning strategy is relevant, and it seems to me that the honourable member is stretching the point somewhat. She and others have often argued that the Crown should be subject to the same restrictions as the private sector. In this case she is saying that the Crown is to be subject to far greater restriction than the private sector. I think, to be fair and balanced, one could say that the private sector and the Crown should relate in the same way. If it is not a major project both the Crown and the private sector should relate in the same way to the planning strategy, which is the case as the Bill now stands. But the honourable member is saying that the Crown will be affected.

The Hon. Diana Laidlaw: The Minister says that the planning strategy has no teeth, that it is simply a guide, so how can it be affected?

The Hon. ANNE LEVY: If it is not affected, would the honourable member consider adding the private sector as well, because if it has no teeth then it does not matter; but it does seem to me that what is sauce for the goose is sauce for the gander in this respect. If the Crown is to have certain restrictions, toothless or sharp toothed, the private sector should have the same restrictions, be they toothless or sharp toothed, and I do not think the approach taken by the honourable member is a reasonable one. It is certainly not an even-handed one between the Crown and the private sector.

The Hon. DIANA LAIDLAW: I have tried in other cases to ensure that even the advisory committee must take into account this planning strategy, and the Democrats and the Government refused that, so we have got to the stage where the advisory committee should only take into account revision of the planning strategy. Then we come here to clause 22(8) and we are saying really that the planning strategy does not apply to anything except for a major project. I am arguing that I would like it to apply to everything, but that is really not what the Minister and the Democrats have wanted.

The Hon. Anne Levy: At least it would be even-handed; put the private sector in as well.

The Hon. DIANA LAIDLAW: I do not know why you have anything in here. I do not know why you do not have the lot in here and why you have not just major projects.

The Hon. Anne Levy: Move the amendment.

The Hon. DIANA LAIDLAW: No, you set the example, and that is all I am arguing here. Yes, the major private projects should go in and so should Crown developments, because the Government is preparing planning strategy and the very least that we should expect is that the Government could take its own planning strategy into account in any proposed development. As I have said before, this whole strategy is a bit of a farce, because if the Minister says it is not to apply to anything and one is only simply to take it into account, one can in fact disregard the whole thing. Why she is so upset that it should be taken into account for Crown developments, I am not sure.

The Hon. ANNE LEVY: As I have said on previous occasions, the aim of this Bill is to have certainty. The certainty is obtained from the development plan. That is the certainty, that is the legal document, that is the one that is appealed against or not, that is the one that is judged, and we do not want to set up situations where there can be possible conflicts between a development plan and anything else. That is quite apart from our argument that far from following the usual line heard from Ms Laidlaw that the private sector and the Crown should be on an equal footing she is here deliberately setting up a situation where they are not on an equal footing.

The Hon. DIANA LAIDLAW: Can the Minister just clarify the situation? Do major projects include all Crown projects that are deemed to be major or does 'Crown developments' cover major and minor developments?

The Hon. ANNE LEVY: Crown projects include both major projects and minor projects.

The Hon. DIANA LAIDLAW: What you are saying here by excluding division 2 is that major projects by the private sector must take into account the planning strategy but major projects by the Crown are excluded.

The Hon. Anne Levy: No.

The Hon. DIANA LAIDLAW: You are, because you have just said that Crown developments can include major projects and yet you have exempted the whole of Crown developments from major projects.

The Hon. ANNE LEVY: No, that is not true. Division 2, which is put in here indicates that an EIS includes the planning strategy: that is, 46(l)(b)(ii) is 'The Planning Strategy'. So it is included. There is not a difference between Crown and private sector in a major project.

The Hon. DIANA LAIDLAW: Well, that is obviously what you just advised me a moment ago.

The Hon. ANNE LEVY: No, it is not. I said major projects were included. The honourable member was including all Crown projects, major and minor, and private sector minor ones not included. You are differentiating between Crown and private and saying that the Crown major and minor must adhere but that does not apply to the private sector. You are not being even-handed between the public and the private sector.

The Hon. DIANA LAIDLAW: What a joke! When we get up to clause 49 and you see the Government is exempting itself from all sorts of things under Crown development, how the Minister with this clause can then argue that I am not being even-handed is indeed a joke. Let me have this clarified again; I will give the Minister the benefit of the doubt. Is she saying that division 2 of part 4 relates to major projects, Crown and private, whereas Crown developments in division 3, in terms of exemptions, relate to Government projects, major and minor?

The Hon. Anne Levy: Can the honourable member say that again?

The Hon. DIANA LAIDLAW: I do not see how you have got Crown projects into major projects when, in fact, you have a whole section on Crown projects where you have exempted the Government from all sorts of things. Yet, you are saying under this section on major projects that the Crown is not exempt, from all sorts of things. I think there is confusion.

The Hon. ANNE LEVY: Because it is intended that major Crown projects would have an EIS which, under division 2, immediately calls up the planning strategy.

The Hon. M.J. ELLIOTT: Once again, I think by way of amendment, the Hon. Ms Laidlaw has really touched on just one more of the farcical components of this legislation. What 22(8) is on about at the moment is that planning strategy is not taken into account except in relation to major projects. What is a major project? If you look at clause 46(2) where the term 'major projects' is used, we are really talking about something of major social, economic or environmental importance: that, again, is really a ministerial discretion. The Minister is going to decide whether something is major or not. If the Minister deems it not to be major then the planning strategy need not apply. If the Minister deems it to be major then it will apply. But even then it is a two-edged sword. Is the planning strategy going to be used as an instrument to facilitate something to happen which, under the development plan elsewhere, is not allowed to happen? As 22(8) currently stands, this planning strategy will be taken into account when looking at major projects. If the Government amends the planning strategy it can use that as a way of getting through a major project that they cannot currently get through.

We have already seen the way it has in recent years bent various rules to get up something that the rules do not currently allow. This is open to abuse, and incorporating Crown projects does not necessarily achieve what the Hon. Ms Laidlaw sets out to achieve. It really depends on the integrity of the users of the planning strategy, and it could be abused just as easily as it might be used as a way of trying to get Crown developments to obey the rules that major projects are being asked to obey.

The Hon. Diana Laidlaw: If the Minister decides to nominate a project she does not even have to put an EIS, anyway.

The Hon. M.J. ELLIOTT: That is right. There is a huge number of contradictions. Once again, there are loopholes all over the place, which are open to be abused. As the Hon. Ms Laidlaw seeks to close a loophole she is potentially creating one, depending upon the integrity of the people who are using it. We should have legislation that does not contain loopholes, or should certainly be seeking not to have them. I do not think the amendment actually achieves what the Hon. Ms Laidlaw hopes to achieve and, if anything, in the current climate is likely to be abused rather than used appropriately. While I understand her intentions, and because I understand the intentions, I think, I am actually voting against her amendment.

Amendment negatived; clause as amended passed.

Clause 23—'Development plans.'

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

Page 22, after line 13—Insert new paragraph as follows:

(aa) objectives or principles of ecologically sustainable development which, in particular seek—

(i) to enhance individual and community wellbeing and welfare by following a path of economic development that safeguards the welfare of future generations; and

(ii) to provide for equity within and between generations; and

(iii) to protect biological diversity and to maintain ecological processes and systems;.

I have already had a similar argument in relation to the previous clause. The terminology 'ecologically sustainable development' is used in 23(3)(a)(i). As I noted before, it is nowhere else defined. I might suggest to the Hon. Ms Laidlaw, who seems to have at least some sympathy at this stage, that perhaps she might support this but recognise that later on it might be better relocated into the definitions clause rather than here. But I think it is a term that needs to be defined and not left as a vague term within the Bill. The definition I have used is one that I have taken directly from the planning review report.

The Hon. ANNE LEVY: The Government opposes this amendment. It is very similar to the amendment on which we recently divided. I point out that in clause 23(3)(a) the Bill already talks about ecologically sustainable development. The Hon. Mr Elliott's amendment expands on that and gives it an emphasis that is not warranted in view of all the matters mentioned in clause 23(3)(a). There are six different planning or development objectives and principles set out there, and I see no reason why one of them should be expanded to take half a page of the Act and the other five remain as they are. It is not as if it is inserting something new or different; it is merely giving it an emphasis that we feel is undesirable, given the references to all the other matters contained within the same clause.

The Hon. M.J. ELLIOTT: It is not a matter of seeking to give a greater emphasis, but it would be fair to say that, if you look at all the other terms that are used, they are terms that are clearly understood, and it concerns me that this is one of the few places—

Members interjecting:

The CHAIRMAN: Order!

The Hon. Anne Levy: I did know what it means. Of course I had read it.

The Hon. M.J. ELLIOTT: I did accuse you of perhaps misunderstanding the term, because the argument you put suggested—

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: Your interpretation of it was very wide of the mark. You suggested it was rather narrow. In fact, it is all about the economy, about welfare and social issues as well. That is what the definition seeks to make quite plain. I have already conceded that perhaps it might be better located somewhere else, but all I am saying is that for the time being it needs to be somewhere. It looks as though we will be recommitting the Bill, and at this stage I am simply seeking support for the need to make plain what ecologically sustainable development is seeking to do. I doubt that anyone in this place would actually disagree with the sorts of objects that I have put forward there.

The Hon. DIANA LAIDLAW: I believe that this provision should be in the definition clause at the front of the Bill.

The Hon. M.J. Elliott: It is not quite a definition. It is saying what the objects of sustainable development are.

The Hon. DIANA LAIDLAW: I think we should be defining what it means, because it is not defined and so many of the other subdivisions and divisions of this Bill do have statements that, in respect of this subdivision or division a term means something. I understand what the

honourable member means, but I would argue that the best place for this would be a definition clause. Also, I indicate to the honourable member that the Liberal Party believes that in this area of development plans there may well be some legal ramifications and certainly some legal arguments about some of those principles and objectives that he has outlined and, in seeking to define ecologically sustainable development, which I would be more than prepared to see in the definition clause and resubmitted for that purpose, I suggest that we have some discussions about this, because I understand in general terms what the honourable member means by'future generations', but the legal ramifications of such terms in a Bill can be quite grave, I understand, or at least quite profound.

Amendment negatived; clause passed.

Clause 24—'Council or Minister may amend a development plan.'

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

Page 23 line 16—After'council' insert', or to the areas, or parts of the areas, of two or more councils'.

What I seek to do in this clause is address an area that has been abused in recent times. At present the Minister has a power which is unnecessary and which has been abused on more than one occasion. It is something about which I have spoken to the Local Government Association and, representing local government, it is very keen to see this particular issue addressed.

There will be a series of consequential amendments to this first amendment. Clause 24(a) refers to amendments to the development plan where they relate to the area or part of an area of a council. It refers to the particular procedures that one goes through. The council can amend it itself; it can be amended by the Minister acting on the request of the council; or the Minister can request council to prepare a statement of intent. If the Minister does not have the compliance of the council then the Minister can intervene and then, after going through that procedure, force a change to the development plan.

What is quite amazing is that if one has an area covering more than one council the Minister can immediately come in with a development plan without requiring any consultation with the councils whatsoever. That is precisely what happened in relation to Craigburn. An SDP was carried out in relation to Craigburn, covering two councils—Happy Valley and Mitcham. The reality is that the substantial change occurred in only one of the two councils—Mitcham. This sort of power was simply used as an excuse by the Government on the advice of a particular planner, who deserves to be reprimanded severely for his behaviour. The Government just simply stepped in and introduced a development plan. Happy Valley and, particularly, Mitcham had no idea that it was even being contemplated. It is quite plain that not only did that come out of the blue but that it had been worked on for some considerable time and that agreement had been reached between Minda—the owners of Craigburn farm—and the Government.

I fail to understand why, if we wish to have a development plan that covers more than one council area, the Minister should still be going to the council and saying, 'I would like to see a change to the development plan,' and give them the first opportunity to address the issues. If they fail to reach an agreement on a statement of intent within three months, then they should suffer exactly the same fate as a single council if it fails to do so.

However, in the first instance, if it is affecting a particular council area whether it be singly or collectively, they should be given the opportunity to fix their own development plan—that is if one really believes in delegating powers closer to the people and in democratic Government. If one believes in autocracy then one believes in the Bill as it is drafted now, which allows the sort of abuses we have had in the past to continue. I urge members to support the amendment. I think it is one of the most important issues that have been addressed tonight.

The Hon. ANNE LEVY: I certainly oppose this very strongly indeed. What the honourable member is suggesting is that the Minister would never have the ability to develop regional plans and impose them on councils. There are many situations where it is necessary, in the public interest, for the State to override local councils. One can think of examples such as stormwater drainage control, policies affecting the entire River Murray and policies affecting the Adelaide Hills area. Only yesterday the honourable member was complaining that one could not leave the Adelaide Hills area to individual councils because they would never get a proper regional plan for it. Now he is insisting that the Minister not have the power to override council plans in order to get a regional plan and prevent one small council vetoing a regional plan that is very much in the public interest.

I point out that in relation to clause 26 there are amendments on file from the Minister providing that the Minister must consult with the council. It is not a question of the Minister's doing something without consulting with the council. Under clause 26(4) the Minister must consult with a council that has a direct interest in the matter on the content of a planned amendment. So, it is not a question of councils not being involved and not being able to have their say, but it is a question of the Minister's having the ability to amend, if necessary, council plans to have proper regional policies; that one council cannot veto a regional policy about which all the other councils may be in agreement. The council certainly has the right to be consulted under clause 26, but we feel it is essential that under clause 24 the Minister must have the ability to develop regional policies and not let one council be able to veto what is in the interests of the whole region or in the public interest of the State.

The Hon. M.J. ELLIOTT: I do not know whether the Minister does not understand. However, quite plainly under my amendment one council cannot veto what the Government proposes. The basic idea is that, if the Minister finds that a council is causing difficulties, the Minister can act in exactly the same way as the Minister can under clause 24(a)(iii). If one council is being obstructive, unnecessarily delaying, then the Minister does have the potential to step in.

Yes, I did say yesterday that I recognise the need for the Government to be involved in regional planning. But there is a fundamental question: is there an issue of such importance that the Minister should go in before councils have had their say? If not, then we should go through the process that we go through with individual councils: give

them a chance to address the development plans themselves.

The Hon. Anne Levy: That's in clause 26.

The Hon. M.J. ELLIOTT: It is covered by what I am proposing as well. However, it removes the Minister's power to step in unless it is a matter of urgency and State importance. The Minister then has another instrument under clause 28. If members look at the Mount Lofty Ranges SDP they will see that there was a matter of State interest.

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: Of course it is only interim. That is precisely the point, and it should not be anything more or less than that.

The Hon. Anne Levy: Clause 28 deals only with the power to bring in a plan; it has nothing to do with preparing a plan.

The Hon. M.J. ELLIOTT: We may yet be looking at some consequential amendments, but I do not see any special need for the Minister to have the power which clause 24(b) now confers and which provides that as soon as it is more than one council area the Minister takes the total lead and is in a position of implementing the development plan right from go to whoa.

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: We have already commented on Government consultation, and the fact is that Governments avoid it whenever they can and do as little as possible. Craigburn Farm is so recent that we cannot call it history other than very recent history. We are talking about the current administration that abuses these powers.

The Hon. Anne Levy: What about the Murray River?

The Hon. M.J. ELLIOTT: What about the Murray River? There has been no question at all about the need for regional planning and the need for the State to set priorities that are of State importance. I have no problems with that whatsoever, but there are other ways of achieving that, and one should still be trying to achieve change by working with local government, and the same sorts of processes that are carried out with one council should be carried out when more than one council is involved.

The Hon. DIANA LAIDLAW: I find the issue rather perplexing, because I can appreciate the arguments on both sides. I feel that the arguments put by the Hon. Mr Elliott are quite valid when we look at the instance of Craigburn Farm. He and the people who have been directly and indirectly affected by the Government's arrogance and its ramrod ways of dealing with that situation have reason to be angry. I also understand that, in the less contentious situations that the Minister has been talking about with respect to the Murray River sewage and effluent matters, it is appropriate that the Minister should have this capacity to amend a development plan where there are these neighbouring council areas.

When we consider 24(b) later, I will offer an alternative which may meet the satisfaction of, if not all, I hope at least the majority and which would provide that where a development plan relates to the areas or parts of the areas of two or more councils, it could be amended by the Minister or, with the approval of the Minister, by the relevant councils. So, I will move that later as, I hope, a middle course.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: Yes, but there is the consultation provision that the Minister has mentioned. I hope that what happened with Craigburn never happens again, because I would hope that any representative Government—

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: I know, and I abhor what the Government has done at Craigburn, and I think that, if any Minister or Labor Party member of this place actually lived around the area, they would not be doing what they have done.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: I agree with all of that. I would just argue that there is a middle ground, which I will propose, because I do see the one case. I suppose I recall the former member, Ross Story, who said that hard cases make bad laws. We should be careful not to focus on one case to apply to all circumstances in the future, and we must see that there are a number of other instances where this power that we have been talking about can be useful in terms of the Government's or the Minister's role when a number of councils are involved and the development plan would be relevant. I feel uncomfortable because I have seen too much of the Government's abuse of its powers in recent years and, while I know that there are merits in the Government's arguments, I am still uncomfortable accepting those arguments. That is a personal, not a Liberal Party view.

The Hon. M.J. ELLIOTT: If one looks at clause 26, which the Minister kept going back to, one will see that the Minister can prepare an amendment to a development plan and first prepares a draft plan amendment report. As clause 24(b) currently stands, the Minister can start preparing that plan amendment report and, whilst subsection (5) then provides that it must be released for public consultation (and I hope the Hon. Ms Laidlaw is noting this, because it is important), the Minister is also in a position under clause 28 to give interim effect at the same time as public consultation begins. The point I make here is that, if there is a matter of State importance, the Minister is in a position to introduce something immediately by way of that pathway. Perhaps you are trying to stop some inappropriate development occurring, for instance, in the Mount Lofty Ranges, where you are trying to stop further subdivision occurring.

However, if it is important but not one that has to be done tomorrow and you are not trying to pre-empt some inappropriate development, I have not heard any justification for clause 24(b). It is simply not necessary. The Minister should be going through exactly the same sorts of mechanisms that are available under clause 24(a), and the Minister has not produced any justification for not doing so. If there are matters of grave State importance and urgency, we find other pathways to solve those problems, but we should not create giant loopholes with which bureaucrats can play their power games.

The Hon. Diana Laidlaw: Not just bureaucrats but also Ministers.

The Hon. M.J. ELLIOTT: I think Ministers sometimes get snowed, particularly new Ministers.

The Hon. ANNE LEVY: I do not want to labour the point very much, but I think there is confusion. Clause 28 deals with interim development control, which certainly enables the Minister to implement a plan. If it is urgent, the Minister can implement a plan, but a plan must exist before clause 28 can be brought into effect. If there is no plan, there is nothing to implement, no matter how urgent the situation. To develop the plan or to have a change of plan, one comes back to clauses 24 and 26. Clause 28 refers only to urgent implementation of a plan that exists, but before it can be implemented urgently a plan must be there in the first place. Clause 28 does not enable that urgent plan to be developed; it only allows it to be implemented. To get the development plan, one has to use clause 24 or clause 26. Clause 28 is irrelevant in this situation.

It is quite clear in clause 26 that there has to be consultation with any and all councils that are involved but, under clause 24, it is possible for the Minister to develop a regional variation for the benefit of an entire region or indeed the entire State, even though it may be against the wishes of one council within the region.

It should be remembered that any development plan amendment prepared by the Minister is subject to review by a parliamentary committee and to disallowance by Parliament. If the regional plan which a Minister develops meets with parliamentary disapproval, it can be disallowed by the Parliament. It is not as if the Minister is not accountable to Parliament, which is the representative of the people of the entire State. That is the Minister's line of accountability.

One small council is not accountable to the people of the whole region, and it would be quite wrong if it were; it is accountable only to its small council area. However, the Minister must act for the public good across the region or the State.

The Hon. M.J. ELLIOTT: The problems that the Minister has talked about could just as easily relate to a single council area. There is still the potential that within a single council something of great importance could be occurring in which the Minister may want to intervene, and clause 24 does not immediately allow that to occur. There is no instrument to intervene in a single council where there is a matter both of importance and urgency, which I. believe are the only grounds upon which the Minister of his or her own volition should be preparing a development plan. That problem is not tackled in clause 24. Governments have devious ways of doing things. That is what the Government did with Craigburn. It really wanted to tackle only Mitcham. The substantial changes were all in Mitcham. The Government prepared a development plan covering two councils, although the substantial changes were only in one.

The Hon. Anne Levy: Clause 24(a)(iv) covers it.

The Hon. M.J. ELLIOTT: No; that is undue delay. I am proposing the same sort of thing in relation to two or more councils. If the Minister feels that that tackles it in relation to one council, then she has undermined her own argument, because that is true where we are talking of two or more councils.

The Hon. Anne Levy: We are thinking of covering the whole region, such as the whole River Murray, the whole hills face zone or the whole of the Fleurieu Peninsula.

The Hon. M.J. ELLIOTT: There has been no disputing the need for regional planning. We talked about that in one of the very early amendments. I think that the Hon. Ms Laidlaw in her first amendment referred to the need for regional planning, and I conceded then the need for it. I suspect that there might be a place for a further amendment to clause 24 to pick up issues which are of importance and urgency, and I should like a chance to contemplate that. I understand what the Minister is saying and I feel that it is covered, but, if it is not, I shall be happy to contemplate a further amendment.

However, I would still argue that in general terms two or more councils should, in the first instance, be treated in the same way as a single council. If there is to be an exceptional circumstances clause, it should not be clause 24(b); there should be a further subclause, and perhaps we should be contemplating a further amendment. I would ask the Opposition seriously to consider that matter. The position that I have adopted is one that the Local Government Association strongly supported in my discussions with it. This may be another clause that we may wish to recommit for further amendment later.

The Committee divided on the amendment:

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

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

Majority of 13 for the Noes.

Amendment thus negatived.

The Hon. DIANA LAIDLAW: I move:

Page 23, line 30—After'Minister' insert'or, with the approval of the Minister, by relevant councils'.

Clause 24 provides:

An amendment to a development plan may be prepared...

(b) where it relates to the areas, or parts of the areas, of two or more councils—by the Minister....

That is the Government's proposal. I am suggesting that there should be an addition to that provision, namely, that in such circumstances an amendment to a development plan may be prepared with the approval of the Minister by relevant councils. This would provide for a number of circumstances that the Local Government Association has related to me. Apparently the Mallala council, following the floodings late last year, would like to develop a new plan with the Munno Para council. They are both keen to do it. There is no reason why, in my view, that should be done by the Minister when both councils are keen to proceed with that amendment. Likewise, I am aware that there is an area in Woodville North in relation to which I see no reason why the Minister should be preparing such a development plan, because both councils agree that it should be undertaken, and I think they should be responsible for such undertakings. Therefore, in such circumstances there is no reason in the world why the Minister alone should be undertaking that amendment to the development plan. We should be entrusting such responsibilities to councils, subject to the Minister's approval.

The Hon. ANNE LEVY: I oppose this amendment, although not the sentiments of it. I can explain—

The Hon. Diana Laidlaw: It would take some explaining.

The Hon. ANNE LEVY: The honourable member is using the wrong terminology. She is suggesting that the Minister have the power to approve two councils amending a development plan together.

The Hon. Diana Laidlaw: Two or more.

The Hon. ANNE LEVY: Yes, two or more. Let us use two as an example. If the two councils, having received ministerial approval, have a falling out there is no means of resolution. It is not a delegation. What is required is a delegation of power by the Minister to the councils to do it, but if the councils fall out and are unable to reach agreement the Minister can always withdraw the power of delegation and do a ministerial plan.

The honourable member obviously wants the councils to be given a chance to do it together, and there is no disagreement with that. However, it is a question of the wording. I am instructed by Parliamentary Counsel that the word 'approval' means that if the Minister gives approval to the councils and they then fall out one has a stalemate with no means of resolution. However, if it is a delegation, and if the councils are unable to reach agreement, the power of delegation can always be withdrawn by the Minister, and the Minister can then act as the umpire. The use of the word 'approval' is not the same legally as a delegation.

The regulations under the Bill allow the Minister to delegate to regional bodies the power to prepare plans which affect more than one council. That is in the regulations and that is the better way of achieving what is the same goal. There is no disagreement on the goal, but I am advised that it is preferable to achieve that by delegation rather than by approval.

The Hon. M.J. ELLIOTT: The Minister's response, in the light of what she said a short while ago in relation to my amendments, is bizarre to say the least. The very thing she now agrees to is precisely what my amendments were seeking to achieve. All she is doing is opposing every amendment, then coming up with an excuse and not worrying about the fact they are not consistent. The point is that under the amendments I was proposing the councils could initiate it themselves, or the Minister could initiate it by requesting them to do so. So, the very thing that she now supports is the very thing that I was proposing under the amendments that she successfully opposed minutes ago. It just goes to show how doggedly difficult to get on with Ministers can be when they decide to do so.

Progress reported; Committee to sit again.

PUBLIC CORPORATIONS BILL

Returned from the House of Assembly with amendments.

CLASSIFICATION OF PUBLICATIONS (DISPLAY OF INDECENT MATTER) AMENDMENT BILL

Returned from the House of Assembly without amendment.

MUTUAL RECOGNITION (SOUTH AUSTRALIA) BILL

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

LIQUOR LICENSING (FEES) AMENDMENT BILL 1993

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

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I move:

That this Bill be now read a second time.

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

Leave granted.

On 23 June 1992, the Government announced its intention to increase the liquor licence fee from 11 per cent to 13 per cent in line with similar announcements that had been made by New South Wales and Victoria following the 1992 Premiers' Conference. These increases were made as part of an attempt at tax harmonisation by these three States.

Victoria subsequently decided not to proceed with the increase following a change of Government in that State. New South Wales has implemented the tax increase to 13 per cent but has deferred the first payment at that higher rate until May 1993.

The decision taken by Victoria means that only two States—New South Wales and South Australia—have acted in accordance with the original tax harmonisation proposal.

A number of representations have been received from the liquor industry stressing the difficulty of meeting the cost of the higher licence fee during a period when sales are flat or declining. The introduction of gaming machines into licensed clubs and hotels will provide a boost to the industry and the Government would like that initiative to have maximum impact.

The Government has therefore decided to reduce the liquor franchise fee from 13 per cent to 11 per cent for the 1994 licence year. In respect of 1993 licence fees which have been assessed at 13 per cent, the Government will provide tax relief by way of a rebate for the October quarterly licence fee instalment equivalent to the difference between the quarterly instalment calculated using an 11 per cent rate and that calculated using a 13 per cent tax rate.

The Bill to amend the liquor tax rate will come into operation on 1 October 1993 to enable licence fees for the 1994 year which are due and payable in January 1994, to be assessed at the lower rate of 11 per cent and to enable part-year licences taken out after 1 October 1993 to be assessed on a basis equivalent to the rebate arrangements applying to October quarterly instalments.

Reducing the liquor tax rate from 13 per cent to 11 per cent is estimated to have a full year cost to revenue of $7.6 million. The budget impact in 1993-94 is estimated at $5.7 million, comprising an estimated rebate cost of $1.9 million and lower revenues of $3.8 million in the second half of 1993-94.

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The date for commencement of the measure is fixed at 1 October 1993.

Clause 3: Amendment of s. 87—Licence fee

By this clause the fee for a retail, wholesale or producer's licence is reduced from the current 13 per cent to 11 per cent of the gross amount paid or payable for liquor purchased or sold (as the case may require) during the relevant assessment period.

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

TOBACCO PRODUCTS (LICENSING) (FEES) AMENDMENT BILL 1993

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

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I move:

That this Bill be now read a second time.

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

Leave granted.

The rate of tobacco tax was last increased in 1992. At that time, it was anticipated that tobacco consumption would fall as a result of the flow-on of the tax increase to tobacco prices. The negative impact on consumption has not been as large as expected with the result that tobacco tax revenues are expected to exceed the 1992-93 Budget estimate by at least $10 million.

Consistent with representations received in the lead-up to the 1992-93 Budget from groups supporting the Anti-Cancer Foundation, it is proposed to increase the tobacco tax rate from 75 per cent to 100 per cent with effect from the June licence month. In a full year, the increase in the tobacco tax rate is estimated to yield additional revenues of $35 million. It is proposed to use this revenue to finance a reduction in the rate of financial institutions duty. The additional impact on smokers will thus be used to provide tax relief to the wider business community as well as to individuals.

Foundation SA currently receives a share of tobacco tax revenues equivalent to a 5 per cent levy that forms part of the 75 per cent rate. Notwithstanding experience in 1992-93, it is anticipated that there will be a fall in tobacco consumption as a result of increasing the tax rate to 100 per cent.

To protect the funding of Foundation SA from the anticipated fall in the tobacco tax base it is proposed to increase its tax share from the equivalent of a 5 per cent levy to a 5.5 per cent levy. This levy is not additional to the proposed 100 per cent tax rate on tobacco products but, rather, is included within the 100 per cent rate.

To implement this change, the Act will be amended to change Foundation SA's share of tobacco tax receipts from 6.67 per cent (equal to 5/75) to 5.5 per cent (equal to 5.5/100).

Under the Tobacco Products (Licensing) Act, consumption licences are required to be taken out by people who choose to consume tobacco products purchased from unlicensed tobacco merchants. Fees for consumption licences were last increased in 1992 in line with the general rate increase from 50 per cent to 75 per cent.

To remove any incentive for tobacco consumers to attempt to avoid higher rates of duty by purchasing from unlicensed tobacco merchants, the Government proposes to increase the fee for consumption licences from $110 to $150 for a 3 month licence, from $210 to $300 for a six month licence and from $430 to $600 for a twelve month licence. These increases are in line with the proposed increase in the duty rate for licensed merchants.

The increase in the duty rate to 100 per cent is estimated to yield additional revenue of $35 million in a full year. In 1992-93 there will be a revenue impact equivalent to two months' revenue at the higher rate less the cost of ex gratia relief. The Government will provide ex gratia relief if it can be demonstrated that tobacco companies have not had adequate opportunity to recoup the cost of the higher licence fee before the first payment falls due on 31 May 1993.

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The date for commencement of the measure is fixed as 1 June 1993.

Clause 3: Amendment of s. 9—Consumption licences

The fee for a licence to consume tobacco not obtained from a licensed tobacco merchant is adjusted as follows:

(a) for a consumption licence for a 3 month term—the fee is increased from $110 to $150;

(b) for a consumption licence for a 6 month term—the fee is increased from $210 to $300;

(c) for a consumption licence for a 12 month term—the fee is increased from $430 to $600.

Clause 4: Amendment of s. 13—Licence fees

Under section 13, the fee for a tobacco merchant's licence is fixed at $2 plus a percentage of the value of tobacco products sold during the relevant period. The clause amends that section by increasing the percentage from 75 per cent (in the case of products sold to licensed tobacco merchants) and from 80 per cent (in the case of products not sold to licensed tobacco merchants) to 100 per cent and 105 per cent respectively.

Clause 5: Amendment of s. 24a—Application of money collected under Act

Section 24a requires that not less than 6.67 per cent of the amount of fees collected under the Act be paid into the Sports Promotion, Cultural and Health Advancement Fund for application under the Tobacco products Control Act 1986. This percentage is adjusted to 5.5 per cent.

Clause 6: Application of amendments

This clause is intended to make it clear that the percentage component of licence fees, as increased by clause 4, will apply to fees for the licensing month of June 1993, including fees for that month assessed and paid prior to the commencement of that month.

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

FINANCIAL INSTITUTIONS DUTY (REDUCTION OF DUTY) AMENDMENT BILL

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

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I move:

That this Bill be now read a second time.

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

Leave granted.

Since 1990-91, South Australia has shared with the Australian Capital Territory the highest rate of financial institutions duty.

This outcome resulted from a package of tax measures which the Government reluctantly introduced in 1990-91 to relieve pressure on the State's finances. The Government's objective has always been to reduce the tax burden, particularly on the business sector, as soon as the opportunity became available.

The Government has decided to increase the tobacco tax to 100 per cent and to use the proceeds to finance a reduction in the rate of financial institutions duty from 0.10 per cent to 0.065 per cent. The lower FID rate will take effect from 1 June 1993.

Included in the current rate of financial institutions duty is a levy of 0.005 per cent, the proceeds of which are paid into the Local Government Disaster Fund to assist councils to meet unusually high expenditures resulting from natural disasters. When introduced in 1990, this levy was intended to have a five year life ending on 1 October 1995. That is still the Government's intention.

Excluding the natural disaster levy, the base rate of FID is currently 0.095 per cent; this will fall to 0.06 per cent as a result of the rate reduction proposed by the Government.

There will be a full year revenue impact in 1993-94 from the reduction in the rate of financial institutions duty. The estimated cost to revenue of $35 million will be offset by equivalent full year revenue gains from the increase in the tobacco tax rate.

Clause 1: Short title—This clause is formal.

Clause 2: Commencement—The clause fixes 1 June 1993 as the date for commencement of the measure.

Clause 3: Amendment of s. 3—Interpretation—Under this clause, by an amendment to the definition of 'the prescribed percentage', the rate of the duty payable under the Act is adjusted from the current 0.1 per cent of dutiable receipts to 0.065 per cent. The rate of 0.095 per cent, as currently fixed for the period from 1 October 1995, is correspondingly reduced to 0.06 per cent for the period from the same date. The clause makes a further consequential amendment to the definition of 'the relevant amount'.

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

ADJOURNMENT

At 12.11 a.m. the Council adjourned until Thursday 29 April at 11 a.m.