LEGISLATIVE COUNCIL

Thursday 29 April 1993

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

RACING (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 1 April. Page 1880.)

The Hon. R.I. LUCAS (Leader of the Opposition): This Bill is a conscience vote issue for members of the Liberal Party, as the shadow Minister of Recreation and Sport, John Oswald, indicated when this matter was debated in another place. As with all other gambling issues that we have debated in the Parliament over my 10 or 11 years in this place, the forthcoming couple of hours, I am sure, will indicate the breadth and diversity of views that exist within the Liberal Party regarding all issues relating to gambling. We have—

The Hon. G. Weatherill interjecting:

The Hon. R.I. LUCAS: We do not have gambling issues; we do not have a split. It is just sort of spread everywhere.

The Hon. G. Weatherill: Do you want to bet?

The Hon. R.I. LUCAS: I would like a shade of odds about it. We have, ranging from one end, members such as myself who, I think on reflection, have yet to oppose an extension of gambling in this Chamber, over my 11 years, through to other members who consistently, and in accordance with their conscience, have opposed all attempts to extend forms of gambling in South Australia and during the past year. Of course, we have all shades of opinion in between with members who have supported some measures and opposed others.

So, again on this issue, a variety of views will be expressed by members in accordance with their individual conscience, and there is no formalised Party position on this issue. I state that on the record because due to—

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: No, John Oswald, as I indicated, said it was a conscience vote issue and that all members would vote in accordance with their conscience, but his judgment was that the vast majority of Liberals would support the issue. Certainly, in relation to the House of Assembly his judgment was proved correct because no-one formally spoke against it. There may well have been opponents but they did not speak against the issue. However, there will be a number of members in the Legislative Council speaking for and against the issue. I wanted to place that on the record because some of the comments made by Dean Brown to the media were, I am advised, taken out of context and he has indicated, as I have indicated, and as John Oswald has indicated, this is conscience vote issue and Dean Brown, as Liberal Leader, has indicated that on a number of occasions. As with all other members, Mr Brown has expressed his own particular view on this amending Bill.

This Bill canvasses a number of issues in addition to the obviously contentious issue of telephone betting. For example, it removes some outdated provisions in the Act in relation to bans on live hare coursing, outdated provisions in relation to legislation such as the Public Service Board and a number of other similar outdated provisions.

It also moves to increase the size of the TAB Board from five members to six, and the extra member is a member to be nominated by the Minister. It places the Minister in a slightly stronger position *vis-a-vis* the powers of the TAB Board. The Minister is already in a very strong position anyway, because the current five members are nominated by the Minister. Three of them are nominated after consultation with sections of the industry, and I am not sure whether any Minister has ever acted against the recommendation of sections of the industry. That will be one of the questions I will ask during the Committee stage. The Minister is in a pretty strong position already, but this amendment will place the Minister in a stronger position again.

There will be three nominees of the Minister directly, one of whom will be the Chair and, if there is an equality of votes on the six person board, the Chair will have a casting vote. In essence, the three nominees of the Minister directly will now control the TAB, whereas in the past one could at least make out an argument that the two nominees of the Minister might have been outvoted by the three nominees from the industry, and the casting vote provision of the Chair would not have come into play.

Again, I am advised by representatives of the industry that there is no opposition to this proposition and, whilst I have received considerable lobbying from the industry on telephone betting, other aspects of the Bill such as this change in relation to the structure of the board have not received any attention at all.

The second principal element in the Bill in addition to telephone betting is the provision that will allow for an auditorium to conduct betting at a racecourse at which a race meeting is not being conducted. The shadow Minister advises me that the auditorium will be incorporated in the existing new public stand at Morphettville and will be complete with bars and both tote and bookmakers. It has the full support of the SAJC, the Bookmakers Licensing Board and the Harness Racing Board. I am advised that the TAB is opposed to the proposal as it believes that, as no racing is being conducted, the auditorium is no different from any other TAB auditorium. Therefore, there should be no bookmaker presence at all.

The Greyhound Board has objected because the auditorium will cut across its mid-week meeting, but I was advised that the SAJC has been negotiating some form of compensation package for the greyhounds on that issue, and I understand that there may well have been some resolution of that issue. There will also be an arrangement where a consortium of bookmakers will be allowed to operate within the auditorium environment, and the group can be formed with the express purpose of accepting large bets of, say, $5 000.

Perhaps they will be able to take the likes of the Hon. Mr Weatherill and the Hon. Terry Roberts when next they are visiting. I know the interest of members

opposite in this and related matters, and perhaps this provision would be of interest to those members.

The Hon. T.G. Roberts: That is our life savings you are talking about!

The Hon. R.I. LUCAS: But if put on a sure thing? The consortium, as I said, could be formed with the purpose of accepting large bets that might be beyond the ability of individual bookmakers to accept, and I am told that approximately eight or nine bookmakers at this stage have indicated a desire to form a consortium to operate within the auditorium either themselves or, probably more likely, through an agent. The auditorium will be open every day except when there is a metropolitan meeting for one of the codes, or so I am advised.

As I said, a number of matters other than the contentious issue of telephone betting are included in the Bill. Of course, the major issue is telephone betting. As members in this Chamber would know from previous speeches I have given on the issue of racing, I have through the years been a strong supporter of the option of telephone betting for on-course bookmakers. I also have to say that in recent years I have been a supporter of the option of fixed odds betting for the TAB as well, assuming that I can be convinced that there is some viable system that the TAB can develop for fixed odds betting.

I must say, as a personal preference and as a conscience issue, a combination of both would be appealing. I think that would be attractive to punters who would like to punt with an on-course bookmaker but who are unable to get to the races and also to punters who might want to bet with the TAB but also want to know what they are going to get or not get, as the case may be, with the fixed odds option. I have supported both of those proposals over the years.

Over the years, as I said, that has been my preferred option. Obviously, as we got closer to the fixed odds issue I received considerable lobbying against it. I must admit that some of the arguments did seem to carry some sway. However, in the end, we did not have to proceed with a vote on that. I have to say that, in relation to the issue of telephone betting, I have had to reconsider my own position as a result of the views that have been put to me from opponents of that proposal. I have been frank with all who have approached me on this issue. When approached by opponents of the measure, such as Colin Hayes and others, I explained my position that for a long time I have been a supporter of telephone betting, but I was nevertheless, as always, prepared to listen to reasoned argument on any issue. However, I would need to be convinced to move away from a position I had held for some years.

Because I have heard some criticism of Colin Hayes in relation to his stance on this issue I want to say, as one member of this Chamber, that I respect greatly the advice and the views that he has provided to both myself and other members of this Chamber in respect of this issue. I have great respect for Colin Hayes as a person and for the contribution that he and his family have made to the racing industry and also to South Australia. I know that a number of my colleagues have been involved with international visitors who have come to South Australia and they have always been welcomed by Colin Hayes and his family as guests at Lindsay Park. I believe he is a great ambassador for South Australia as well as for the racing industry.

Because a person with Colin Hayes' status and others have asked me to reconsider my position on this Bill, I was more than prepared to do so. Together with other members, I met with Colin and others whom he wanted to bring along to put their particular view on this issue. Of course, equally, we have met with representatives of the bookmakers, the SAJC and other supporters of the legislation as well.

I want to outline the proposed plan, because I believe that, in some of the discussions I have had with people not involved with the industry, that the way this system is to operate is not well understood by some in the community. To do so I want to refer to an article by Dennis Markham in the *Advertiser* under the heading 'New guidelines for bookmakers telephone betting system include a hi-tech security net' and another heading of 'Phone bet plan may attract new clientele'. Mr Markham is referring to an average punter by the name of John Smith, and he says:

> Mr Smith is now in the process of establishing credit facilities with the legal bookmaker who will be operating at the races and able to accept bets of $250 or more, or the odds to winning $2 000. Mr Smith will be able to ask the prices of two horses but no more with any one telephone call before any race. He can then decide the size of his wager, which must fall into the previously mentioned criteria.

Then further on:

> As it stands now, bookmakers wanting to make telephone bets will first need to buy a mobile telephone at their own expense. Instead, he will give another designated telephone number to each of his clients. The number given to the client will enable that person to ring the BLB office for connection to the bookmaker of his choice.

It is important to note that: the call does not go direct to the individual bookmaker; it goes to a bank of telephones, a PABX system, in the BLB office and that is then connected to the individual bookmaker of the punter's choice. Further on the article states:

> Once the call is accepted at the BLB office it is automatically diverted to that bookmaker at the course who receives it on a different and unknown number. At the same time the entire call is recorded on a voice-activated device which also logs the time the call was made. The bookmaker will be unable to make outgoing calls on his phone and regular checks will be made by oncourse BLB officials to ensure the bookmaker is using the phone allocated. There also will be random checks of all bets to thwart any attempts not to record them accurately or to identify bets not made but included on a bookmaker's sheet. And though the client's number to ring the BLB will remain the same, the diverted numbers to contact a particular bookmaker will regularly be changed. All bets, both at the course and by telephone, are likely to be entered on the same betting sheet and clearly identified.

In discussion I had with Mr Michael Webster he indicated that that would in fact be so and that they would be chronologically logged as they are received, whether received on course or by telephone. That is important when I refer to another issue which one of the two or three largest punters in South Australia has raised with me—the issue of what odds people might be being offered and what sort of check there might be with the telephone betting process. The article continues:

This will enable bookmakers to defend any accusation of giving a lesser price to a telephone client than is actually being displayed at the track.

This very large punter in South Australia, who would be known to all the bookmakers, had a view that when he or his family bet on track there were a number of bookmakers who, when they saw him or his wife coming, wound the odds in pretty quickly, even though a bet might not have been taken at that time on the particular horse that the punter was obviously racing around the bookmaker ring trying to get a number of bets on. He had a complaint about that sort of behaviour by bookmakers, but in the discussion, I had with him I indicated that perhaps at least with this telephone betting technique there may well be an opportunity which will be clearly logged on the sheets to see whether this particular punter, at 2.5 p.m., for example, was offered 4 to 1 on a horse and someone one minute earlier was being offered 6 to 1 and someone one minute later was being offered 6 to 1. I would hope—and I was given this understanding by SAJC officials and the bookmaker's representative—that that sort of procedure may well attract some interest from officials in relation to telephone betting.

The final section from the article to which I want to refer quotes Mr Dennis Harvey, the Director of the Racing Division of the Department of Recreation and Sport—

The Hon. T.G. Roberts: A great authority.

The Hon. R.I. LUCAS: He is someone who has changed his mind on this issue in the past two or three years. I was pleased to meet with him in the past few days to clarify his position. The article states:

Mr Harvey said that abuse of these strict guidelines by any bookmaker would result in stiff penalties. Those penalties include a $4 000 fine (up from $200) for a breach of the rules. 'A bookmaker can also be barred for a year by the Bookmakers Licensing Board,' he said. A second offence carries an automatic ban for life.

So, these provisions relating to misbehaviour are very significant, and the notion that a bookmaker may well be banned for life because of falsification of records must be a very powerful incentive for a bookmaker either to behave or not to be caught.

The general opposition to the legislation can probably be summarised under two or three general headings. One is that it will harm racing and the racing industry generally. Obviously, a related issue is that it will lead to a reduction in TAB revenue and I will address that issue at some length later. Thirdly, the only other experience of telephone betting (in the Northern Territory and Darwin) has been unsuccessful and therefore we in South Australia ought to have learnt from that experience and should not proceed down that path.

A major issue that impacts on all the others is whether or not TAB revenue will be affected by the proposal and, if the judgment is made that it might be affected, what might be the level of effect on TAB revenue as a result of the introduction of telephone betting. I presume that the Minister is still refusing to release this TAB report, which is the most widely quoted secret and confidential report that I have known in recent years, and for the life of me I cannot understand why he does not release the report, in the interests of open debate on this issue and at least clear the decks from his own point of view.

Sadly, I think the Minister's whole handling of this issue is a major error of judgment on his part (and there have been a number of others, in my judgment). Certainly, the report is in such wide circulation now and has been for some time that the sensible course for the Minister and those who want to see telephone betting in South Australia with oncourse bookmakers would be to have this report released and, if they so wish, to challenge the validity of various statements and claims in that report.

The Hon. Diana Laidlaw: He has just compounded the whole problem.

The Hon. R.I. LUCAS: He has compounded the controversy when, handled in a more efficient fashion, the issue could have been sensibly debated by the proponents and opponents of the measure, and we could have had a sensible debate. If the Minister will not do so, I intend to quote at length from the report and place it on the public record. If any member wants a copy of other sections of the report, I am more than happy—

The Hon. Diana Laidlaw: Will you seek leave to table it?

The Hon. R.I. LUCAS: I am happy to seek leave to table the report, Mr President.

Leave granted.

The Hon. R.I. LUCAS: Before addressing it, there is a lot of controversy about the status of this report. We were given three versions of its status. One was that it was a board report to the Minister expressing concern; the alternative view that we were then given was that it was a report signed by three of the board members whilst the other was overseas and unable to be present and it went to the Minister without that board member's knowledge or support. The third version was that it was not a board report; it was a report prepared by the management of the TAB. I understand it is difficult to find someone to put up their hand in the TAB as to who prepared the report. Nevertheless, it is indicated that it was a management report which had only been formally signed by the then Chair of the TAB, Mr Taeuber, and forwarded to the Minister. There is a problem with the third version. The letter, under the letterhead of the South Australian Totalisator Agency Board, reads:

Dear Minister,

At their meeting held on February 23 1993 the board discussed the issue of oncourse telephone betting for bookmakers. The board reinforced strongly their opposition to this initiative, citing the following points in support.

A fair interpretation of the opening two sentences of this submission or letter from the Chairman of the TAB to the Minister could only lead one to believe that Mr Taueber was saying that the board had met and reinforced their opposition to the proposition for telephone betting. As someone who has now seen this submission, that would be the way that I would interpret it. Whilst I understand the other arguments, on the balance of probabilities I think that could be the only way to interpret those two opening sentences. The report—I shall not quote all of it—further states:

It is considered that the introduction of the service—

that is, telephone betting—

will have an adverse effect on TAB turnover and subsequent profit distribution to the State Government and the racing industry. Currently a minimum turnover of approximately $25 million, or 5 per cent of total SA TAB turnover, is derived from win and place bets of $250 or more. This turnover will be placed at risk with the proposed agreed minimum bet level of $250 and/or a minimum risk to the bookmaker of $2 000 per bet. Any reduction in TAB turnover will result in a corresponding reduction in profit distribution to the State Government and racing industry. This is illustrated in the following table:

I seek leave to have incorporated in *Hansard a* statistical table on the potential loss of TAB profit.

Leave granted.

POTENTIAL LOSS OF TAB PROFIT

- Minimum turnover at risk: $25 million
- Budgeted profit rate 1992-93: 8.27% of turnover

% Loss of TAB	T/O Amount ($m)	Profit Reduction (8.27%) $	Govt Share of Profit $	Racing Industry Share of Profit $
10	2.5	206 750	103 375	103 375
20	5.0	413 500	206 750	206 750
30	7.5	620 230	310 125	310 125
40	10.0	827 000	413 500	413 500
50	12.5	1 033750	516 875	516 875
60	15.0	1 240500	620 250	620 250
70	17.5	1 447250	723 625	723 625
80	20.0	1 650000	827 000	827 000
90	22.5	1 860750	930 375	930 375
100	25.0	2 067300	1 033 750	1 033 750

The Hon. R.I. LUCAS: This table has a number of headings. One is the percentage loss of TAB turnover at risk, ranging from 10 per cent to 100 per cent, and it then goes through other tables indicating what the turnover amount and profit reduction would be and what the Government's and the racing industry's share of profit would be as well. The report concludes:

Under the proposed legislation, oncourse bookmakers will pay 1.4 per cent of telephone betting turnover to the clubs and nil to the Government. Therefore, any loss of TAB turnover to the on-course bookmaker telephone betting operation will result in a reduction of profit to the Government. For example, if there is a 50 per cent transference of the TAB turnover at risk (i.e. $12.5 million) the loss in profit payable to the Government will be $616 875.

It is important to look at this section of the report because the *Advertiser* article to which I referred earlier had another story under the heading "$25 million in revenue at risk", say TAB board members'. When one reads the report one sees that the figure of $25 million can only be arrived at by the assumption that the percentage loss is actually 100 per cent of TAB turnover being at risk. I do not think there are too many people with knowledge of the industry who are indeed arguing that position. In the section of the report that I have quoted, the board members say that, for example, if there is a 50 per cent transfer—they do not say that that is their estimate—the turnover at risk is $12.5 million.

I understand that at least two sections of the report that I have quoted are inaccurate. One section, under the heading 'Potential loss of TAB profit', states that the minimum turnover at risk is $25 million. When one looks at that table it is quite clear that the minimum turnover at risk is certainly not $25 million, because the TAB board looks at a whole range of other options going down to 10 per cent loss of TAB turnover at risk, or a sum of $2.5 million.

The second issue is the suggestion that under the proposed legislation on-course bookmakers will pay 1.4 per cent of telephone betting turnover to the clubs and nothing to the Government. I am not an expert in this area, but I am advised by a representative of the industry and the shadow Minister that there is a variable turnover tax that the bookmakers pay to the Government. That tax varies between local and interstate racing as well as between city and country racing. The average figure that is generally accepted is a turnover tax figure of about 2.25 per cent which is creamed off for State Government purposes. I cannot find the individual figures, but amongst the pile of material in my possession the average figure was 2.25 per cent, and the bookmakers pay 1.4 per cent which I believe is called stand fees to the clubs as well. So, a figure of around 3.65 per cent is taken out of bookmakers' turnover for the clubs and for the Government for its use as a result of the betting on bookies.

So, at least two sections of that report I believe are inaccurate, and this may well involve other sections of the report. I am told that the new board might be preparing a second position. It may well be a clarification: that is, they support the first view but they want to clarify some of the figures, or it might be a second position. I do not know. I am not privy to that if that is the case, but in Committee I will ask the Minister whether there has been any subsequent correspondence from the new Chairman, who I believe is Mr Cousins, on this issue which clarifies any aspect of this correspondence of March of this year.

The issue of the revenue potentially at risk in this area is obviously the point of major contention. The South Australian Jockey Club and the bookmakers obviously vehemently oppose this suggestion that a minimum of $25 million revenue is at risk. They suggest that a figure of $5 million, which relates to bets of $250 or more on the current telephone betting operations within the TAB, is a more appropriate comparative figure that ought to be considered by members and the Government as being potentially at risk rather than the figure of $25 million.

Now, I hasten to add that the jockey club and the bookmakers are not arguing that that $5 million is at risk. Their argument in support of the proposition is that they believe that they will attract new money into this arena and also money away from the current SP operations but, nevertheless, they say that if the figure is to be used the figure that ought to be used is $5 million rather than the $25 million figure as well.

The other point which has been made and about which there has been some contention in relation to this particular issue has been the notion of whether or not bookmakers will be laying off any money on the tote as a result of new money coming into the industry because of this particular measure. Again, I had two views put to

me. The view put to me by one prominent punter was that, to his knowledge, bookmakers laid off with each other and he believed the arguments from some leading bookmakers that they laid off large sums of money with the tote were nonsense. The other view was put to me by Mr Michael Webster. He said that prior to, I think, October last year, before the combination of the South Australian pool and the interstate pool, the amount of money that might have been laid off with the tote might have been small or negligible. His submission to me was that, certainly since the combination pools and the fact that the pool was now much bigger, he, as one bookmaker, and I think the largest or one of the largest bookmakers in South Australia, was laying off, on average, some $4 000 to $5 000 a week on the tote. So, therefore, he was supporting the view that was publicly discussed in the media recently that bookmakers will be laying money off on the tote and, of course, as a result of this there is a higher take by the industry and, of course, it is a double take as well because there is a take through the bookmaker and then a take through the tote. Again, there is new money coming into the industry.

It is a contentious area. As I said, I do not accept the view that $25 million is at risk. I accept the view that there may well be some money at risk. There may well be some people who currently bet on the tote, on the TAB, on the telephone, who might avail themselves of telephone betting with an on-course bookmaker. I must also say that I do not accept the purist view of the bookmakers that it is only the $5 million telephone betting or part of that that might be diverted. Certainly, in my experience, there are some people who might bet $250 or more at their local TAB agency who would be attracted to the notion of knowing that they have a fixed odds bet. They might currently bet at the TAB, not on telephone, but for convenience and the fact that they would get a fixed odds bet, legally, with an on-course bookmaker, would divert their money from betting on the TAB to betting with the on-course bookmaker.

Certainly, one or two of my friends and associates would indeed be in that position. They are people who do not go to the track, who do not have a telephone account and who occasionally—they are not big punters—bet reasonably large sums, and would be attracted to the option of being able to get a fixed odds bet with a bookmaker by way of telephone. I think there is an argument both ways and I do not accept the positions of both sides of this particular debate. I think the true position will probably be somewhere in between and that a bit of money might be diverted from one point and a bit of money might be diverted from the other pool. I do not accept the view that anywhere near the order of $12.5 million to $25 million is likely to be diverted. I suspect if it is to be diverted at all it will be at the lower end.

In relation to this provision that many in the industry are arguing, where the Minister can stop this if it is shown to be harmful to the industry, members need to bear in mind that once something is up and going it is pretty hard to stop it. So, I take this proposition with a grain of salt. Secondly, it is possible that the introduction of poker machines in licensed pubs and clubs at much the same time as this equally will have an effect on TAB revenue. Therefore, it will be difficult, if there is a decline in TAB revenue from May through the next year or so, to be able to point the finger and say that certain percentages are due to telephone betting and to poker machines respectively.

I take with a grain of salt this view that says 'All right, let us give it a go, because we can always stop it in 12 months if it has not worked.' Members ought not to be voting for this legislation on that basis, because in my judgment it will be almost impossible to determine and, once something is up and going, it is very difficult to pull in the reins and, in effect, to take away that particular option.

The Hon. T.G. Roberts: Big punters don't use poker machines, though.

The Hon. R.I. LUCAS: Big punters?

The Hon. T.G. Roberts: Yes.

The Hon. R.I. LUCAS: The next area I want to address is the area of SP bookmaking and money. I want to refer to parts of the report of the Queensland Criminal Justice Commission, to which my colleague John Oswald has also referred in another place when dealing with this Bill, because here is what one could call an independent group in relation to the issue of SP bookmaking and telephone betting and the links with the criminal elements of society, and members ought to be aware of its views on this issue. The Queensland Criminal Justice Commission report, in summarising its views on SP bookmakers said:

> SP bookmakers pay no turnover tax or licensing fees. This represents a substantial denial of Government revenue;
>
> SP bookies do not pay their full share of income tax;
>
> The racing industry suffers as a direct result of SP bookmaking... There are other costs associated with unlawful bookmaking... such as the need for additional police resources ...Unlawful bookmaking has connections with other forms of major and organised crime;
>
> Because of the associations between SP bookmakers and other criminals, the SP network provides an ideal conduit for crime. Criminals who may otherwise have been regionally confined, are given the opportunity to expand their activities and make contact with other criminals and crime opportunities in other States;
>
> The illegal SP bookmaking industry has consistently proven itself to be one of the principal sources of corruption of police and other public officials;
>
> SP bookmakers are able to resort to either the threat, or actual use of violence;
>
> There is a nexus between SP bookmaking and race fixing;
>
> There are significant social problems involved with SP bookmaking. These include the family dysfunction that tends to result from gambling addiction.

I am also advised by my colleague Mr Oswald that interstate experience indicates that major crime elements are starting now to move into SP bookmaking to a greater degree. There is a good flow of cash from the industry. The penalties relative to other crimes in which they might have been involved in the past or present are relatively less punitive and therefore make the whole industry very attractive for major crime elements in other States and, therefore, potentially here in South Australia as well. The Criminal Justice Commission goes on to say:

> SP bookmaking continues to exist despite efforts directed at its suppression and despite a wide diversity of lawful gambling options, because it provides a service that a substantial minority

of punters demand. The service that is currently provided by unlawful bookmakers must be supplanted by some legal alternative. The aim must be to attract the market share that SP bookmakers currently hold away from the unlawful operators by offering legal alternatives to those aspects of their service that attract punters in the first place... This commission has identified the following as being the most significant aspects of SP bookmaking that are attractive to punters. Any major extension in available legal gambling should be directed towards replicating, as far as possible, these services:

SP bookmakers offer telephone access;

SP bookmakers offer fixed odds betting;

I must say that I am a babe in the woods in relation to SP bookmaking and I had to consult one or two of my parliamentary colleagues to get the good oil on it, because I thought SP bookmaking was starting price odds. This says that SP bookmakers offer fixed odds betting. I am advised by one or two of my colleagues that their local SP offers starting price, but some people offer a fixed price arrangement. What the relative mix is, I am not sure.

The Hon. Diana Laidlaw: Perhaps it depends how much money you have.

The Hon. R.I. LUCAS: It might depend on how much money you have or what your credit is like, or how big a bunny they might judge you to be. The Queensland Criminal Justice Commission report continues:

SP bookmakers offer credit and, additionally, SP bookmakers accept wagers on a diverse range of contingencies; and

SP bookmakers often offer a discount on losing bets.

The critical aspects from my viewpoint are that they offer telephone access and credit in relation to their services. The report goes on:

The legal gambling industry must become more flexible and responsive to market demand. It is probably reasonable to conclude that the community is either neutral towards the present off-course betting arrangements provided by the TAB or, alternatively, that it believes the TAB is not adequately servicing a legitimate social activity. SP operators have a flexibility which allows them to tailor their products to match their customers' requirements—they offer credit, a personalised and convenient service, and a more acceptable betting form. Fluctuating totalisator odds are essentially unattractive to many large punters.

I might say, on my own behalf, that that applies to many small punters. The report continues:

I refer now to the role of the licensed bookmaker, as follows:

Given that the TAB foresees the introduction of TAB credit betting as an impossibility the best alternative would appear to be to allow licensed bookmakers to field by telephones. If licensed bookmakers were allowed to field by telephone the 'need' to bet SP, experienced by many punters to obtain the service that they so clearly demand, could then be obviated. The issue of allowing licensed bookmakers to field by telephone has always been rejected in the past. The predominating consideration has invariably been a fear that it is likely to impact on the TAB revenue.. .This commission's research has indicated that given the inability of the TAB to offer a system of credit the provision of telephone betting with on-course bookmakers should be seriously explored... On-course bookmakers have an important cultural, historic role within the Australian community. Bookmakers fielding at racing carnivals provide one of the prime attractions for racegoers. As such, their presence (or otherwise) at race meetings will have an important determinant effect on the overall viability of the racing industry ... This commission's studies support the view that if licensed bookmaking becomes unprofitable and continues to demise then the way will be left open for a substantial enhancement of the role of the SP bookmaker.

To summarise that very long quote from the Criminal Justice Commission's report on this area, it is saying that SP bookmaking is a substantial industry. I am not sure exactly where this estimate has come from; it is an estimate from some other source that escapes me for the moment, but the estimate of the size of the industry nationally is some $4.2 billion. A percentage of that in South Australian terms is obviously quite considerable, if that is an accurate assessment. There have been other reports, to be fair, which indicate that the size of the SP industry nationally might be as small as $500 million, so it is very hard to put a finger on exactly what it is worth.

Nevertheless, it is quite considerable. The Criminal Justice Commission is saying that we have major problems with SP in relation to crime. The SP has attractions. Legitimate forms of betting at the moment do not meet that market demand or niche, and the only way that it can is through legitimate on-course telephone betting with bookmakers. I repeat the summary of the report, as follows:

If licensed bookmakers were allowed to field by telephone the need' to bet SP experienced by many punters to obtain the service that they so clearly demand could then be obviated.

In general terms I support those views of the Criminal Justice Commission. I do not think it has a beef in relation to this industry; it is not a vested interest. With the greatest respect to everyone who has spoken to me so far on this Bill, whether they are for or against it, by necessity they have a vested interest one way or another in the legislation before us. However, the Criminal Justice Commission sitting in Queensland does not have a vested interest in this particular issue. It is that commission that is indicating that there is the potential to cream off some of this SP money.

I do not believe that this measure will stop SP bookmaking. I am not naive enough to have ever suggested that nor to suggest that now. From what I am told, SP bookmaking will continue forever and a day. However, in my judgment, some of that money can be creamed off from SP bookmaking into on-course bookmaking with telephones and, of course, the Government and the clubs will be able to take a small percentage of that money for the racing industry.

It is for those reasons that, whilst I have said before that there are some arguments about what might be the direct effect on the TAB of punters moving from the TAB or sections of the TAB betting pool at the moment to on-course telephone bookmaking, I see the greatest potential for new money—and so does the industry—as coming from SP bookmaking in particular. It is a view I have held for a while. I was prepared to listen to arguments from all who wanted to argue against that particular view, but in the end evidence like that from the Criminal Justice Commission—a non-interested party in this particular issue—carried greater sway with me. Whilst I listened to all the views, I found that evidence more convincing.

As I said, I had to reconsider my position and assumptions in relation to telephone betting, but, on balance, having listened to all the arguments, I believe that neither the industry nor the TAB will be wiped out. If asked to vote on this particular issue, I would certainly be supporting the option of telephone betting for bookmaking in South Australia.

The last area I want to mention briefly is that there has been an argument for a select committee on this particular issue. From informal discussions that I have had with a number of members, the preferred position of a number of them—and I am not talking only about members of my Party on this occasion but also members of the Democrats and the Government—is that amongst those opposing it many have formed their view already and are not supporting the proposition of a select committee. Indeed, I am not aware at this stage, even as we debate this Bill today, of any member who is intending to move for a select committee. It may well be that there is someone, because I have not spoken to everyone. However, at this stage I am not aware of anyone who is supporting the option of a select committee.

As I understand it, that is the case because many people have now made up their mind. They have listened to the arguments both for and against. Certainly, in relation to members of the Liberal Party, as I indicated earlier, we have met with the strongest opponents of this legislation. We have listened to their views and we have received and considered the reports from the Department of Recreation and Sport, the working party, the police and the supposedly confidential TAB reports. Again, in relation to the working party report, as I instanced, some of the people who were signatories to that have changed their mind in the past two to three years and have indicated that to us. I have now read all those reports, I have spoken to both sides of this particular argument and I am comfortable that as a matter of conscience I have enough information to make a judgment to confirm, as I said earlier, what has been a longstanding view; that is, to support telephone betting for on-course bookmakers.

The Hon. L.H. DAVIS: I also add my support for the measures contained in this Bill amending the Racing Act. Certainly, the majority of the measures are not controversial. The extension of the numbers on the Totalisator Agency Board to six and the provision of auditorium betting, whilst generally controversial, have not created great disquiet in the public at large. The focus, as my colleague the Hon. Robert Lucas has said, has concentrated on the opposition to telephone betting.

I must say that whilst I have a great regard for the achievements and contribution to racing of the former champion trainer Colin Hayes, I was somewhat startled to see in a recent *Sunday Mail a* claim by Mr Hayes that South Australia could become the nation's corruption capital if telephone betting were introduced. I thought that was really stretching the argument. The article subsequently gave no supporting evidence for that claim. In fact, the evidence provided by Mr Hayes was not at all damaging, I thought, to the overall claim for telephone betting.

However, I think this is an appropriate opportunity to reflect on matters such as gambling in this State, matters which certainly in the Liberal Party are regarded as conscience issues. I respect very much the fact that not all my colleagues will endorse the views that I express to the Council today. Of course, that is the very essence of a conscience vote, which invariably is associated with matters of gambling, prostitution and other issues. Perhaps liquor is another item that has attracted conscience voting in the past.

I think it is appropriate to reflect on where our society has come from in the past 30 years. In the 1960s there were no lotteries or off-course betting facilities provided—other than, of course, illegal SP bookmakers. The Casino was not opened until the 1980s. When I was brought up as a Methodist dancing was regarded as evil and going to the beach on Sunday was regarded as not very good, either. Of course, we can remember that in the 1960s hotels closed at 6 p.m. and there were very few restaurants. South Australia now has a large number of restaurants—some 500—many of them influenced by migrants to South Australia, who have brought enormous range, diversity and quality of food to those restaurants. Of course, we now have arguably the best liquor licensing legislation in Australia. It is flexible and reasonable.

That area is a very good example of where progress has been made that many people might not have liked—in other words, opening up drinking hours—and yet there has been progress simultaneously in addressing some of the problems created by drink. I refer particularly to drink driving, because in that same period of 25 years, when drinking hours have been liberalised dramatically, South Australia has more than halved the number of road deaths from a peak in the late 1960s, as I remember, of some 360 deaths *per annum* to a figure last year—which I think was the lowest in recorded history—of something just over 160.

Since accurate records have been kept it is the lowest figure ever recorded in South Australia. That is not a phenomena peculiar to South Australia; it is a nationwide trend. That reflects very much on the legislation which has been pioneered in many ways by some of the members in this Legislative Council—people such as the Hon. Dr Ritson, the Attorney-General (Hon. Mr Sumner) and myself who served on the random breath test select committees of the early 1980s which, against fairly fierce Opposition I remember, notably from the afternoon *News* of the day, recommended the introduction of drink driving tests. Of course, more recently, again after some opposition, we have reduced the legal blood alcohol limit on the roads from .08 to .05, and that of course is also something which has been introduced in all States of Australia. That is a very good example of where social legislation, which has freed up previously restrictive hours for the buying of liquor and the consumer of liquor, has also been accompanied in that same period by a reduction in the tremendous social and economic cost associated with drink driving, not only the deaths but also the many accidents on our roads.

So, I come to the subject of gambling and to look at most particularly the aspect of telephone betting and the role of bookmakers. It is important at the start of this address to make the judgment: does racing in Australia and South Australia, given that it is one of the biggest industries in the economy, require bookmakers? I have

only been to one race meeting in America, where bookmakers do not exist oncourse, and the atmosphere is not the same. I really do subscribe to the colour and the atmosphere and the very leading role that bookmakers play in setting prices to justify the retention of bookmaking. It has been very much part of our English and Irish tradition that Australia, from the inception of racing, has had a very central role reserved for oncourse bookmakers.

Of course, it is pertinent in addressing telephone betting to look at the likely impact of illegal SP betting, as my colleague the Hon. Robert Lucas observed. Certainly, when TABs were first introduced around Australia in the 1960s—and South Australia being the last State to have the TAB in 1967—it was thought that this may reduce illegal off-course betting offered by SP bookmakers. Certainly, there has been steady improvement in the facilities offered by off-course totalisator agency betting, which reflects the changing style of gambling. When the Lotteries Commission was first established in the 1960s, pretty well its only product was the standard lottery, where people bought a ticket and when 100 000 tickets had been sold the prize winners were drawn. Today that form of lottery has disappeared altogether and the X-Lotto is by far the biggest revenue earner for the Lotteries Commission.

Reflecting changing social attitudes and tastes, we have seen in recent times the introduction of TAB and Sky Channel in hotels which together have dramatically impacted on TAB revenues and at the same time has had a negative impact on attendances at race courses. That, of course, has made it very difficult for oncourse bookmakers. In fact, pub TABs operate now in more than 300 hotels. Last year they accounted for 39 per cent of total TAB turnover, and telephone betting, which in 1986 represented 24 per cent of total TAB turnover, has continued to shrink with the advent of pub TAB and now represents only 13 per cent of total TAB turnover, and I understand that that figure is continuing to decline.

So, pub TAB has been successful for the Totalisator Agency Board and with now 300 outlets it has seen the TAB total turnover double in six years, which is quite a remarkable feat, particularly given that the past two or three years have seen a deep economic recession. But in that same period, that last six years between 1986 and 1992, bookmakers' turnover has fallen by 50 per cent because, as I have mentioned, there has been a continuing fall in attendances due to the ease of access and relative comfort in which people can drink and in some cases dine, watch Sky Channel or races every minute or two and have a bet. It is very hard for oncourse facilities to compete with that leisure option in 300 outlets around South Australia. There was a time when I remember the *Advertiser* published attendance figures at races, and in the 1960s thousands of people used to go to the races on Saturday.

The Hon. T.G. Roberts: And go to the dance on Saturday night.

The Hon. L.H. DAVIS: And go to the dance on Saturday night if you were not a Methodist. In fact, they used to say that Methodists should not be intimate standing up because it could lead to dancing. So, in South Australia we have had an inquiry into the racing industry about every six or seven years. In 1974 we had the Hancock inquiry into the racing industry which did not talk about telephone betting. In 1980 we had the Byrne Committee inquiry into the racing industry which referred to telephone betting and estimated that illegal betting turnover in South Australia from SPs was between $50 million and $200 million, and considered that it was a proposal with merit that should have been looked at further by the South Australian Bookmakers League and the Betting Control Board, as it was then called.

In 1974 there were 180 bookmakers, but by the time the Byrne inquiry met six years later that figure had shrunk to 130 bookmakers and, because the number of people oncourse was falling, the number of transactions and the number of bets laid with oncourse bookmakers was also falling. In fact, the turnover of bookmakers has steadily fallen every year for the past 17 years, with just one exception in 1983-84, when the Government of the day reduced turnover tax. The 1987 Nelson inquiry into the racing industry also had a look at telephone betting for oncourse bookmakers and made submissions again to the South Australian Bookmakers League and the Betting Control Board. At that time the TAB announced that it would look at a system of fixed odds betting for the TAB. Finally, the committee, looking at the subject, announced that it would recommend that the Racing Act should be amended to enable bookmakers to provide oncourse telephone betting services to off-course patrons and that the TAB should be allowed to provide fixed odds and credit betting facilities.

Oncourse totalisator operators could also provide a fixed odd betting service. Several working parties, one chaired by the Hon. Jack Wright, looked at the growing problem faced by bookmakers in South Australia and recommended a package of measures to ensure the future of bookmakers in South Australia. As I have said, I think one has to recognise the importance of the racing industry in the economy. One may not like the racing industry or be involved in it, but one must respect the fact that it employs many people and provides pleasure for tens of thousands of South Australians. Those are the facts. So, if we take that view, it is reasonable to look at the wellbeing of the various component parts of the racing industry and, as I have said from the outset, I believe that integral ingredients of a successful racing industry are oncourse bookmakers.

Of course, the bookmakers provide the service; they set the market and, if bookmakers do not survive, it puts enormous pressure on oncourse totalisator agencies. So, the survival of bookmakers and legal betting go hand in hand. Obviously, bookmakers have only two ways to remain viable. They can either reduce their operating costs (and that is difficult, given that turnover tax is fixed by the Government and most of the other costs are difficult to influence dramatically) and, secondly, their turnover can be increased by giving them access to wider markets—or bringing back people to racing. I am a distant observer of the racing industry these days, but I must say that I have not been overwhelmed with the quality of the administration of racing in South Australia. In more recent times it has sought very hard to attract younger people to the track, but the quality of administration and the promotion of racing obviously is a very important aspect of the industry. Perhaps because of

its economic downturn, this State has fallen behind other States in the promotion of racing as a spectator sport—oncourse, as distinct as from the spectator sport, watched on Sky Channel.

I believe that we should recognise the importance of bookmakers by giving them access to oncourse telephone bookmaking. We should acknowledge that there is an idiosyncrasy in the Racing Act here and that bookmakers operate off-course under the South Australian Racing Act in the City of Port Pirie, and my colleague the Hon. Ron Roberts would know all about that. I suspect some of the members in this Chamber may have occasionally got a shortener; they may not have initially driven to Port Pirie but being in the vicinity they may have tried to take advantage of the odds in one of those unique bookmaking shops.

It has to be said that the proposal for win and place bets of $250 or more is a sensible proposal. It has been said by some people that the win and place bets of $250 or more represent about $25 million of TAB turnover, but to claim that all this turnover is at risk is quite illogical. At best, the TAB can claim that some of its telephone bets of $250 or more are at risk, but it is not proposed that bookmakers will go into TAB agencies or hotels to compete with TAB clients. That would be a case of providing a level playing field. I am sure bookmakers would welcome the opportunity to take up such a challenge, but what they are doing is taking oncourse bets from professional punters, and there are controls on the calls, as my colleague the Hon. Robert Lucas has mentioned, with the takes.

It is absurd to suggest that it will lead to corruption, because if they are worried about telephone betting leading to corruption, presumably because illegal money is being washed through the telephone betting system, bookmakers can just as easily take that money on the course or it can be run through the Casino. So, that is a fanciful argument, and I was not sure what Mr Hayes was driving at when he argued that South Australia could become the corruption capital because of telephone betting.

The TAB has never said publicly what percentage of its telephone betting is made up of bets of $250 or more, and it would be useful in this debate if the Minister could provide that information, if it is available. We know from the annual report that last year 13 per cent of its total turnover came from telephone betting. That is much lower than it was six years ago, when it was 24 per cent and reflects the changing style of betting with the advent of pub TAB with 300 outlets in South Australia. So, telephone betting has been shrinking as a percentage of the TAB's take, from 24 per cent to 13 per cent in the past six years.

So, it is not unreasonable to assume that only 13 per cent of its claimed $25 million of bets of $250 or more came from telephone betting. If this assumption is accepted, the true amount of TAB turnover at some risk would be only $3.25 million. Obviously, every TAB high denomination bettor will not change his betting habits, and even if 25 per cent of them did so, the true figure at risk would be about $800 000. If we use the present 15 per cent TAB commission rate (and I am ignoring payments to the Victorian TAB), the gross loss to the South Australian TAB would be a mere $120 000. The above $800 000 that we have talked about passing through bookmakers would earn the industry and the Government $20 000. So, to make the exercise revenue positive, bookmakers would have to turn over an additional $77 000 a week. I do not think that is an unreasonable proposition.

It must be remembered that the concept has been put forward to make the operations of bookmakers more viable. If people do not believe that bookmakers should be viable, they are arguing that bookmakers should disappear. The first people to complain in some cases will be the people who love to have a flutter with the bookmakers at Oakbank or like to go to the Adelaide Cup on the May public holiday. I do not see this proposal as competing with the TAB but rather as attracting the money that is presently bet illegally on SP bookmaking.

I believe that this legislation is quite correctly aimed at driving out the enormous level of SP bookmaking, which the Queensland Criminal Justice Commission report estimated as being a national market of some $6 billion in 1988-89, which means that South Australia's figure (if that figure is correct) could be of the order of $450 million to $500 million. Telephone betting to oncourse bookmakers not only gives people who are presently betting illegally a legal alternative but it also removes the very cornerstone of the SP industry. It destroys the incentive to place large amounts illegally at SP, because the money will find its way back to the course.

That is the very essence of the argument in favour of telephone betting. The crux of the argument is that we must not lose sight of the startling figures published by the Queensland Criminal Justice Commission report. SP bookmaking is alive and well and is flourishing. Even though, when TAB was introduced into South Australia just over 25 years ago, it was said to spell the death knell of SP, it has not. Telephone betting is more likely to have an impact on illegal SPs and a positive effect on racing generally, and it will particularly help the bookmaking fraternity in South Australia.

The Hon. J.C. BURDETT: I shall speak briefly simply to outline my position. I am opposed to the Bill. As one could be opposed to the Bill for quite different reasons, I thought that I should say which reason instead of just holding up my hand. I am opposed to the Bill on the ground that avenues for legal gambling ought not to be further extended.

The Hon. Mr Lucas said that the Bill is not only about telephone betting with bookmakers, and that is quite right. Most people do not seem to have noticed that it is also about fax betting with bookmakers, but no-one seems to be interested in that. The Hon. Mr Lucas and the Hon. Mr Davis have correctly said that there are other aspects of the Bill, but the heart of it is telephone betting with bookmakers.

I have seen some of the supporters and opponents of the Bill. I am told by supporters of the Bill that telephone betting with bookmakers is a first in the world, but that does not prove anything one way or the other. I should say that I am not opposed to gambling in principle. I do not have any personal inclination towards gambling. I do not regard that as a moral virtue; it is just

a taste. I do not have any personal inclination towards bungy jumping either and quite a lot of other things.

On the question of principle, my view is that there is no moral harm in gambling as such. Like many other things, it may be abused, but that does not render it wrong in principle. My view is that looking at one's income, having provided for one's family and paid one's debts and, above all, paid one's taxes, what lawful things one does with the rest is up to the individual. Whether it is saved, spent on dinners at the Hyatt, the theatre, travelling or on gambling, including the races, is the individual's affair as far as I am concerned.

I have listened carefully to what has been said about SP bookmaking, and I shall come back to that. However, this would certainly extend the avenue for legal gambling, and I am opposed to that. There is a clear down-side to gambling, although, as I have said, it is not in itself morally wrong. But there are more statistics, particularly recent ones, than one can poke a stick at to indicate the social damage that gambling can do. Social workers who have had to deal with individuals or families whose lives have been financially destroyed through gambling can tell us about this problem.

The Hon. Mr Davis drew an analogy between the loosening of liquor licensing laws and of gambling laws. In my view, it is not a valid analogy. The Hon. Mr Davis said—and I agree—that the loosening of the liquor laws has had a good effect on the quality of our lives and that the main down-side—carnage on the roads—has largely been combated by random breath testing and so on. On the other hand, in regard to extending legal gambling facilities, it is my view (and the statistics and studies indicate) that extending legal gambling has gone along with adverse social consequences and financial and psychological damage to individuals and families.

The Hon. Mr Lucas and the Hon. Mr Davis and the proponents of the Bill have claimed that to provide for legal telephone betting with bookmakers would take the money away from illegal SP bookmakers. It seems to me that that is far too simplistic. While it may lead to some diminution in SP betting—and I am in favour of diminishing SP betting and preventing it, if possible—I believe this is far too simplistic.

I have noticed, as I think we have all noticed, that the racing industry is split down the middle on this issue. I think we have all had approaches from both sides. Generally speaking, what I would call the official part of the racing industry is strongly in favour, and I have heard them. The Hon. Mr Lucas has referred to Colin Hayes, and there is no harm in referring to him. He has a different view and he is highly respected in the racing industry. As the industry is split down the middle, I am not prepared to depart from my gut feeling to oppose the Bill. If I had had rational, consistent, uniform views from the whole of the racing industry, I might have been prepared to reconsider my position. I have not, so I am not prepared to reconsider.

I shall briefly mention country racing. I hope that my colleague the Hon. Peter Dunn will speak in this debate and put his point of view, whatever it may be, about the effect that the Bill may have on country racing. I lived about half of my life in a small country community and, in so doing, one gets much closer to everything, even racing, in which I was not particularly interested, than one does in the city. I certainly would not like to see the country racing industry damaged. It is followed very often by people who do not have a general interest in racing, but they do in their own country racing activities. As I said, I hope that the Hon. Peter Dunn will tell us in detail what effect this Bill would have on the country racing industry. I have heard some people claim that it would assist the country racing industry and others that it would damage it. My own inclination is that it probably would have a damaging effect on country racing.

For all the reasons that I have mentioned, I shall be voting against the Bill. If the Bill is passed, in particular, when it gets into Committee, I shall be voting against the relevant clause.

The Hon. K.T. GRIFFIN: It will come as no surprise to members of this Council that I oppose the extension of gambling opportunities. I have been consistent in that approach on a number of occasions in the 15 or more years that I have been a member of this Council. I have consistently opposed the extension of gambling opportunities because of the impact upon the community. I do not disagree with the Hon. John Burdett that, if people have a surplus from their income after paying their proper liabilities and dues, they are entitled to do with that what they will.

On the other hand, gambling is very much a Government sponsored initiative these days, not only in South Australia but also in other States. It is quite obvious to everyone that gambling provides to Government a very substantial amount of revenue which is even more important to Government in the current economic climate than perhaps ever before. That was no more obvious than in the debate on the gaming machines legislation, where the Government predicted that it would gain something like $50 million a year from its share of the revenue from the development of gaming machines in hotels and other premises. So, it is very beneficial to a Government to enhance the opportunities for raising revenue and, whilst the Government says that it has the interests of the racing industry and bookmaking industry at heart in proposing the extension to betting opportunities through an auditorium at race courses, as well as telephone betting, it is clear that the Government expects an increase in turnover and that it will derive some spin-off benefits from that, particularly in direct revenue.

As I say, I have consistently opposed the extension of gambling opportunities. Once they are here one obviously has no alternative but to accept the decision of the Parliament and to live with the fact that they are available. However, that should not hide the concerns that members have in respect of the extension of gambling opportunities. As a member of Parliament, not only do I represent interests which might be favourable to gambling, but also I have an obligation to put the alternative point of view, and there are a very large number of members of the community who may not have made representations on the Bill before us but who have from time to time made representations on the extension of gambling opportunities.

One of the more vocal critics of extension of gambling opportunities has been the Adelaide Central Mission, which is at the forefront of providing services to those gamblers and their families, who have met considerable

difficulties as a result of compulsive gambling and the ready availability of gambling opportunities. Their concern is that the extension of gambling opportunities will encourage gambling, and will induce those who have a tendency to compulsive gambling to indulge that habit which ultimately creates tensions and great problems for families.

There are many opportunities for gambling in South Australia: the Casino, poker machines in the not too distant future, the Lotteries Commission with a variety of products which it promotes, the TAB, bookmakers, bingo and charitable organisations which run very expensive lotteries as fund raising exercises. So, there is no shortage of opportunities for people who want to experience gambling or who seek to find the elusive pot of gold. There are opportunities to gamble on football, cricket, the Grand Prix as well as racing, and also through machines.

There is no doubt that where gambling on events is involved there is always a potential for corruption, and with telephone betting there will also be that potential. I am not suggesting that, in any way, the bookmakers will deliberately become involved in that sort of activity, but there is no doubt that money laundering by those who wish to pass money through these facilities will have yet another opportunity to engage in that activity. There are certainly significant controls and surveillance, but no human surveillance can ever seek to address and apprehend all those who are involved in corrupt activities. So, there is that added risk involved, which causes me concern.

Overall, I take the view, as I said at the commencement of my contribution, that, at a personal level, I have very grave concerns about the continual extension of gambling opportunities made available by Governments and through Government sponsored legislation. I do not believe that is in the best interests of members of the community, who already have ample facilities available for gambling. It is for that reason that I am not supportive of those two issues, in particular the telephone betting opportunities and the auditorium betting facilities. I therefore indicate opposition to those and to the Bill.

The Hon. T. CROTHERS: I was not going to enter the debate, but in the light of the Hon. Mr Griffin's comments I feel that I must. I say from the outset that I rise in support of the Bill as proposed by the Government. Some of the comments that the Hon. Mr Griffin made really do not stand the test of any logical scrutiny. I want to be mercifully brief, but I want to get on record the fallacious nature of some of the arguments mounted by the honourable member. He says, and I think I am quoting him pretty well verbatim, that the extension into telephone betting will increase the quantum of the money spent on the betting in respect to dogs or trots or horse racing. I do not believe for one moment that is true because I think there is a substantial illegal SP betting market in South Australia and, on the last figure that I saw on it, it runs into hundreds of millions of dollars a year. I think that what this Bill will do will be to channel a lot of that money into the properly licensed areas, to the people who do pay taxes to the State Government in respect to their licences and their occupation, rather than have it being carried out by illegal SP bookmakers operating over the phone, who pay no taxes.

Moreover, the ordinary punter runs the risk if he or she gets a fairly large bet up of maybe not even being paid. I know of a case of one particular illegal bookmaker who chalked up on his door after a particularly bad Saturday when all the favourites got up, 'When the fields are white with daisies, I'll return.' That was the message that was left to the punters who frequently used his illicit and illegal methodology relative to getting a bet on the horses. One has only to comprehend the crowds that are falling off in the mid week and weekend race meetings at Victoria Park, Cheltenham and Morphettville to see the absolute necessity, in my view, for the Government to bring in measures that will permit the legalisation of telephone betting in that respect.

Now, as I have said, I do not think for one moment that the amendments will increase the quantum of money spent annually in this State by those that have an interest in and a love of gambling. I am certainly not a punter myself; I do not even know how to put a bet on at the TAB. If I have a bet on Melbourne Cup day I have to get someone to put it on for me. It is such a simple operation but I am completely ignorant of it. I do believe that what the Government is doing is both correct and necessary. We ought not to be swayed (and I know it is a conscience vote and I am glad of that) by fallacious argument irrespective of how well it is intended.

I think the argument of the Hon. Mr Griffin was, in part, fallacious. While I respect his right to mount that argument it seems to me that, while the gentleman is very thorough and meticulous in his preparation for most Bills he speaks on in this place, on this occasion his homework has been wanting relative to the statements that he made because they do not stand the test. Any measure that does away with illegal gambling in this State is to the benefit of the people properly authorised to conduct gambling in this State. Moreover, it is beneficial to the Government because, as has been said, the Government does derive some revenue from gambling and will maybe derive more should those illegal punters determine to, as I hope and believe they will, use the legalised system of betting where their winning bets are covered almost by guarantee.

With that brief assessment of the Bill relative to those albeit well meaning but fallacious arguments mounted by the Hon. Mr Griffin (and, as I said, I respect his right on a conscience issue to do that), I also believe that it is incumbent on any of the members in this Chamber when they do get up to speak to try to be as correct and accurate as it is possible for them to be. I support the amending Bill and I would hope and trust that thinking members in this place, albeit it is a conscience vote, will also support what to me is a very necessary amendment to the Bill.

The Hon. M.J. ELLIOTT: I rise to indicate support for the Bill with the exception of one particular clause which we will be opposing. The clause that has caused us concern is 15 (6) to amend section 112 of the Racing Act to authorise the board to allow holders of permits for licensed bookmakers to accept bets by telephone or

facsimile. The issue of phones for bookies is, and certainly has become, a contentious one. It is something that we will be opposing in legislation at this time. Our opposition is in part linked to the reasons that we had for opposing the introduction of poker machines. There appears to be no great consumer need though, of course, there is a perceived need for the phones on the part of the bookmakers, just as there was no real need for South Australia to have poker machines except that some hotels and pubs saw them as their financial saviour. I am told that it is likely that somewhere between six and 10 individual bookmakers will be the primary beneficiaries. They will be the ones who have the resources to expand into phone betting and they will do so at the expense of smaller bookmakers and particularly those operating at country meetings. Up against that fears have been raised with me about organised crime and the ongoing viability of the racing industry.

Back in 1990 when a working party looked at the issue, which was raised by the South Australian Bookmakers League, several significant submissions openly and strongly opposed the move. The Police Department submission dated May 1990 and signed by the Commissioner succinctly expresses some of the issues surrounding telephone betting, and it states in part:

In effect the S.A.B.L's submission proposes a situation analogous to that presently operated by the TAB. However, safeguards in *situ* by the TAB require:

- a coding system to authenticate the investor,
- the account must have a credit before acceptance,
- the transaction must be recorded and documented immediately.

Whilst an 'on-course' telephone betting system may well provide a service to each bookmakers' valued clients, will the telephone numbers be advertised and become common knowledge to all and sundry?

Will prospective punters ring several on-course bookmakers to achieve the best odds? What clerical assistance is deemed necessary so that no interference is caused to on-course punters? How is it proposed to record telephone betting? Is it feasible for bookmakers to mentally retain large transactions and only record those requiring a payout? Such practices of unrecorded betting avoid turnover tax.

I understand that some of those things are now being addressed, but I am raising the concerns that came at that time. On the second page the submission goes on to talk about perceived practices as follows:

The installation of TAB agencies in hotels has had a significant retardation of SP betting in South Australia. In the event of an on-course telephone bookmaking facility, what preventive measures can be guaranteed that will ensure bookmakers' agents (as was the case with SP agents) will not emerge as a substitute and phone bets through to the oncourse bookmaker? A proliferation or extension from the traditional oncourse betting with the licensed bookmaker into all areas of the community is likely. This may well be to the nuisance of those uninterested in betting, e.g. work sites, community centres, etc. Is the proposal such to have a pool to receive oncourse bets? I doubt if this would appeal to either the punter or the bookmaker. Therefore, a telephone link alongside the betting price board can be envisaged. What impact is this likely to have on the already congested noisy betting arena? Whose bet takes precedence—the punter in the ring or the phone punter? Will a last minute punter be deprived of his bet because the clerk answered the phone first? Will the licensed bookmaker be able to 'ring out' of the course and perhaps 'lay off'? What guarantees does a telephone punter have that the odds quoted at the time of placing his bet have not been shortened? He cannot compare prices with other bookmakers.

It then concludes:

1. Despite the convenience, any form of credit betting should be opposed in principle.
2. The proposal would create the first legitimate credit betting.
3. The proposal has not addressed the logistics of telephone betting.
4. The proposal has no interstate precedent.
5. The system relies on self-discipline to record and document each bet. Are there sufficient checks and balances in this arrangement?
6. The credit system lends itself to abuses in trust and excesses in the manner of recovery.
7. The telephone system proposed would discriminate against the TAB telephone betting system.
8. An upsurge of licensed bookmakers' agents throughout the community could result.
9. The reduction of turnover requires addressing. However, the proposal is not seen as the solution most suitable.

Recommendation

It is recommended:

1. analytical research be conducted to determine the causation factors producing the downturn in financial returns for licensed bookmakers;
2. that the SABL proposal not be accepted on the basis of the perceived and predicted abuses likely to impinge on the racing fraternity.

I am quite aware that some of these issues raised by the police have been addressed, but I read the totality of that to ensure that the whole lot was kept within context. The Treasury submission states:

The obvious conclusion is that the Government has very little financial interest in raising bookmakers' turnover whether by granting access to telephone betting or by other means. If that turnover were to be at the expense of other forms of gambling from which the Government receives a much higher return the Government would be a net loser.

In its conclusions Treasury registers its opposition:

... to any proposal for the introduction of telephone betting for bookmakers which would have an adverse impact on Government revenues.

The South Australian Jockey Club in a submission prepared at the same time did not give its support to the proposal, although now I understand it has thrown its support behind an auditorium-type betting facility where, according to the Minister's second reading explanation of this Bill:

Telephone betting access will be available on days when a metropolitan galloping meeting is in progress.

The national working party report on telephone betting by oncourse bookmakers completed several years earlier not only recommended against the move by saying:

Based on the information available to us, we would caution strongly against any Government legislating to extend the operations of bookmakers to provide for a telephone betting service.

But it also referred to a May 1988 resolution of a conference of State and Territory racing Ministers, that:

No Government would introduce oncourse telephone betting without prior consultation with the other States.

It is worth noting that we have a Mutual Recognition Bill in Parliament right now and, at the same time, this State is going it alone, which shows how totally unpredictable this Government can be. I am unaware as to whether the South Australian Minister has abided by this resolution in the preparation of this amendment to the Racing Act, and would appreciate clarification on this point. The working party report also refers to the equilibrium formed by having distinct on-course and off-course betting environments. It says that this separation:

...coupled with the enormous growth of the various TABs over the past two decades, has contributed significantly to the present viability of the racing industry throughout the country.

It acknowledges the contribution of racing to the economies of the States and then says:

Governments should therefore proceed with extreme caution with any proposals to vary the existing successful mix of on- and off-course betting services, and change should only be considered where it can guarantee improved positions for both the industry and Government. The proposal under consideration offers no such guarantee. More importantly, although jeopardising the viability and future growth of the racing industry, the proposal does not even guarantee the attainment of its primary objective, to improve the viability of the bookmaking industry.

I might distinguish between the industry and elements of the industry, which is exactly the case with poker machines. TABs around the country did not happen by accident. They were the result of numerous inquiries into the racing industry and betting practices, and the present level of controls and checks they run on telephone betting are not there purely for decoration. I think it would be useful to go through the conclusions reached by this national group in this report, as follows:

Based on the submissions placed before it, together with other available information, the members of the working party are unanimous in the view that the concept of bookmakers accepting telephone bets on the course was most probably developed in the interests of the larger bookmakers with a view to attracting the very large SP bets that are spoken of from time to time. However, such a system would only be in the interests of a select few bookmakers and their clients and the metropolitan galloping clubs. The concept has now been extended as a matter of expediency and proposed as a means of improving the viability of the whole bookmaking industry. Increased turnover for bookmakers will not in itself generate an improvement in profitability.

A legalised telephone system will not in itself eradicate illegal SP betting. The bookmakers estimates of new turnover appear to be unrealistic and without any firm basis. The maximum new turnover that might be achieved nationally would be $238 million, which would generate an additional $8.33 million revenue for Government and industry bodies based on a tax rate of 3.5 per cent which represents an increase of at least 50 percent on existing rates. The diversion of $92 million from the TAB systems to the new service would negate any gains to Government and the industry. Additional transfers would cause significant downturns in revenue. Oncourse patronage would be affected, particularly in country areas, where many persons attend meetings to invest on large metropolitan meetings. Country clubs and or bookmakers could be affected by the transfer of money to larger metropolitan bookmakers. Investments may be transferred from one State to another, probably at the expense of bookmakers' clubs and TAB in the smaller States. And the impact on greyhound racing and harness racing may be greater than on the galloping industry because of the lack of SP activity on those forms of racing.

So, the arguments for at least extreme caution or, at the most, rejection of the introduction of telephones for on-course bookmakers are clear, and they are many. I have used these reports to show that there are many people, many of whom I have spoken with about this Bill, who hold these views. They are views formed by a national working party after considerable deliberation and consideration of many submissions. They are also the views of the police, the group we charge to keep our society free from crime and corruption.

I would like now to turn to the reasons being put forward by the Minister as his reasons for introducing this measure at this time. They are: that it may tap into illegal SP betting operations; will help preserve bookmakers on Adelaide tracks; and help attract crowds back to racing. People within the industry who have spent some time discussing this with me have dismissed these reasons as fanciful and no more than vague hopes.

SP bookmaking in Australia has been closely linked with organised crime. Telephones will allow such groups to legitimise their operations in an anonymous and profitable way. The questions raised by the Police Department submission to the working party are worth pondering. Only the bookmakers with telephones will benefit from their introduction. As I have already said, that will not be a large number.

As far as bringing crowds back is concerned, I cannot in my mind work out how providing punters with another option for placing bets without setting foot through the gate of a track will increase attendances. If anything, it will keep more people away—people who prefer not to bet through the TAB. I understand that since the Bill was introduced into Parliament, 25 race clubs have withdrawn their support, no longer believing that it would be of any benefit to them but, on the contrary, could jeopardise their viability. Of course, these are the country clubs, and they underpin the racing industry quite significantly.

Finally, I would like to address the issue of the mysterious TAB report, one which was handed to the Minister just prior to this Bill's introduction but which was apparently swiftly placed on a high shelf. The report, as it eventuates, is in fact a letter from the TAB. On 10 March I asked for a copy of that report to be made public, but in a roundabout way—by referring me to an answer given to another question in another place—the Minister refused to do so.

The reason it has not been forthcoming is because, in the opinion of the Minister, it does not give a full picture of the situation. That may be the case. However, one would not expect it to give a full picture of the situation. One would expect, however, that it would provide the TAB's picture of the situation. That is all one can expect a submission from one viewpoint to provide. Despite the reluctance of the Minister to allow it to be seen, I have obtained a copy and it makes very interesting reading. I would like to add to this debate some of the points cited by the TAB for its strong opposition to on-course telephone betting for bookmakers. Before I quote from the document, I indicate that there may indeed be rebuttal to some of these points, but what I am doing at

the beginning is putting the matters on the public record. The TAB states:

1. The board was established in October 1966 with a charter to conduct off-course betting in South Australia... permitting bookmakers to conduct on-course telephone betting is in direct conflict with this charter.

Certainly, it is true that there are some exceptions to that rule, and the betting shops in Port Pirie are an example. However, in general terms, that was clearly the intent of setting up the TAB at that time. It further states:

2. It is considered the introduction of the service will have an adverse effect on TAB turnover and subsequent profit distribution to the State Government and the racing industry.

The turnover at risk, in only 12 months, has been estimated at $25 million. The third point made is that the board agrees with earlier submissions quoted by me today that the move would benefit only a small number of bookmakers and would therefore provide no overall improvement to the bookmaking industry. The fourth point is that the TAB takes a contrary view to that of the Government in relation to the moves affecting illegal SP bookmaking. The submission states:

The board considers that the availability of a telephone betting service through on-course bookmakers could, in fact, lead to an upsurge in illegal SP bookmaker activity. For example, a person may set up an operation whereby a number of small bets are taken. Many of these could be bets which normally are placed through the TAB. When enough bets have been accumulated (for example, $250) the illegal operator would then telephone an on-course bookmaker providing the service and place a single large bet. This opportunity for an increase in illegal SP activity at the expense of existing TAB turnover is of major concern to the board.

The fifth point is that the TAB is concerned that, should other States feel obliged to follow South Australia, there will be an outflow of turnover interstate, particularly to New South Wales and Victoria, where betting rings are able to accommodate larger bets than South Australia. In fact, if other States do follow, the very people who stand to benefit in the short term themselves could be cutting their own throat.

Sixthly, the TAB says that it has identified that there is a need for a fixed odds betting service for people who prefer not to bet with the TAB and who cannot attend a racecourse. It states that a computerised win and each way fixed odds betting system has been developed which could provide this service in an off-course environment controlled by the TAB. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

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

OCCULT

A petition signed by 28 residents of South Australia concerning the teaching of the occult in public schools, and praying that the Legislative Council call upon the Government to:

1. Reclassify all such printed material as unsuitable aids and to have it immediately removed from the class curriculum and school libraries and

2. To formalise policies which will exclude the direct and indirect references to and teaching of the occult and/or associated practices within public schools

was presented by the Hon. R.R. Roberts.

Petition received.

STATE LIBRARY

A petition signed by three residents of South Australia concerning opening hours of the State Library, and praying that the Legislative Council call upon the Government to provide the State Library with the funds necessary to restore sensible opening hours, was presented by the Hon. R.R. Roberts.

Petition received.

WOMEN'S SUFFRAGE CENTENARY

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I seek leave to make a ministerial statement.

Leave granted.

The Hon. ANNE LEVY: Mr President, I am pleased to inform the Council of a further funding allocation from the State Government for the 1994 Women's Suffrage Centenary celebrations. In the 1992-93 budget the State Government provided the Centenary Steering Committee with $200 000 to assist with an initial round of programs and grants for community projects. I am now delighted to be able to announce the provision of a further $250 000 to assist with projects and grants during the next financial year, that is, 1993-94. As well as this, there will be additional Government money for staff and support services to coordinate the centenary year.

The Government has also made a commitment through all public sector agencies to ensure their contribution to the celebrations in an appropriate fashion. The steering committee has worked very hard to secure sponsorship commitments from the private sector, and to date it has been able to secure about $100 000. 1 would very much like to congratulate the steering committee on this effort. The State Government recognises that the centenary celebrations are of major significance to South Australia and will contribute to our image both nationally and internationally. Our continuing contribution to the celebration also affirms our commitment to women in our community.

QUESTION TIME

STUDENTS, EQUAL OPPORTUNITY

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Attorney-General a question about the Equal Opportunity Act.

Leave granted.

The Hon. R.I. LUCAS: I have been contacted by a number of principals, teachers and parents expressing concern at some recent interpretations of the effects of the Equal Opportunity Act by the staff of the Equal

Opportunity Commission. These schools have experienced considerable difficulty in implementing longstanding school uniform and appearance standards for their students. For example, some schools which allowed girls to wear earrings to school, but not boys, were challenged by some of the male students under the Equal Opportunity Act. These schools were advised that the Act did not allow such differential standards. So, one of the schools has now had to ban girls from wearing earrings to school to comply with the Act.

The Hon. C.J. Sumner: What schools are these?

The Hon. R.I. LUCAS: They do not want to be named publicly, but you can speak to the commission and it will have them on file. Another school has stated that if earrings are to be worn by any student, then they must be worn in both ears. As most boys evidently prefer wearing one earring this has enabled this school to comply with the Act. Another example involved hair length for students. Some schools have appearance requirements for boys that hair should not be worn below the collar, whereas girls have been allowed to have long hair. These schools have been advised that these requirements do not comply with the Act. In general terms, these schools have been told that there cannot be any discrimination in these sorts of dress and appearance standards between girls and boys.

One school has told me it has also been advised that if a complaint is lodged about different uniform requirements then it would again have trouble under the Equal Opportunity Act. For example, if a girl wanted to wear the boys' uniform of shirt, tie and long trousers and not a school dress then she would be allowed to do so. On that logic, I presume that boys would also be entitled to wear dresses. Parents and teachers who have complained to my office are concerned at what they describe as bizarre and extremist interpretations of what is meant to be a sensible piece of legislation. As one member who strongly supports equal opportunity legislation, I must say that I never envisaged that it would be used in such a way when there are so many far more important discrimination questions to be tackled. Does the Attorney-General agree that these specific interpretations of the Equal Opportunity Act are correct? If not, will he say what action can be taken to ensure that some commonsense can be used in the interpretation of the Act for uniform and appearance standards in schools?

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I will examine the question, Mr President, and bring back a reply.

NICHOLLS CASE

The Hon. K.T. GRIFFIN: My question is directed to the Minister of Transport Development. In view of Tuesday's *Advertiser* report that the Premier said that Cabinet had discussed the Nicholls case informally, and in view of yesterday's statement by the Premier in the House of Assembly that Cabinet has lunch together before formal Cabinet meetings and the comment 'We discuss a number of things, such as the events of the week and events that affect individual members of the Cabinet', can the Minister indicate whether or not she participated in these informal discussions on the subject of the Nicholls criminal case before a verdict was delivered?

The Hon. BARBARA WIESE: As I understand it, the Premier was responding to a question that was put to him in another place concerning discussion relating to a penalty prior to the verdict being brought down. I can say quite categorically that I did not participate in any formal or informal discussion on the question of penalty prior to the verdict coming down.

STATE TRANSPORT AUTHORITY FARES

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Transport Development a question about STA fares.

Leave granted.

The Hon. DIANA LAIDLAW: Over the past 10 years STA fares have increased by three times the rate of inflation. Section 31e of the State Transport Authority Act 1974 provides that the Governor may make regulations 'to fix and provide for the payment of fares and charges (including concessional fares and charges) for services provided by the authority'. Therefore, the Act makes it clear that when Parliament debated the issue of STA fares some 19 years ago, it was Parliament's intention that the STA would use the process of regulations to set fare levels. The regulation process, of course, allows either House of Parliament to disallow or reject regulations and therefore potentially to disallow or reject any proposed STA fare increases. However, research I have undertaken in recent days confirms that since 1983 the STA has not set its fares by regulation, opting instead to do so under the umbrella of a novel process called 'conditions of travel'.

There is no reference in the State Transport Authority Act to the concept of conditions of travel, although the Act does provide that for the purposes of carrying out its functions the Authority may exercise any other power that is reasonably necessary for, or incidental to, the performance of those functions. Perhaps it is this all embracing power that has been used as the mechanism to develop the concept of conditions of travel. Whatever is the answer to this puzzle, the fact remains that by choosing over the past 10 years to set fares under the terms of conditions of travel rather than by regulations the STA appears to have deliberately and successfully tried to circumvent parliamentary processes and parliamentary scrutiny, including the possibility that Parliament would reject the proposed fare increases. Therefore, I ask the Minister two questions:

1. Will she investigate why, since 1983, the STA has adopted the practice of setting fares under a conditions of travel arrangement rather than using the obvious method of regulations, as was contemplated by Parliament in 1974, when the STA was established?

2. As the last round of STA fare increases was gazetted on 2 July 1992, to be effective from 2 August that year, will she ensure that any future fare adjustments that may be made in the next few months will be introduced by regulation rather than by way of amendment to the STA's conditions of travel?

The Hon. BARBARA WIESE: Since I have been Minister of Transport Development, no fare increases have been provided for the State Transport Authority. I am not familiar with the background to this matter as to what method has been used and why, so, in response to the honourable member's first question, I will undertake some investigations into that matter.

As to the second question, what I do on that matter if there will be fare increases this year will depend very much on the answers to the first question, following my investigation of the methods that have been used in the past, and I will bring back a report on both of those matters as soon as I have answers to those questions.

ELECTRICITY TRUST

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Minister representing the Minister responsible for energy resources a question about ETSA.

Leave granted.

The Hon. I. GILFILLAN: In the March edition of the *New Scientist,* there is an article from which I will read a couple of quotes, as follows:

> In the US, electricity companies make money helping their customers to use less power. Although the American system creates jobs and reduces pollution, Britain has been slow to exploit it.

The article further states:

> DSM [Demand-side management], or least-cost planning, turns electricity companies into suppliers of energy services, rather than just sellers of electricity... In 1987, as many as 59 power companies across the US were offering rebates to customers to encourage them to buy high-efficiency refrigerators. In 1988, South California Edison handed out 450 000 energy-efficient light bulbs to customers with low incomes, saving eight megawatts of electricity capacity. In Tennessee Valley the authority handed out more than $250 million in interest free loans to improve home insulation.

The article continues further:

> Last December, Greenpeace published a study of demand-side management in the US carried out by the Boston-based firm of analysts, the Goodman group. It estimates that power companies spend $3.1 billion a year on DSM, and that every dollar invested in DSM avoids spending of between $1.5 and $1.75 on building new plants. The Goodman Group found that, up until now, DSM has created 80 000 new jobs.

It was with some excitement that I heard that the Hon. Trevor Crothers (unfortunately, he is not here to hear this accolade) intends to move that:

> This Council calls on the Commonwealth—
>
> I. To consider and assess the option of the electrification of all the railway systems under its control using solar power as the energy source required for such a system.

In connection with that, because some of us may have thought that motion may have been a bit far fetched, an article on page 12 of the *Electricity Supply Magazine* (and this is the March issue covering all power utilities in Australia) states:

> Cells used to power a funicular railway carrying passengers up the escarpment from the River Aare to Switzerland's House of Parliament in Berne were made at BP Solar's Spanish factory.

The Hon. Anne Levy: Do you want solar power at Mt Lofty?

The Hon. I. GILFILLAN: Well, if it was solar powered—

The Hon. Anne Levy: Really?

Members interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: You never know how versatile. Those preliminary quotes and bits of information are forerunners to the significant detail in the *Australian New Zealand Solar Energy Society Journal* on the energy policy of the South Australian Government. The journal states that the national strategy (that is, that of the Federal Government) for ecologically sustainable development and the national greenhouse response strategy have stated that Governments in Australia will strengthen energy research, development and demonstration, particularly on renewable energies and energy efficiency. As members will note, obviously energy efficiency is demand side management, which the Americans are putting into place, and renewable energy is the example of the solar energy railway.

The journal singles out South Australia, stating that the South Australian Government provides funds for energy research and development through the State Energy Research Advisory Committee (SECRAC). Between 1977 and 1990, funding has averaged $300 000 per year with non-renewal energy receiving three times as much support as renewable energy. In addition, many millions of dollars have been spent by the Department of Mines and Energy on the assessment of the environmental impact of the mining and processing of fossil and nuclear fuels; ETSA on R&D into electricity generation, transmission and use; and SAGASCO on R&D into gas recovery, distribution and use.

In 1989-90 and 1990-91, SENRAC allocated only 8 per cent and 12 per cent respectively of its R&D funds to renewable energy. SENRAC, comprising representatives from Mines and Energy, ETSA and SAGASCO, has no representation from the renewable energy or energy conservation sector. The recent appointment of a chemistry professor whose research field is in the area of non-renewable fossil fuels has exacerbated the imbalance. SENRAC is also over-represented by engineers and managers with little or no representation from the biological or social sciences.

In order to correct the lack of adequate funding for renewable energy R&D, ANZSES recommends that: SENRAC be disbanded and reconstituted as the Renewable Energy Advisory Committee (RENRAC), with the objective of supporting R&D on renewable energy and energy conservation; RENRAC contain representatives of the renewable energy and energy conservation sectors; and funding to RENRAC be competitive with that provided for non-renewable energy R&D through organisations such as the Department of Mineral Resources, ETSA and SAGASCO. My question to the Minister are:

1. Will the Government act on the ANZSES recommendations?

2. Does the Government agree with the Federal Government's national strategy for ecologically sustainable development and the national greenhouse response strategy?

3. If so, why does it refuse to comply with their direction for energy research and development and demonstration?

4. If not, why does it pretend to be environmentally responsible?

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

SCRIMBER

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Attorney-General, as Leader of the Government in the Council, a question about Scrimber.

Leave granted.

The Hon. L.H. DAVIS: On 31 July 1991, the State Government announced that it would not invest further funds in the Scrimber project. The joint owners of Scrimber, the SA Timber Corporation (SATCO) and SGIC wrote off at least $60 million on this high technology engineered timber process which had been rejected by all private sector timber groups. The Hon. John Heinz Cornelis Klunder, who had been Forests Minister since 1988, in announcing the decision to axe Scrimber at a media conference, blamed Scrimber management for providing misleading information to the board of SATCO. He said that his decision to intervene followed 'repeated management failures to deliver assurances and targets it had set for the commencement of commercial production'. On the same day, minutes before Minister Klunder's press conference, the General Manager of Scrimber, Mr Graham Coxon, and the Engineering Manager, Mr Turner, were sacked by the Chairman of SATCO, Mr Higginson. Mr Higginson walked into the Scrimber plant at Mount Gambier unannounced to do that job. He told them, 'I have come here to dismiss you. Please leave the premises immediately. Take your personal belongings and we will send you your entitlements.' Filing cabinets, covering board minutes, management reports, tapes and other details were immediately removed without Mr Coxon being given any chance to peruse them.

On 14 August 1991 I read a statement to the Legislative Council from Mr Coxon which stated that the Hon. John Heinz Cornelis Klunder had visited the plant only twice during Mr Coxon's three years at Scrimber. This included the official opening just days before the November 1989 election. In fact, in the 20-month period between the November 1989 opening and the closure on 31 July 1991, the 20 critical months, the Minister did not visit the plant once. In fact, as Mr Coxon said in his statement, 'At no stage during my three years with the company did the Minister contact me directly regarding the status of the plant.' Mr Coxon, the Attorney-General should know, is a professionally trained engineer.

Nor did the Minister contact Kinhill Engineers, which had been brought in by Scrimber management to deal with the continued and complex problems of the Scrimber process. Since September 1987 the Liberal Party had expressed doubt about the technology, and private sector timber industry leaders were unanimous in their view that the technology was high risk, too complex and too costly.

Scrimber was an engineering nightmare, but the SATCO board consisted of Mr Denis Gerschwitz, an ex-banker who was having his own problems as General Manager of SGIC coping with an emerging $81 million annual loss, and Mr Graeme Higginson, a former executive of Elders, a pastoral group. The remaining board member was Mr Alan Crompton, an Adelaide businessman. That was not exactly a lot of expertise in the engineering sector, one would have thought!

At the time of Mr Coxon's dismissal I said it was not management who decided to go into Scrimber. It was a Government decision, a Government investment, and for the Minister to blame management for his own failures and those of his Government was nothing short of cowardly. I said at the time that the Scrimber management had done a magnificent job in impossible circumstances.

Mr Coxon, in an article in the *Advertiser,* shortly after he was sacked, was quoted as saying that at the end of every month since his appointment in July 1988 he had prepared a report of 40 to 50 pages on the state of the project. It seems clear that Mr Coxon at least was playing his part in keeping the board advised of the very complex problems faced by the Scrimber management team.

Following his outrageous dismissal, Mr Coxon initiated a claim in the Supreme Court against the South Australian Timber Corporation for wrongful dismissal. I am told, from impeccable sources in Government, and the Attorney-General no doubt is aware of this, that Crown Law officers scoured thousands of pages of documents in a desperate attempt to find some justification for Mr Coxon's dismissal and some justification for Mr Klunder's claim that management was to blame for the failure of Scrimber.

I am also advised by the same source that Crown Law has spent tens and tens of thousands of dollars in attempting to defend this action. I understand that the action was recently settled out of court—probably 15 or 16 months after it was first commenced. My questions are:

1. Will the Government immediately reveal details of the settlement terms?

2. Will John Klunder, as the Minister of Forests who made reckless and mischievous remarks impugning Mr Coxon's credibility, now apologise to Mr Coxon for his damaging remarks?

3. Will the Government now admit that the monstrous $60 million loss on Scrimber, the dangers of which were foreshadowed by me nearly four years before, was not the fault of Scrimber management, but rather the fault of a naive, stupid and financially inept Government?

4. Will the Premier sack Minister John Klunder?

5. As Mr Coxon was sacked only minutes before Mr Klunder axed Scrimber, which suggested Mr Higginson was clearly involved in this matter, what action, if any, will the Government be taking against Mr Higginson?

The Hon. C.J. SUMNER: I was aware that there were legal proceedings following the dismissal in this case, and of course that is not unusual. Legal proceedings usually follow when there has been instant dismissal of employees, and this was no exception. I was aware of the proceedings, but I am not aware of the terms of the settlement, although I will refer that part of

the question to the responsible Minister for an answer. I do not know what the terms of the settlement were, so I cannot answer whether the details can be given, although I would assume they can be. However, I do not know, because I do not know the terms of the settlement.

As to the other remarks made by the honourable member, I am pleased that he has got them off his chest; but I do not really believe that the—

An honourable member: Fortnightly cleansing!

The Hon. C.J. SUMNER: Yes, fortnightly cleansing by the honourable member on this and on other topics. I do not think that there is much point in commenting on the—

The Hon. L.H. Davis: On the facts.

The Hon. C.J. SUMNER: No—on the honourable member's bile that was exhibited in the explanation to his question. However, I will attempt to get the information that he has requested and bring back a reply. I cannot say, without having looked at them, whether those details have been or can be made public.

STATE BANK

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 State Bank.

Leave granted.

The Hon. J.F. STEFANI: I have been informed that on 24 January 1991 the board of the State Bank arranged to meet representatives of the J.P. Morgan consulting team who have been identified as follows:

Mr Ned Odegaard, Managing Director, J.P. Morgan, Australia;

Mr Joe Sabatini, Senior Technical Adviser and Managing Director, J.P. Morgan, Tokyo;

Mr Scott McKee, Adviser, J.P. Morgan, Tokyo;

Ms Pamela Wilson, Specialist, Restructuring and Workouts, J.P. Morgan, New York;

Mr Kevin Wong, J.P. Morgan, Australia; and

Mr Richard Evans, Australian Treasurer, J.P. Morgan, Australia.

At a subsequent board meeting, held on 5 February 1991, a letter of engagement covering the advisory services to be provided by the J.P. Morgan team was approved by the board.

I am further informed that, following a meeting between the Under Treasurer and the group Managing Director, Mr Tim Marcus Clark, details of which were provided to the board of directors at a special meeting which was held on 6 February 1991, Mr Tim Marcus Clark reported that Treasury was astounded by the fees payable to J.P. Morgan for their assignment. My questions are:

1. What was the amount paid to J.P. Morgan for their assignment?

2. Is J.P. Morgan still providing any advisory service to the bank?

The Hon. C.J. SUMNER: I am always surprised by the fees that are paid to private consultants and people in the private sector. They are nothing like what is paid in the public sector, but there we are; that is life; that is what happens. However, I will get answers to the honourable member's questions and bring back a reply.

OIL SPILL

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Transport Development a question in relation to the Port Stanvac oil spills.

Leave granted.

The Hon. M.J. ELLIOTT: It may turn out that some of these questions will need to be referred to other Ministers, but they are about one subject. There has been a series of relatively small oil spills at Port Stanvac. Last year three happened in fairly rapid succession: on 15 April, 20 August and 25 September.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: I have got some information elsewhere. I made FOI requests last year of both the Minister of Transport Development and also the Minister of Environment and Planning in relation to those three particular spills that I have mentioned. I received material on all three spills from the Department of Environment and Planning, but received material on only the first of those spills from the Minister of Transport Development. The letter from the Minister of Transport Development states that 'access could not be granted because these two spills are currently subject to investigation and possible prosecution under the Pollution of Water by Oil and Noxious Substances Act, 1987'.

I will focus on just one of those spills for now. The material I received from the Department of Environment and Planning in relation to the spill on 20 August contained a letter written to the Director of the Environment Management Division, and under the section 'Cause of the Spill' the letter states that a person who does not need to be identified, so I will call him Mr X:

> showed me the site of the spill. It had occurred from a small leak developing in a product line for white oil (diesel) on the jetty. The leak was at the junction of the solid rock fill groyne and the jetty at a point where there would be maximum corrosion potential due to being regularly wetted by tide swell and splash, and where the pipes would flex both from differential movement of the jetty and the groyne and from swells lifting the pipes from below. The pipes at this point had numerous welded patches and replaced sections. The leak itself was where the pipe had a previously welded patch and a temporary patch was unable to seal the leak as it was covering the lip of the previous repair. The pipe had been drained of diesel and filled with water (thus keeping residual oil on top of the water and only allowing water to leak). Flow of water, even with the temporary patch, was quite noticeable (of the order of a few litres per minute). Mr X told me they had a continual maintenance program to keep the lines repaired. Work could only be done in summer for safety reasons. Last summer they had put over 700 patches on the lines.

I repeat that for the Minister: 'Last summer they put over 700 patches on the lines.' The letter further states:

> The crude line and ballast water line had been replaced in the last few years. The product lines could be over 20 years old. Despite the maintenance program there were signs of significant corrosion, particularly in this one area. My opinion is that the

leak was caused by a combination of corrosion and movement of the pipe which, with a superficial count of the patches on it, is overdue for replacement. A higher, more accessible pipe bed would not be subject to the same level of corrosion, nor wave action.

Without reading the rest of that letter he notes that under the Pollution of Waters by Oil and Noxious Substances Act there could be a penalty of up to $200 000, and he was contacting the Department of Marine and Harbors to ascertain whether it would be prosecuting.

The other matter of note is that the spill was sufficiently serious that in another memo an officer made the comment 'our assessment is that Noarlunga reef aquatic reserve could be under threat; booms and deflection mode may direct slick away'. The press release from the company put out on the same day said that there was no risk at all to the sea in any sense. My questions are:

1. In relation to these and other oil spills that have occurred at Port Stanvac, is the Government still considering prosecutions, or has it decided not to prosecute?

2. The Minister may need to refer this question to another Minister, but has the refinery now been licensed under the Marine Environment Protection Act and, if so, have any conditions been placed on that licence?

The Hon. BARBARA WIESE: As to the second question, that is something that I will have to refer to the appropriate Minister. As to the first question, I do not recall receiving any reports on this matter in recent times. That leads me to believe that the investigations are still in progress with respect to the oil spills to which the honourable member refers, because I would expect to receive a report indicating whether or not there is a recommendation for prosecution in such a matter. The fact that I have not received such correspondence or recommendation as far as I recall would indicate to me that the investigations are still proceeding. I will make some inquiries about those matters and bring back a report as soon as I can. However, I wonder to what extent the question that the honourable member asks is also the subject of parliamentary committee investigation. I will certainly be taking that into consideration in replying to the question.

The Hon. M.J. ELLIOTT: I have a supplementary question. Does the Minister find it unusual that some eight months after at least one of those incidents she has not as yet received a report in relation to that spill? When the issue is finally resolved will those documents which were denied me under FOI be made available?

The Hon. BARBARA WIESE: My experience is that legal investigations often take quite a considerable length of time and I do not think that in that context eight months is an unusually long period of time. As to whether or not the documents can be released following the resolution of whether or not prosecution in the matter should proceed, that is a matter that can be examined at that time.

DRIVER TESTING

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister of Transport Development a question concerning driver testing.

Leave granted.

The Hon. PETER DUNN: A person living in the Cummins area wishes to obtain an omnibus licence so that they may drive a bus owned by the local hostel catering for aged persons. Drivers for this operation are not always easily obtained, so any driver is a bonus. This bus travels to Port Lincoln regularly on the first Wednesday of each month, allowing an opportunity for the prospective driver to travel to Port Lincoln and be examined in the bus that he or she intends to drive. However, the hostel has been informed that the examiner is not in Port Lincoln on the first Wednesday of each month, but is in fact in Cleve, and therefore cannot carry out the requested examination.

There are two sealed roads that lead to Cleve, one via Tumby Bay/Arno Bay and one via Cummins or Lock, the latter being slightly longer than the former. I understand that the department, when asked, refused to accommodate the request for the examiner to travel via Cummins to help facilitate a driver applicant. The department could have advised the Cummins police that it wanted an examination on that day and the police could have notified the Port Lincoln office that there was a person wanting a driving test. The drivers are volunteers and generally the users are older people who look forward to bus outings. My questions to the Minister are:

1. Will she examine the case in question?

2. Will she give permission for the Department of Road Transport examiner to travel via Cummins so that he or she may examine the driver applicants?

3. Will she look at whether the Department of Road Transport examiners could travel to some of those smaller towns in the area to examine applicants?

The Hon. BARBARA WIESE: On the specific question of the individual to which the honourable member refers I will be happy to have that matter examined if he provides me with information about the person concerned. As to the broader question of whether or not it is possible for driver examiners to travel to various country locations in order to carry out these tests, that is something that I will take up with the CEO of the Department of Road Transport, to determine whether that is possible. I do sympathise with those people in the more remote parts of our State who have to travel long distances to seek the services which others take for granted and which are in very close proximity to their homes. Wherever possible, it is desirable that Government departments should accommodate those particular needs. Of course, whether or not that is possible will be very much dependent on resources, the number of people who are committed to the task and whether or not it is a feasible proposition. I will ask the Chief Executive Officer to examine that matter, too.

MODBURY HOSPITAL

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

Leave granted.

The Hon. J.C. BURDETT: I refer to an article in yesterday's *Leader Messenger* headed 'No plans to shut hospital's emergency service: chief'. The article states:

Modbury Hospital administration has guaranteed its overnight emergency and accident ward will stay open, despite rumours that its closure was one cost saving option being considered. Hospital administrator David Young said the hospital's emergency service was not on the list of options being considered to save costs in the 1993-94 financial year. But Mr Young said the hospital board was being forced to examine all other services as it anticipated no extra funding next financial year.

He said it would unfair to specify the options at this stage but did not deny rumours that either the six bed hospice, Woodleigh House (a ward for psychiatric patients), or the paediatric ward may be forced to close. 'The situation is not good, it's a pretty grim situation' Mr Young said. 'I don't think there's a hospital in Adelaide that hasn't been looking at its options.'

Mr Young said 16 beds, reopened in February after the hospital received short-term Federal funding, would close this Friday, 30 April unless negotiations with the SA Health Commission to get more funding were successful. A 32 bed ward, closed last year for refurbishment, also would not be reopening.

Mr Young said demand for hospital services had increased 10 per cent compared with the same time last year, while accident and emergency admissions had increased by 15 per cent. The hospital was forced to cancel a total of 170 elective surgeries in the first three months of this year and has been forced to limit admissions of overnight elective surgery to one per waiting list. Mr Young said it was expected to know its budget for the next financial year from the SA Health Commission by mid May.

There is one issue raised here and that is in regard to the hospice, which is referred to in a letter from the honourable member for Newland in another place, Mrs Dorothy Kotz, in the same issue of the paper and in which she states that she had vigorously campaigned with the local community for the establishment of the hospice for some time and that when she heard that there was a possibility of its closing she immediately spoke to the Minister of Health and within 24 hours was given the assurance that it would not close. So, this particular matter has been dealt with, but the other matters are most serious.

We see that the 16 beds that were reopened will now be closed and the 32 bed ward which was closed last year for refurbishment will not be reopening. Walking around the hospital, there appears to be evidence of unused facilities everywhere and one wonders whether this tells the full story. My questions to the Minister of Health are: in view of the statement that demand has increased by 10 per cent generally and 15 per cent in regard to accident and emergency admissions, will he recommend funds to cater for these needs and, if not, what are the options for residents needing these facilities, particularly the emergency facilities?

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

DISABLED PERSONS

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health a question about supported accommodation.

Leave granted.

The Hon. BERNICE PFITZNER: I have received a communication from the Chairperson of the Northern Region Accommodation Committee, which is an interagency planning group for services for people with intellectual disabilities. In that letter she states:

The members of the Northern Region Accommodation Committee wish to express a grave concern at the lack of supported accommodation for persons with intellectual disabilities in the northern region. We are aware that six people in desperate need and a number of others nearing crisis point have approached IDSC for funding, but they are either unable or unwilling to do anything. This is a disgraceful situation and we wish to know what the Minister and Government intend to do. These people need funding today to ensure that they do not join all the other people living on the streets.

My questions to the Minister are:

1. What is the length of the waiting list for supported accommodation for people with intellectual disabilities both in the northern region and in the metropolitan region?

2. What is the waiting list for other types of disabilities, for example, mental and physical disabilities?

3. What plans have been formulated to address this alleged lack of supported accommodation?

4. What are the criteria for acceptance into supported accommodation?

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

STATE TRANSPORT AUTHORITY SERVICES

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

Leave granted.

The Hon. DIANA LAIDLAW: The Premier's Economic Statement noted that the Government was investigating the nature of what core businesses of Government ought to be. On page 43 the Premier said:

The Government should retain policy planning and regulatory activities but services closely duplicated by the private sector should be examined against a test of whether they are activities which are core to Government.

He went on to say:

Where the private sector conducts an activity that could be carried out in the private sector, the public sector should carry it out at the same cost. To promote competitiveness and resulting efficiencies, funding will be allocated to agencies on this basis.

I ask the Minister:

1. Does the Government consider STA services are a core business of Government and, therefore, to be retained in the current form as a Government activity, or does the Government consider STA services to be an activity that could be carried out by the private sector on the terms outlined by the Premier?

2. If that is so, what funding cuts are to be made to the STA budget to meet the Premier's undertaking that the public sector conduct its services at the same cost as services operated by the private sector?

The Hon. BARBARA WIESE: The Government has not considered in any detail specific proposals concerning what may or may not be core business functions for the Government; therefore there is no specific Government position on this matter as part of the statement that has been made by the Premier. His statement is a general statement of principle and I would expect that there will be examination in certain areas of Government with respect to that principle and decisions taken about what are or are not core business functions for the Government.

As to the business of the State Transport Authority, my own view is that there are functions performed by the STA that can be considered as core business functions in the sense that the Government is committed to the provision of certain services in our community as a matter of social justice, which cannot or will not be provided by any organisations within the private sector. Whilst that might not be the case with respect to all services provided by the STA at this time, on a very close examination of the business of the STA it would need to be acknowledged that there are some services provided by it that could not and would not be provided by anyone in the private sector, even if they were given the opportunity to do so.

The Hon. Diana Laidlaw: Could you clarify what those services are?

The Hon. BARBARA WIESE: Yes, in a general way I can clarify what those services are. They would be public transport services which cannot and will never be profitable services but which, nevertheless, are services that should be provided in a community such as ours in order to give people within the community who have not other access to transport the opportunity to get around within the metropolitan area and other parts of the State. So, there are services provided by the STA that will not be provided by any other body.

They represent an important part of the social justice function of this Government or any civilised Government, and there must be some understanding and expectation within our community that the provision of public transport is something that any community such as ours can expect and will accept is a cost to the community which is warranted. That is not to say that any public transport system should be run at any cost: there must also be efficient and effective operations of such a body.

Certainly, during the past few years this Government has paid great attention to trying to streamline the work of the STA to remove inefficiencies and, therefore, to reduce the cost of the public transport system to people within our community. But whatever the future directions taken in this area of Government, it seems to me that there will always be some aspect of the public transport system that will need to be provided by Government, because it simply cannot be provided by any other organisation that expects to make a profit.

MAGISTRATES COURT REDEVELOPMENT

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about the Adelaide Magistrates Court redevelopment.

Leave granted.

The Hon. K.T. GRIFFIN: The Economic Statement deferred the redevelopment of the Adelaide Magistrates Court which, on the most recent figures that I have seen, was likely to cost $28 million. In this year's capital works program $1 million was provided for design work and plans. The Economic Statement makes no reference to the period of the delay and what is proposed in relation to completion of design work and plans if not already completed, nor does it address the needs of the court, which is presently operating out of what some describe as primitive accommodation in the old tram barn.

The Hon. C.J. Sumner: Have you been there?

The Hon. K.T. GRIFFIN: Yes, I have. It is certainly temporary accommodation.

The Hon. C.J. Sumner: It's better than Parliament House.

The Hon. K.T. GRIFFIN: Maybe we move to the tram barn. My questions to the Attorney-General are:

1. For what period will the redevelopment be deferred?

2. Will design work and plans be completed and, if so, at what cost?

3. What was the tentative expenditure program on the project, prior to the Economic Statement, in the years ahead?

4. What steps are proposed to be taken to relieve what are claimed to be the problems of the Magistrates Court's continuing to operate from temporary accommodation?

The Hon. C.J. SUMNER: I will take those questions on notice and bring back a reply, but while it is temporary accommodation in the tram barn, although I do not go there regularly I have been there, and I do not think it is what you would call accommodation that is completely unsatisfactory.

I understand that last year, when we had all that rain, the roof leaked, but then again everyone's roof leaked during that particularly wet period—mine certainly did, and it did not seem that that was a particular problem. However, obviously, the Magistrates Court has to be built at some stage. It was in the program; however, it has been deferred. I will get specific answers to the questions for honourable member.

PRISONERS, DRUGS

In reply to **Hon. J.C. IRWIN** (2 March).

The Hon. C.J. SUMNER: The Minister of Correctional Services has provided the following response:

1. It is recognised that it is possible that some prisoners abuse their contact visit program by having their visitor/s bring drugs into prisons. The possibility that these drugs may be concealed on young children is recognised by staff supervising visits. However, there are procedures established for the searching, including strip searching, of visitors, and there has not been occasion where a child has been strip searched. The recently released Correctional Drug Strategy comprehensively sets out a range of policies and procedures to minimise the risk of this possibility.

2. The Department of Correctional Services considers that contact visits are an essential program within a correctional system, and recognises that this program may be open to abuse by some prisoners and visitors. The Department therefore considers that the searching of visitors is a necessary component of such a program. Search procedures have been well established within South Australian prisons since contact visits were introduced in the 1980s. These include the notification of police to attend prisons. However, Departmental staff do not undertake orifice or body crevice searches of visitors or prisoners. I would agree with the honourable member that concealing drugs on children is one of the worst forms of child abuse.

ENTERTAINMENT CENTRE

In reply to **Hon. J.C. IRWIN** (24 March).

The Hon. BARBARA WIESE: My colleague the Minister of Tourism has provided the following response:

1. The Entertainment Centre is designed as a multi-purpose centre for the staging of national and international performances, trade shows, seminars, conferences and other similar uses. It is the function of the Grand Prix Board as managers of the Entertainment Centre to hire the venue to promoters in order to generate the maximum return to the State of South Australia.

2. The Grand Prix Board has a contract with promoter R & D C Holt Nominees Pty Ltd and Berskire Promotions Nominees to conduct a Treasure Market at the Adelaide Entertainment Centre for a term of three years beginning 14 March 1993.

As such the Board merely receives a hire fee and it is the responsibility of the promoters to charge for stalls.

3. As mentioned above, it is the responsibility of the promoters to charge for stalls for the hire and not the responsibility of the Grand Prix Board.

MARINE ENVIRONMENT

In reply to **Hon. M.J. ELLIOTT** (30 March).

The Hon. ANNE LEVY: The Minister of Environment and Land Management has provided the following response:

1. The Marine Environment Protection Act 1990 provides that activities of a specified kind may be excluded from the application of the Act by regulation. Certain oyster and fin-fish farming activities have been exempted under the relevant provision.

2. The Minister has received advice from the Marine Environment Protection Committee and from the Department of Environment and Land Management through the Environment Protection office. The Minister has also received submissions from industry associates affected by the regulations. Cabinet has made a determination on the matter after consideration of all representations.

3. No.

TEACHERS

In reply to **Hon. PETER DUNN** (1 April).

The Hon. ANNE LEVY: The Minister of Education, Employment and Training has advised that the number of itinerant teachers was increased in 1991 from four to five. The five itinerant teachers are based at Port Augusta, Leigh Creek, Burra, Tarcoola and Coober Pedy. Each year the geographical location of visits by the itinerant teachers are reviewed so that between the five staff, students can receive one visit per term.

At the moment 154 students receive this service. All students have received one visit per term in 1991, 1992 and for term one 1993. Gathering accurate data on enrolment numbers is extremely difficult and is dependant upon information provided by RICE (Remote and Isolated Children's Service) as well as the itinerant teachers themselves who provide information based on their visits in the field.

At the recent State Isolated Children's Parent Association Conference, ICPA members agreed that it was not possible to develop a formula to determine the number of itinerant teachers required, however when students were not receiving at least one visit per term then they would request more resources.

LOCAL GOVERNMENT

In reply to **Hon. PETER DUNN** (3 March).

The Hon. ANNE LEVY: The Minister of Housing, Urban Development and Local Government Relations has provided the following response:

The Local Government Association has been recognised by the State Government as the body which is responsible for coordinating the views of the Local Government sector and speaking on behalf of local government in the negotiations which are taking place on new financial and administrative relationships and an appropriate legislative framework.

In signing the October 1992 Memorandum of Understanding, both parties agreed to work co-operatively on reform of the Local Government Act, and the LGA agreed to provide leadership to Councils in the development of local government views on issues.

More specifically, the LGA has agreed on a process of consultation in relation to the current review of the 'constitutional' provisions of the Act. The LGA advises that in the rural area each council has been consulted, and where the matter has been included on agendas it has been discussed with regional associations of councils. The metropolitan group of the LGA has not formally discussed this issue, and in the metropolitan area consultation has been with individual councils.

Any dissension which might arise between rural and metropolitan Councils on 'constitutional' provisions for local government is a matter for resolution by the LGA in preparing a sector-wide position for negotiation with the State Government, and no advice has been given by the Minister's officers on this matter.

STREETSCAPE

In reply to **Hon. J.C. IRWIN** (31 March).

The Hon. ANNE LEVY: The Minister of Housing, Urban Development and Local Government Relations has provided the following response:

1. The honourable member's question refers to development adjoining the New Market Hotel on West Terrace. The question has two parts—one referring to development adjoining heritage items and the other regarding streetscape.

The City of Adelaide Plan requires that development adjoining items of State and/or city heritage be in sympathy with and sensitive to that heritage item. How that is achieved is guided by the planning principles and policies of the Adelaide City Council.

At the Minister's instigation, the Adelaide City Council has appointed a panel of experts in urban design to assess proposed development adjoining heritage listed buildings.

This formation of the panel post-dates the development referred to by the honourable member, but is now making a significant contribution towards the achievement of more compatible and sensitive development within the City. In contrast Streetscape or Townscape deals with the retention of that part of visually significant and compatible groups of buildings, which is able to be seen from the street frontage. The streetscape and environment policies of council aim to control the elements of townscape and streetscape—namely massing, setbacks and design.

As well urban design guidelines are being drawn up to assist developers in designing appropriate infill development within areas designated of streetscape significance.

2. The Minister is unable to comment as to whether, say, 50 years hence the development to which the honourable member refers might be defended and/or retained.

BANKCARD

In reply to **Hon. J.C. IRWIN** (9 March).

The Hon. ANNE LEVY: I have been unable to confirm the relevance of your reference to 31 March in relation to this matter. I am advised that the ANZ and Westpac Banks Electronic Funds Point of Sales (EFTPOS) systems, will continue to have facilities whereby traders can manually input the customer's card details if it is rejected by the teller machine.

The State, Commonwealth and National Banks do not have this facility because of their concerns for customer account security. All banks, however, recommend the use of the manual invoice imprinter if a card is faulty. I have no information which suggests that this practice will cease on 31 March.

The Commissioner for Consumer Affairs has received very few complaints in relation to 'contaminated' cards. The major banks have indicated that customers experiencing problems with cards should contact their bank and arrangements can then be made to issue a replacement card within three to five days. In the circumstances I do not believe it is necessary to seek an assurance from the banks in relation to your concerns about easily contaminated cards.

HENLEY AND GRANGE COUNCIL

In reply to **Hon. J.C. IRWIN** (23 March).

The Hon. ANNE LEVY: The Minister of Housing, Urban Development and Local Government Relations has provided the following response:

1. The Minister has resources available to carry out his responsibilities under Part 12 of the Local Government Act within the Development Planning Division of the Office of Planning and Urban Development and the State/Local Government Relations Unit of the Department of the Premier and Cabinet. In addition assistance is available from other State agencies such as the Treasury Department.

2. Three project applications have been received over the past 12 months including one which was for development outside a council's area. This is the application received from Henley and Grange Council for a project at Kidman Park.

3. As at 1 April 1993 no applications are at hand from councils for projects to be undertaken outside of their area.

4. The Minister approved the project under section 197 of the Act subject to conditions placing a ceiling on interest rates on moneys borrowed and addressing the question of risk of soil contamination, which is a normal precaution for any land in a commercial or industrial zone on which residential development is proposed.

PARKING MACHINES

In reply to **Hon. J.C. IRWIN** (4 March).

The Hon. ANNE LEVY: The Minister of Housing, Urban Development and Local Government Relations has provided the following response:

1. Under the Local Government (Parking) Regulations it is not unlawful for one motorist to transfer to another motorist a parking ticket obtained from a parking dispensing machine and used by the first motorist, provided the ticket has not expired and provided the second motorist is also parked in the same zone for which the ticket was issued. Hence, there is no necessity to print any warning against such a practice on the machine.

2. As mentioned, it is not in itself an offence for a motorist to receive and use an unexpired parking machine ticket.

3. The Minister understands that Adelaide City Council parking inspectors have not issued any expiation notices where an unexpired ticket has been passed on to a motorist parked in the zone for which the ticket was issued.

SHIPPING SERVICES

In reply to **Hon. DIANA LAIDLAW** (1 April).

The Hon. BARBARA WIESE:

1. The Department of Marine and Harbors is not vigorously opposed to the proposed changes to schedules operated by the ANRO Consortium to the Port of Adelaide. The Department does however, have two major concerns in regards to changes being considered. One of the proposals being reviewed by the consortium was for South Australia to be deleted from the schedule altogether, by using Fremantle and Melbourne to service South Australian shippers. In discussions held with ANRO representatives since, it is believed that this option has been dropped.

The other concern held by the department is that any change to the shipping schedule not disadvantage South Australian shippers, either importers or exporters and that proposals being considered by the ANRO Consortium if undertaken, would seriously jeopardise the Adelaide move to a Transport Hub by calling at eastern States ports before Adelaide, that is, Brisbane, Sydney, Melbourne, Adelaide, Fremantle, Singapore.

2. There has been no campaign of opposition waged by the Department of Marine and Harbors against the ANRO Consortium. There has also been no unethical practice by any DMH employee. The Department of Marine and Harbors Commercial Division employees were, however, asked to provide commercial details in support of concerns expressed by

the South Australian Chamber of Commerce and Industry. The department's Commercial Division employees attended a number of meetings held with South Australian shippers and the Chamber of Commerce and Industry, at the request of the South Australian Chamber of Commerce and Industry. These meetings were to discuss a number of potential threats to service levels which could arise if satisfactory arrangements were not concluded with the ANRO Consortium.

3. The Department of Marine and Harbors has not corresponded with any parties to work to ensure effective replacement of ship services as indicated in the honourable member's questions. However, in a recent letter from the South Australian Chamber of Commerce and Industry, the chamber's General Manager, Mr Thompson, did indicate that should the quality of service provided by ANRO be diminished it would seek to work with the Department of Marine and Harbors to ensure an effective replacement service was attracted. This is a normal part of the department's responsibility to ensure that South Australian shippers are provided the best possible international shipping links. I can also advise the honourable member that further discussions have been held as is the normal practice between the Commercial Director and members of the ANRO Consortium, to ensure that not only the department's concerns, but shippers concerns are accommodated in any new service proposal adopted by the consortium.

OUTER HARBOR TERMINAL

In reply to **Hon. DIANA LAIDLAW** (24 March).

The Hon. BARBARA WIESE:

1. The Department of Marine and Harbors does not consider selling the terminal is a practicable proposition, given its location on the waterfront at Outer Harbor amidst active cargo handling facilities. Rather a long term lease for activities which could accommodate the constraints of live sheep, motor vehicles and other general cargo operations is seen as more appropriate. The passenger terminal is located above the cargo storage shed, which will continue to be used for that purpose. The land areas around the terminal, which were developed to channel traffic to the passenger terminal, will be redeveloped for modern cargo handling activities.

2. It is unlikely that tenders as such will be called. Rather, an informal call for expressions of interest will proceed to flush out ideas and proposals for the 'recycling' of the terminal. The call for expressions of interest will proceed in the near future when the Transport Hub development opportunities are more evident.

3. Relatively little maintenance expenditure is now being incurred on the building while in a 'mothballed' state—$31000 in 1991-92. No capital expenditure has been undertaken recently, nor is any planned at this time, pending redevelopment considerations. The seafront window frames have deteriorated through corrosion and will need to be replaced in due course. The most significant annual expenses are the fixed costs of depreciation ($69 000) and the interest payments ($157 000).

ALGAL BLOOM

In reply to **Hon. M.J. ELLIOTT** (11 February).

The Hon. ANNE LEVY: The Minister of Environment and Land Management has provided the following response:

1. The Government intends that discharge of treated sewage sludge to Gulf St Vincent will cease by the end of 1993. Works for this are on schedule.

Under the Marine Environment Protection Act the sewage treatment works have been served notice to submit an environmental improvement program (EIP) for their other discharges, within two years. The Environment Protection Authority would negotiate terms of those EIP's, consistent with Water Quality Guidelines for Estuarine and Marine Waters of South Australia.

2. South Australian authorities are aware of the dinoflagellate bloom off New Zealand. They will be able to seek further information through committees of the Australian and New Zealand Environment and Conservation Council (ANZECC). Nothing about this bloom appeared to justify committing more South Australian resources to its investigation.

STATE BANK

In reply to **Hon. J.F. STEFANI** (3 March).

The Hon. C.J. SUMNER: The Treasurer has provided the following response:

1. Mr Todd's employment was suspended on 12 November 1990. His suspension was not due to the falsification of profit figures. Confidentiality clauses preclude the bank from revealing details of Mr Todd's suspension.

2. A termination payment equal to net salary for one month was made to Mr Todd on 28 November 1990. After deducting amounts owed to the bank this payment amounted to f592 sterling. Mr Todd initiated legal action against the bank seeking a greater termination payment. In December 1992 the action was settled for an amount very much less than that claimed by Mr Todd.

3. The Treasurer has been advised that in April 1986 the bank established a fund known as the Executive and Specialist Superannuation Fund. It was designed for senior managers and specialists in the bank whose requirements for superannuation differed from the majority of staff, particularly in the areas of vesting and portability. The fund, at all times, complied with the Federal taxation and superannuation regulations.

4. The amounts paid into the fund by the bank generally represented the entitlements of the members who had elected to take part of their remuneration package by way of superannuation. Audited accounts for the fund as at 30 June 1992 show net assets of $1.84 million. Fund assets have never been greater than $2.5 million.

5. The bank does not know whether some or any executives deposited lump sum payments into the superannuation fund sourced from bonuses. Such lump sum deposits were permissible under the rules of the fund.

6. The fund makes payments to those members whose employment services are terminated or who leave the bank voluntarily comprising their contributions plus their share of net fund earnings. The vesting rules have changed over the life of the fund, from full vesting after six years, to full vesting after three years and now to full immediate vesting on termination of employment.

EQUAL OPPORTUNITY (COMPULSORY RETIREMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 April. Page 2107.)

The Hon. I. GILFILLAN: The Democrats oppose this Bill. It was part of the public record when the news first came forward in an article in the *Advertiser*—and I was quoted there as clearly indicating our opposition—stating that the Democrats were opposed to it and would oppose the measure when it came before us in Parliament, and we intend to do so.

I would like to indicate, without specifying the detail, that many people have contacted my office. I cannot hope to match the multitudes who contact the Leader of the Opposition whenever he has an issue to raise, but I can assure the Council that approximately 15 to 20 people individually expressed their concern, as the change would affect dramatically their plans for their future. They believe that it is—not that they used the word—a treacherous move, in that they had been encouraged to plan their life with the expectation that this measure would come in in June 1993. They are dramatically affected by a plan to change that and to extend it.

So, having made plain the Democrat's position, I think it is worth while to put on the record, from my point of view, the statement that was covered by an *Advertiser* article on 23 March 1993 headed 'Retirement backflip slammed,' in which the South Australian Commissioner for the Ageing, Mr Lange Powell, is quoted. He is quoted quite obviously as being very upset and opposed to this. The article states:

Mr Powell said yesterday he was 'disappointed and concerned' at the Government's plan to legislate to defer the move for a further two years... many South Australians in their mid-60s had 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,' Mr Powell said. 'For some people, it will mean an early and unexpected onset of a 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 lifestyle changes.

The Commissioner wrote to me on 23 March, after this article. He states:

Dear Mr Gilfillan,

Re: Abolition of compulsory retirement-*Advertiser* coverage (23 March 1993)

I am concerned that the *Advertiser* has coloured my office's position on the Government's proposal to defer abolition of compulsory retirement for another two years from 1 June 1993.

I attach a copy of the statement which I sent to the paper after its political reporter, Ms Catherine Bauer had approached me yesterday (22 March) seeking my views on the issue. While her article accurately quotes parts of the statement, the reference to 'many' older South Australians being 'devastated' by the referral is pure invention by the *Advertiser*.

Many of the older persons' organisations I have contacted have mixed views about the abolition of compulsory retirement, and, with the exception of COTA [the Council of the Ageing], their opposition to the deferral has been quite muted. At the same time, several have highlighted the desirability of creating opportunities for gradual or tapered retirement, rather than the sudden cutoff at 60 or 65 which now prevails (see section 3 of my statement).

I encouraged Ms Bauer to reflect this more positive approach to the issue, but she appears to have chosen not to do so.

I am sure you will have also had experience of misrepresentation by the media, but in this case it was particularly disappointing when the *Advertiser* was presented with a carefully worded document. More important, I am concerned that during the imminent parliamentary debate on the proposed deferral, my office's position be clearly understood. Yours sincerely, Lange Powell.

That is an interesting letter, I think members will agree. I do not know how many other members have seen the draft, and I will not reflect at length on the rather gentle reflections on what he considers to have been misrepresentations and pure invention by the *Advertiser*. He asked that the debate in this place be based on a balanced view of his statement, and I think his statement is a very significant contribution to his debate—so significant that in fact I will read it in full and that will form the substance of my contribution to the second reading explanation. It is as follows:

DEFERRAL OF THE ABOLITION OF COMPULSORY RETIREMENT TO JUNE 1995

STATEMENT BY THE SA COMMISSIONER FOR THE AGEING, MR LANGE POWELL

Under age discrimination amendments to the Equal Opportunity Act which came into effect in 1991, compulsory retirement was due to be abolished in South Australia on June 1st 1993.

The Government has decided to defer the implementation of this important policy measure for a further two years.

I am encouraged that the decision is one of deferral for a period to be fixed by legislation, rather than for an indefinite term. This suggests that the Government remains committed to the principle that the arbitrary nature of a compulsory retirement age makes it an unacceptable basis, by itself, for determining a person's employment status.

The decision is nevertheless disappointing, for two reasons:

1. Frustrated expectations amongst older people.

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 lifestyle 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.

2. Postponement of human rights.

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.

3. Gradual or tapered retirement.

Many older people have mixed views about the abolition of compulsory retirement.

There is some support in the older community, however, for retirement to be a gradual process, rather than a sudden event coinciding with a person's 60th or 65th birthday.

This will require a significant expansion of part-time or job-sharing options, and other means of enabling older people to continue working and earning.

The two years to June 1995 provide an opportunity for employers to explore these options. Older workers will not be the sole beneficiaries: the advantages of their dependability, low job mobility and practical experience have been well documented, and can be an important asset for employers seeking to maximise labour productivity in difficult economic times.

If the Government succeeds in obtaining Parliamentary assent for the deferral, I hope we will see evidence of employers and older workers developing these alternative workplace options in the lead-up to the abolition of compulsory retirement in 1995.

In spite of the letter from the Commissioner indicating that he felt he had, to a degree, been wrongly reported, the fact is that from this statement the Government is virtually condemned out of hand in its measure. It is not hard to see that here is a Government servant from the Office of the Commissioner for the Ageing speaking from the heart, experience and knowledge, saying that it is not appropriate to forestall this move any longer. He wipes off the economic argument. In his statement he says, 'It is hard to see how this can have any effect.' I will not go back and make quotes; I might be called on do so during the Committee stages if need be. So, this statement is a clear, measured objective argument condemning the Bill before us to delay this particular deferral of abolishing compulsory retirement.

Briefly, in conclusion, in the second reading explanation that the Attorney gave when introducing the Bill, there are a couple of points that I must criticise. Talking about the actual timing, he said:

This will not allow sufficient time to prepare and introduce amendments to those statutes which do contain discriminatory references before 1 June 1993, which was the date by which compulsory retirement was to be abolished.

How many times has the Government stalled its own plans that it has wanted to implement because it has not had time to introduce legislation or bring them in? How can he expect us to believe that statement? I am left flabbergasted that this is put up as an argument. We have been urged to pump legislation through; priorities have been put forward. This measure has been anticipated for three years, and the sittings have been extended to deal with legislation now. What a nonsense argument. I am amazed that the Attorney actually had the hide to read it out; perhaps he does not believe it himself, I do not know. But it is an absolute nonsense argument.

The other point which strikes me as being equally banal is this:

Compulsory retirement in the public sector is governed by specific statutes which provide for retirement of employees at specified ages. These specific statutes override the general provisions contained in the Equal Opportunity Act. Those general provisions will, of course, be binding on the private sector immediately upon the expiry of the two year sunset period which was included when the anti-age provisions were put in the Equal Opportunity Act. Thus, as the law stands now, compulsory retirement would be unlawful in the private sector on 1 June 1993, while the public sector would not be subject to the same obligation unless legislation is passed prior to that date. The Government accepts that it is inappropriate for more onerous standards to be imposed on the private sector than the public sector has to comply with.

The answer to that criticism of course, was in the Government's hands. It has had time to prepare and push for this particular Bill to delay the action. To sit sanctimoniously, as if it was really deeply wounded at the thought that there would be different standards between the public and private sectors, and therefore that was the reason for delaying the whole box and dice, just defies any credibility. So, Mr President, I say quite categorically that it is a pathetic argument that the Government has put up for delay. There is overwhelming argument for it to be put into place. The Democrats oppose the second reading.

The Hon. DIANA LAIDLAW: I find this Bill disagreeable and unacceptable. It seeks to extend by two years, to 1 June 1995, the abolition of the compulsory retirement age in the public and private sectors. It does so by extending to 1 June 1995 an exemption for all compulsory retirement arrangements from the provisions of the Equal Opportunity Act prohibiting discrimination on the basis of age.

In human terms this Bill aims over the next two years to force people who have no wish to retire from the paid work force over that period to do so before they wish. The Government would be aiming to force them out, not because they are unable to do the job well but because of some arbitrary criteria based on age.

I know that there is a trend among many South Australians today to retire early with voluntary separation packages or other arrangements, and I certainly would not be one to preclude them from doing so, but there are also many other people in our community who wish to continue in the work force and, depending on their ability to do their job, I do not

believe that is a matter in which this Parliament should be involved.

I firmly believe that retirement should be a matter for the individual and for his or her employer. For many years, as all members would know, I have campaigned in the community and in this place to outlaw age discrimination. I introduced my first private member's Bill on the issue and, incidentally, it was the first in Australia, on 23 August 1988. I subsequently introduced two more private members' Bills and finally the Government introduced its own Bill which passed in this place in March 1990.

The Bill before us today reinforces the fact that it is hard to get Labor to the line before it shows a keen interest in this issue of discrimination, whether it be based on age, gender or anything else and whether it occurs in the workplace or anywhere else. That certainly was the same experience with the Sex Discrimination Bill that was introduced by Dr David Tonkin as a private member and later taken up by the Dunstan Government. Again, that was the first Bill of its type in the country.

Workplace discrimination based on age is particularly offensive; it is an arbitrary and prejudicial measure of an individual's capacity. In South Australia, the issue is of even more importance than perhaps anywhere else in Australia, because we are the oldest State in terms of age profiles, and we have the highest *per capita* number of people dependent on benefits.

These facts were reinforced in the report on demography that was prepared late last year by the Social Development Committee of this Parliament. The facts outlined in that report (and indeed those to which I have just alluded) highlight that those fortunate enough to date to have jobs and who have been performing well in those jobs should not have arbitrary barriers placed in their way if they wish to continue to be responsible for earning their own income. We do need more income earners in this State, and we need more people generating more wealth.

Compulsory retirement ages are particularly harsh on women. Many South Australian women have had broken work force patterns because of family commitments, and most South Australian women have only in recent years started contributing to superannuation. If such women are made to retire at 60 years or at some other specified date before they wish or need to retire because of their work performance, we would be limiting their opportunities to build up their superannuation and therefore their ability to provide for themselves in the future. That point has been made over and over to me since the Attorney first raised this matter, and he would know as well as I do that financial security and, as a result, the peace of mind that financial security brings, are extremely important issues for everyone in our community and that generally, so is the individual dignity that one gains from earning an independent income.

So, I believe that those issues are central to the Bill before us. The Attorney said, however, when he introduced this Bill, that the Government was still firmly committed to the abolition of compulsory retirement ages. I find that possibly more a political statement than a truthful one because, if the Government (at least a diligent Government) was firmly committed to this issue, it would have ensured that we did not get to this stage where we needed to extend this exemption by a further two years.

Certainly, there appears to be potential for conflict in two provisions relevant to date in this Bill, but I cannot believe that that could not have been managed in a much better way than it has been by this Government, rather than letting it linger to the deadline and then having to resort to this Bill, which does break faith with the many older members of the South Australian public. It is another instance where the public loses regard for what members of Parliament say and do, because we cause such disruption to their lives.

The Attorney has indicated that he is introducing this Bill for a variety of purposes: the economy; high unemployment, particularly among the young; the need to maintain maximum flexibility in dealing with the public sector work force; and a difficult budgetary situation. It seems to me that the Government is prepared to tolerate perpetuating discrimination in retirement practices based on age because it wants to cut the numbers of public servants.

There is no doubt that if the Government retains this provision in this Bill, more people will be required compulsorily to retire and the Government will be saved quite a bit of money under the voluntary separation packages. I may well be accused of being very cynical, but that view is one that I hold, based on past observations of this Government. Also, it is a view that has been suggested to me by many equally cynical members of the public.

My personal preference with this Bill is to reject it without qualification. I accept, however, that there is some wisdom in the amendments being moved by my colleague the Hon. Trevor Griffin to extend the sunset exemption by only six months to 31 December and not two years as proposed by the Attorney-General. Therefore, I indicate that I am prepared to support this Bill with that qualification. I also look forward in the very near future to seeing before this place a series of Bills that will deal with the many matters raised by the working party that has reported on age provisions in State Acts and regulations. Certainly, I know from looking through this report that many Acts and regulations will need to be changed in the areas which I shadow in transport, the arts and cultural heritage and marine.

The Hon. C.J. SUMNER (Attorney-General): The Government's position does not defy credibility. The arguments are reasonable and accord with commonsense, and I would have thought that, had a commonsense been adopted to this matter, they should have seen the support of the Council for the Bill introduced by the Government. However, that is not to be, presumably because members opposite want to create as much difficulty as they can for the Government, but I guess that is something that they have to live with. There is no question of this proposition attacking the basic principles in the Bill. They were introduced by the Government and passed; age discrimination is outlawed in the provision of services, accommodation, etc., already; and it is only in this area of retirement ages that the difficulty has arisen. The Government's proposition is a commonsense one: a delay of two years to enable the other Acts dealing with

age provisions to be dealt with by Parliament, and for the reasons outlined in the second reading speech to delay in the public and private sectors the compulsory retirement age for that period of two years.

However, I make quite clear (and this was made clear, anyhow, and I am sure accepted by everyone in the community except, apparently, members opposite) that this is not—

An honourable member interjecting:

The Hon. C.J. SUMNER: He didn't say it was; it is not an attack on the general provisions in the Bill. In the area of anti-discrimination, equal opportunity and human rights, this Government's record in Australia is second to none.

An honourable member interjecting:

The Hon. C.J. SUMNER: It just happens to be true. We are not allowed to indicate when something is the case, but that happens to be the fact. In areas of human rights and equal opportunity, I say clearly, and it is recognised around Australia, that this Government's record is second to none.

The Government was concerned to ensure that the implementation of the abolition of compulsory retirement should proceed in an orderly and measured fashion. We did not believe it was appropriate that the policy should be implemented in the private sector before becoming applicable in the private sector. That is why we put forward the Bill. It is a commonsense approach to the problem to defer compulsory retirement for two years. There are other reasons which are valid in current economic circumstances, but I will not labour them. Our view was that two years was the best solution, given the circumstances that I outlined in my second reading explanation.

The Government is keen to provide leadership in the abolition of compulsory retirement. To this end the Government is encouraging the public sector to develop policies and programs for older workers which respond in a positive and proactive way to the consequences which flow from the abolition of compulsory retirement. In the Government's view, the implementation of the abolition of compulsory retirement will be considerably enhanced in the public sector by the development of such policies.

With this in mind, the Government has emphasised the importance of the development of the following measures within the public sector: measures to be taken by Government instrumentalities and public sector agencies to inform their employees about the abolition of compulsory retirement; and policies and programs to be established by Government instrumentalities and public sector agencies to assist older employees to remain in employment beyond the hitherto conventional retirement age.

There is a difference of opinion. The amendment is simple, but the issues have been fully canvassed. The Government believes that a two-year delay is sensible. It does not undermine the principles and it accords with common sense given the situation in the economy and the public sector work force at present.

The Council divided on the second reading:

Ayes (18)—The Hons J.C. Burdett, T. Crothers, L.H. Davis, Peter Dunn, M.S. Feleppa, K.T. Griffin, Diana Laidlaw, Anne Levy, R.I. Lucas, Bernice Pfitzner, Carolyn Pickles, R.J. Ritson, R.R. Roberts, T.G. Roberts, J.F. Stefani, C.J. Sumner (teller), G. Weatherill, Barbara Wiese.

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

Majority of 16 for the Ayes.

Second reading thus carried.

In Committee.

Clause 1 passed.

Clause 2—'Exemptions.'

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

Page 1, lines 14 and 15—Leave out "'second" and substituting "fourth'" and insert "'the second anniversary of this Part" and substituting "31 December 1993'".

The amendment is simple. It is to extend the sunset clause to 31 December 1993. I suggest to the Attorney-General that in the next eight months it should be possible to examine some of the recommendations of the working party reviewing age provisions in State Acts and regulations. That falls into two categories. One is employment. The other relates to positions; for example, positions on tribunals, licensing obligations under the Land Agents, Brokers and Valuers Act, the Mines and Works Inspection Act and a range of other legislation. I should have thought it would be quite simple to ensure that private sector employers and employees are treated no differently from the public sector employer, the Government, and employees by simple amendments to remove the retiring ages from the Government Management and Employment Act, the Education Act, and other legislation which relates to employment. If the other matters become too complex to be dealt with quickly, they can be the subject of a separate piece of legislation so that the employment area can be dealt with quickly. I acknowledge that the other issues may need some further consideration. I disagree with some of the propositions in the report, but the employment areas are really quite straightforward.

So, my proposition and the proposition of the Liberal Party is to extend the sunset clause to 31 December 1993. It is not an issue on which we want to create mischief for the Government to delay, because we believe it is something that can be dealt with relatively quickly. I have indicated that we believe this amendment ought to get up. I do not know what the Hon. Mr Gilfillan will do with it, but I hope that, at least whilst the Attorney-General does not accept that 31 December is a more appropriate date than the two-year anniversary, he might nevertheless accept it as part of the way towards dealing with some of the issues that he addressed. The Liberal Party's position is that, if we are not successful on the amendment, we will oppose the third reading.

The Hon. I. GILFILLAN: I am not attracted to tinkering with the Bill at all. I believe it should be opposed. So as far as the amendment goes, it does not have any attraction for the Democrats.

The Hon. C.J. SUMNER: That is a pretty amazing position for the Democrats to take, Mr Chairman, but I guess it is like holding a gun at the Government's head, saying, 'You support this amendment or the Bill will go down.' One would normally expect that those members, having lost the absolute defeat of the Bill, would then take the next best step which would be to defer it until the end of the year. However, in the light of the

indication from the honourable member that he is opposed to the amendment, and the indication from the Hon. Mr Griffin that, if the Government opposes the amendment and the Bill stays in its present form, the Liberal Party will oppose it, the Government has no choice but to at least accept the amendment in this place. What my colleagues in another place might want to do with it is another matter, but we will have to cross that bridge when we come to it.

The Hon. I. GILFILLAN: I am impressed by what appears to be the lucid reaction of the Government to this situation, and I indicate that if I am unsuccessful on the voices I will not divide.

The Hon. C.J. SUMNER: I understand that the Hon. Mr Lucas asked some questions in his contribution which were not answered in the reply, but I undertake to provide him with them by letter.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

PUBLIC CORPORATIONS BILL

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

No.1 Page 23, line 2, insert new Clause No.28 as follows:

Guarantee by Treasurer of corporation's liability

28. (1) The liabilities of a public corporation are guaranteed by the Treasurer.

(2) A liability of the Treasurer arising by virtue of a guarantee under subsection (1) will be satisfied out of the Consolidated Account which is appropriated by this section to the necessary extent.

(3) The Treasurer may, from time to time, after consultation with the board of a public corporation, fix charges to be paid by the corporation in respect of the guarantee provided under this section and determine the times and manner of their payment.

No.2 Page 23, line 11, insert new Clause No. 29 as follows:

Tax and other liabilities of corporation

29. (1) Except as otherwise determined by the Treasurer, a public corporation is liable to all such rates (other than rates that would be payable to a council), duties, taxes and imposts and has all such other liabilities and duties as would apply under the law of the State if the corporation were not an instrumentality of the Crown.

(2) Except as otherwise determined by the Treasurer, a public corporation is liable to pay to the Treasurer, for the credit of the Consolidated Account, such amounts as the Treasurer from time to time determines to be equivalent to—

(a) income tax and any other taxes or imposts that the corporation does not pay to the Commonwealth but would be liable to pay under the law of the Commonwealth if it were constituted and organized in such manner as the Treasurer determines to be appropriate for the purposes of this subsection as a public company or group of public companies carrying on the business carried on by the corporation;

and

(b) rates that the corporation would be liable to pay to a council if the corporation were not an instrumentality of the Crown.

(3) Amounts determined by the Treasurer to be payable under subsection (2) must be paid by the corporation at the times and in the manner determined by the Treasurer.

(4) This section does not affect any liability that the corporation would have apart from this section to pay rates to a council.

No.3 Page 36, line 1, insert Schedule as follows:

SCHEDULE

Provisions applicable to subsidiaries

Application and interpretation

1. (1) This schedule applies—

(a) to a body corporate established by regulation under Part 5 as a subsidiary of a public corporation;

and

(b) subject to the regulations, to a company that is a subsidiary of a public corporation.

(2) In this schedule—

"**board**" in relation to a subsidiary, means the board of directors of the subsidiary;

"**director**" in relation to a subsidiary, means a person appointed as a member of the board of the subsidiary;

"**parent corporation**" in relation to a subsidiary, means the public corporation of which the subsidiary is a subsidiary.

Direction by board of parent corporation

2. A subsidiary is subject to control and direction by the board of its parent corporation.

General management duties of board

3. (1) The board of a subsidiary is responsible to its parent corporation for overseeing the operations of the subsidiary with the goal of—

(a) securing continuing improvements of performance; and

(b) protecting the long term viability of the subsidiary and the Crown's financial interests in the subsidiary.

(2) Without limiting the effect of subclause (1), the board must for that purpose ensure as far as practicable—

(a) that the subsidiary establishes or observes all such plans, targets, structures, systems and practices as are required or applied to the subsidiary by its parent corporation;

(b) that the subsidiary operates within the limits imposed by its parent corporation's incorporating Act and charter and complies with the requirements imposed by or under this or any other Act or law;

(c) that the subsidiary observes high standards of corporate and business ethics;

(d) that its parent corporation receives regular reports on the performance of the subsidiary and on the initiatives of the board;

(e) that its parent corporation is advised, as soon as practicable, of any material development that affects the financial or operating capacity of the subsidiary or gives rise to an expectation that the subsidiary may not be able. to meet its debts as and when they fall due;

and

(f) that all information furnished to its parent corporation by the subsidiary is accurate and comprehensive.

Directors' duties of care, etc.

4. (1) A director of a subsidiary must at all times exercise a reasonable degree of care and diligence in the performance

of his or her functions, and (without limiting the effect of the foregoing) for that purpose—

(a) must take reasonable steps to inform himself or herself about the subsidiary, its parent corporation and the other subsidiaries of its parent corporation, their businesses and activities and the circumstances in which they operate;

(b) must take reasonable steps through the processes of the board to obtain sufficient information and advice about all matters to be decided by the board or pursuant to a delegation to enable him or her to make conscientious and informed decisions;

and

(c) must exercise an active discretion with respect to all matters to be decided by the board or pursuant to a delegation.

(2) A director is not bound to give continuous attention to the affairs of the subsidiary but is required to exercise reasonable diligence in attendance at and preparation for board meetings.

(3) In determining the degree of care and diligence required to be exercised by a director, regard must be had to the skills, knowledge or acumen possessed by the director and to the degree of risk involved in any particular circumstances.

(4) If a director of a subsidiary is culpably negligent in the performance of his or her functions, the director is guilty of an offence.

Penalty: Division 4 fine.

(5) A director is not culpably negligent for the purposes of subclause (5) unless the court is satisfied the director's conduct fell sufficiently short of the standards required under this schedule of the director to warrant the imposition of a criminal sanction.

(6) A director of a subsidiary does not commit any breach of duty under this clause by acting in accordance with a direction of the board of its parent corporation.

Directors' duties of honesty

5. (1) A director of a subsidiary must at all times act honestly in the performance of the functions of his or her office, whether within or outside the State.

Penalty: Division 4 fine or division 4 imprisonment, or both.

(2) A director or former director of a subsidiary must not, whether within or outside the State, make improper use of information acquired by virtue of his or her position as such a director to gain, directly or indirectly, an advantage for himself or herself or for any other person or to cause detriment to the subsidiary, its parent corporation or any other subsidiary of its parent corporation.

Penalty: Division 4 fine or division 4 imprisonment, or both.

(3) A director of a subsidiary must not, whether within or outside the State, make improper use of his or her position as a director to gain, directly or indirectly, an advantage for himself or herself or for any other person or to cause detriment to the subsidiary, its parent corporation or any other subsidiary of its parent corporation.

Penalty: Division 4 fine or division 4 imprisonment, or both.

Transactions with directors or associates of directors

6. (1) Neither a director of a subsidiary nor an associate of a director of a subsidiary may, without the approval of the parent corporation's Minister, be directly or indirectly involved in a transaction with the subsidiary, its parent corporation or any other subsidiary of its parent corporation.

(2) A person will be treated as being indirectly involved in a transaction for the purposes of subclause (1)—

(a) if the person initiates, promotes or takes any part in negotiations or steps leading to the making of the transaction with a view to that person or an associate of that person gaining some financial or other benefit (whether immediately or at a time after the making of the transaction);

and

(b) despite the fact that neither that person nor an agent, nominee or trustee of that person becomes a party to the transaction.

(3) Subclause (1) does not apply to—

(a) to—

(i) the receipt by the subsidiary, its parent corporation or any other subsidiary of the corporation of deposits of money or investments;

(ii) the provision of loans or other financial accommodation by the subsidiary, its parent corporation or any other subsidiary of the corporation for domestic or non-commercial purposes;

(iii) the provision of accident, health, life, property damage or income protection insurance or insurance against other risks (excluding credit or financial risks) by the subsidiary, its parent corporation or any other subsidiary of the corporation;

(iv) the provision of services (other than financial or insurance services) by the subsidiary, its parent corporation or any other subsidiary of the corporation,

in the ordinary course of its ordinary business and on ordinary commercial terms;

or

(b) to transactions of a prescribed class.

(4) If a transaction is made with the subsidiary, its parent corporation or any other subsidiary of its parent corporation in contravention of subclause (1), the transaction is liable to be avoided by the subsidiary or by its parent corporation or its parent corporation's Minister.

(5) A transaction may not be avoided under subclause (4) if a person has acquired an interest in property the subject of the transaction in good faith for valuable consideration and without notice of the contravention.

(6) A director of a subsidiary must not counsel, procure, induce or be in any way (whether by act or omission or directly or indirectly) knowingly concerned in, or party to, a contravention of subclause (1).

Penalty: If an intention to deceive or defraud is proved—Division 4 fine or division 4 imprisonment, or both.

In any other case—Division 6 fine.

Directors' and associates' interests in subsidiary or parent corporation

7. (1) Neither a director of a subsidiary nor an associate of a director of a subsidiary may, without the approval of the parent corporation's Minister—

(a) have or acquire a beneficial interest in shares in, debentures of or prescribed interests made available by the subsidiary, its parent corporation or any other subsidiary of its parent corporation;

(b) have or hold or acquire (whether alone or with another person or persons) a right or option in respect of the acquisition or disposal of shares in, debentures of or prescribed interests made available by the subsidiary, its parent corporation or any other subsidiary of its parent corporation;

or

(c) be a party to, or entitled to a benefit under, a contract under which a person has a right to call for or make delivery of shares in, debentures of or prescribed interests made available by the subsidiary, its parent corporation or any other subsidiary of its parent corporation.

(2) A director of a subsidiary must not counsel, procure, induce or be in any way (whether by act or omission or directly or indirectly) knowingly concerned in, or party to, a contravention of subclause (1).

Penalty: If an intention to deceive or defraud is proved—Division 4 fine or division 4 imprisonment, or both.

In any other case—Division6 fine.

Conflict of interest

8. (1) A director of a subsidiary who has a direct or indirect personal or pecuniary interest in a matter decided or under consideration by the board—

(a) must, as soon as reasonably practicable, disclose to the board full and accurate details of the interest;

(b) must not take part in any discussion by the board relating to that matter;

(c) must not vote in relation to that matter;

and

(d) must be absent from the meeting room when any such discussion or voting is taking place.

Penalty: Division 4 fine.

(2) If a director makes a disclosure of interest and complies with the other requirements of subclause (1) in respect of a proposed contract—

(a) the contract is not liable to be avoided by the subsidiary;

and

(b) the director is not liable to account to the subsidiary for profits derived from the contract.

(3) If a director fails to make a disclosure of interest or fails to comply with any other requirement of subclause (1) in respect of a proposed contract, the contract is liable to be avoided by the subsidiary or by its parent corporation or its parent corporation's Minister.

(4) A contract may not be avoided under subclause (3) if a person has acquired an interest in property the subject of the contract in good faith for valuable consideration and without notice of the contravention.

(5) Where a director of a subsidiary has or acquires a personal or pecuniary interest, or is or becomes the holder of an office, such that it is reasonably foreseeable that a conflict might arise with his or her duties as a director of the subsidiary, the director must, as soon as reasonably practicable, disclose full and accurate details of the interest or office to the board of the subsidiary.

Penalty: Division 4 fine.

(6) A disclosure under this clause must be recorded in the minutes of the board and reported to the board of the parent corporation and the parent corporation's Minister.

(7) If, in the opinion of the parent corporation's Minister, a particular interest or office of a director is of such significance that the holding of the interest or office is not consistent with the proper discharge of the duties of the director, the Minister may require the director either to divest himself or herself of the interest or office or to resign from the board (and non-compliance with the requirement constitutes misconduct and hence a ground for removal of the director from the board).

(8) Without limiting the effect of this clause, a director will be taken to have an interest in a matter for the purposes of this clause if an associate of the director has an interest in the matter.

(9) This clause does not apply in relation to a matter in which a director has an interest while the director remains unaware that he or she has an interest in the matter, but in any proceedings against the director the burden will lie on the director to prove that he or she was not, at the material time, aware of his or her interest.

Removal of director or board

9. Non-compliance by a director of a subsidiary with a duty imposed by this schedule constitutes a ground for removal of the director from office.

Civil liability if director or former director of subsidiary contravenes this schedule

10. (1) If a person who is a director or former director of a subsidiary is convicted of an offence for a contravention of any of the preceding provisions of this schedule (other than an offence consisting of culpable negligence), the court by which the person is convicted may, in addition to imposing a penalty, order the convicted person to pay to the parent corporation of the subsidiary—

(a) if the court is satisfied that the person or any other person made a profit as a result of the contravention—an amount equal to the profit;

and

(b) if the court is satisfied that the subsidiary, the parent corporation or any other subsidiary of the parent corporation suffered loss or damage as a result of the contravention—compensation for the loss or damage.

(2) If a person who is a director or former director of a subsidiary is guilty of a contravention of any of the preceding provisions of this schedule for which a criminal penalty is fixed (other than a contravention consisting of culpable negligence), the parent corporation or the parent corporation's Minister may (whether or not proceedings have been brought for the offence) recover from the person by action in a court of competent jurisdiction—

(a) if the person or any other person made a profit as a result of the contravention—an amount equal to the profit;

and

(b) if the subsidiary, the parent corporation or any other subsidiary of the parent corporation suffered loss or damage as a result of the contravention—compensation for the loss or damage.

Immunity for directors of subsidiaries

11. (1) Except as otherwise provided by this schedule, a director of a subsidiary incurs no civil liability for an honest act or omission in the performance or discharge, or purported performance or discharge, of functions or duties as such a director.

(2) A liability that would, but for subclause (1), lie against a director of a subsidiary lies instead against the subsidiary.

Tax and other liabilities of subsidiary

12. (1) Except as otherwise determined by the Treasurer, a subsidiary is liable to all such rates (other than rates that would be payable to a council), duties, taxes and imposts and has all such other liabilities and duties as would apply under the law of the State if the subsidiary were not an instrumentality of the Crown.

(2) Except as otherwise determined by the Treasurer, a subsidiary is liable to pay to the Treasurer, for the credit of the Consolidated Account, such amounts as the Treasurer from time to time determines to be equivalent to—

(a) income tax and any other taxes or imposts that the subsidiary does not pay to the Commonwealth but would be liable to pay under the law of the Commonwealth if it were constituted and organized in such manner as the Treasurer determines to be appropriate for the purposes of this subclause as a public company or group of public companies carrying on the business carried on by the subsidiary;

and

(b) rates that the subsidiary would be liable to pay to a council if the subsidiary were not an instrumentality of the Crown.

(3) Amounts determined by the Treasurer to be payable under subclause (2) must be paid by the subsidiary at the times and in the manner determined by the Treasurer.

(4) This clause does not affect any liability that the subsidiary would have apart from this clause to pay rates to a council.

Accounts and external audit

13. (1) A subsidiary must cause proper accounts to be kept of its financial affairs and financial statements to be prepared in respect of each financial year.

(2) The accounts and financial statements must comply with—

(a) the requirements of the Treasurer contained in its parent corporation's charter;

and

(b) any applicable instructions of the Treasurer issued under the *Public Finance and Audit Act 1987*.

(3) The Auditor-General may at any time, and must in respect of each financial year, audit the accounts and financial statements of the subsidiary.

Delegation

14. (1) The board of a subsidiary may delegate any of its powers or functions.

(2) A power or function delegated under this clause may, if the instrument of delegation so provides, be further delegated.

(3) A delegation—

(a) may be made subject to conditions and limitations specified in the instrument of delegation;

and

(b) is revocable at will and does not derogate from the power of the delegator to act in any matter.

(4) A delegate must not act in any matter pursuant to the delegation in which the delegate has a direct or indirect pecuniary or personal interest.

Penalty: Division 4 fine.

(5) If a delegate makes a contract in contravention of subclause (4), the contract is liable to be avoided by the subsidiary or by its parent corporation or its parent corporation's Minister.

(6) A contract may not be avoided under subclause (5) if a person has acquired an interest in property the subject of the contract in good faith for valuable consideration and without notice of the contravention.

(7) If a person is convicted of an offence for a contravention of subclause (4), the court by which the person is convicted may, in addition to imposing a penalty, order the convicted person to pay to the subsidiary—

(a) if the court is satisfied that the person or any other person made a profit as a result of the contravention—an amount equal to the profit;

(b) if the court is satisfied that the subsidiary suffered loss or damage as a result of the contravention—compensation for the loss or damage.

(8) If a person is guilty of a contravention of subclause (4), the subsidiary or the subsidiary's parent corporation or the parent corporation's Minister may (whether or not proceedings have been brought for the offence) recover from the person by action in a court of competent jurisdiction—

(a if the person or any other person made a profit as a result of the contravention—an amount equal to the profit;

(b) if the subsidiary suffered loss or damage as a result of the contravention—compensation for the loss or damage.

(9) Without limiting the effect of subclause (4), a person will be taken to have an interest in a matter for the purposes of subclause (4) if an associate of the person has an interest in the matter.

(10) Subclause (4) does not apply in relation to a matter in which a person has an interest if the person is unaware that he or she has an interest in the matter, but, in any proceedings against the person, the burden will lie on the person to prove that he or she was not, at the material time, aware of his or her interest.

(11) A contravention of subclause (4) by a person who is a director of the subsidiary constitutes a ground for removal of the director from the board of the subsidiary.

Transactions with executives or associates of executives

15. (1) Neither an executive of a subsidiary nor an associate of an executive of a subsidiary may, without the approval of the parent corporation's Minister, be directly or indirectly involved in a transaction with the subsidiary, its parent corporation or any other subsidiary of its parent corporation.

(2) A person will be treated as being indirectly involved in a transaction for the purposes of subclause (1)—

(a) if the person initiates, promotes or takes any part in negotiations or steps leading to the making of the transaction with a view to that person or an associate of that person gaining some financial or other benefit (whether immediately or at a time after the making of the transaction);

and

(b) despite the fact that neither that person nor an agent, nominee or trustee of that person becomes a party to the transaction.

(3) Subclause (1) does not apply—

(a) to—

(i) the receipt by the subsidiary, its parent corporation or any other subsidiary of the corporation of deposits of money or investments;

(ii) the provision of loans or other financial accommodation by the subsidiary, its parent corporation or any other subsidiary of the

corporation for domestic or non-commercial purposes;

(iii) the provision of accident, health, life, property damage or income protection insurance or insurance against other risks (excluding credit or financial risks) by the subsidiary, its parent corporation or any other subsidiary of the corporation;

(iv) the provision of services (other than financial or insurance services) by the subsidiary, its parent corporation or any other subsidiary of the corporation,

in the ordinary course of its ordinary business and on ordinary commercial terms;

(b) to the employment of a person under a contract of service with the subsidiary, its parent corporation or any other subsidiary of the corporation or to a transaction that is ancillary or incidental to such employment;

or

(c) to transactions of a prescribed class.

(4) If a transaction is made with the subsidiary, its parent corporation or any other subsidiary of its parent corporation in contravention of subclause (1), the transaction is liable to be avoided by the subsidiary or by its parent corporation or its parent corporation's Minister.

(5) A transaction may not be avoided under subclause (4) if a person has acquired an interest in property the subject of the transaction in good faith for valuable consideration and without notice of the contravention.

(6) An executive of a subsidiary must not counsel, procure, induce or be in any way (whether by act or omission or directly or indirectly) knowingly concerned in, or party to, a contravention of subclause (1).

Penalty: If an intention to deceive or defraud is proved—Division 4 fine or division 4 imprisonment, or both.

In any other case—Division 6 fine.

(7) If a person is convicted of an offence for a contravention of subclause (6), the court by which the person is convicted may, in addition to imposing a penalty, order the convicted person to pay to the parent corporation of the subsidiary—

(a) if the court is satisfied that the person or any other person made a profit as a result of the contravention—an amount equal to the profit;

(b) if the court is satisfied that the subsidiary, its parent corporation or any other subsidiary of the parent corporation suffered loss or damage as a result of the contravention—compensation for the loss or damage.

(8) If a person is guilty of a contravention of subclause (6), the parent corporation or the parent corporation's Minister may (whether or not proceedings have been brought for the offence) recover from the person by action in a court of competent jurisdiction—

(a) if the person or any other person made a profit as a result of the contravention—an amount equal to the profit;

(b) if the subsidiary, its parent corporation or any other subsidiary of the parent corporation suffered loss or damage as a result of the contravention—compensation for the loss or damage.

Executives' and associates' interests in subsidiary or parent corporation

16. (1) Neither an executive of a subsidiary nor an associate of an executive of a subsidiary may, without the approval of the parent corporation's Minister—

(a) have or acquire a beneficial interest in shares in, debentures of or prescribed interests made available by the subsidiary, its parent corporation or any other subsidiary of its parent corporation;

(b) have or hold or acquire (whether alone or with another person or persons) a right or option in respect of the acquisition or disposal of shares in, debentures of or prescribed interests made available by the subsidiary, its parent corporation or any other subsidiary of its parent corporation;

or

(c) be a party to, or entitled to a benefit under, a contract under which a person has a right to call for or make delivery of shares in, debentures of or prescribed interests made available by the subsidiary, its parent corporation or any other subsidiary of its parent corporation.

(2) An executive of a subsidiary must not counsel, procure, induce or be in any way (whether by act or omission or directly or indirectly) knowingly concerned in, or party to, a contravention of subclause (1).

Penalty: If an intention to deceive or defraud is proved—Division 4 fine or division 4 imprisonment, or both.

In any other case—Division6 fine.

(3) If a person is convicted of an offence for a contravention of subclause (2), the court by which the person is convicted may, in addition to imposing a penalty, order the convicted person to pay to the parent corporation of the subsidiary—

(a) if the court is satisfied that the person or any other person made a profit as a result of the contravention—an amount equal to the profit;

(b) if the court is satisfied that the subsidiary, its parent corporation or any other subsidiary of the parent corporation suffered loss or damage as a result of the contravention—compensation for the loss or damage.

(4) If a person is guilty of a contravention of subclause (2), the parent corporation or the parent corporation's Minister may (whether or not proceedings have been brought for the offence) recover from the person by action in a court of competent jurisdiction—

(a) if the person or any other person made a profit as a result of the contravention—an amount equal to the profit;

(b) if the subsidiary, its parent corporation or any other subsidiary of the parent corporation suffered loss or damage as a result of the contravention—compensation for the loss or damage.

Validity of transactions of subsidiary

17. (1) Subject to subclause (2), a transaction to which a subsidiary is a party or apparently a party (whether made or apparently made under the subsidiary's common seal or by a person with authority to bind the subsidiary) is not invalid because of—

(a) any deficiency of power on the part of the subsidiary;

(b) any procedural irregularity on the part of the board or any director, employee or agent of the subsidiary;

or

(c) any procedural irregularity affecting the appointment of a director, employee or agent of the subsidiary.

(2) This clause does not validate a transaction in favour of a party—

(a) who enters into the transaction with actual knowledge of the deficiency or irregularity;

or

(b) who has a connection or relationship with the corporation such that the person ought to know of the deficiency or irregularity.

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

That the House of Assembly's amendments be agreed to.

The amendments are consequential. They are money clauses that have been inserted in the House of Assembly.

The Hon. K.T. GRIFFIN: As I understand it, with the limited time I have had to check this, the schedule particularly reflects the amendments that we made here, and that the others are in fact the money clauses that were here in erased type. On the basis that the schedule picks up all those amendments I indicate support.

Motion carried.

MUTUAL RECOGNITION (SOUTH AUSTRALIA) BILL

Consideration in Committee of the House of Assembly's message.

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

That the Council do not insist on its amendments.

We have a difference of opinion in the philosophy of this Bill and the means of implementing its principles which I do not think can be resolved except by a conference, and that may not even do it then. But, heading for a conference, I will not explain it further.

The Hon. K.T. GRIFFIN: I obviously take the view that we ought to insist on our amendments, on the basis that they will be considered at a later stage.

The Hon. I. GILFILLAN: On behalf of the Democrats, I believe we should insist on our amendments and indicate that that is the way that we will vote in dealing with this message from the House of Assembly.

Motion negatived.

RACING (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2151.)

The Hon. M.J. ELLIOTT: When the Council rose at 1 o'clock I was nearing the end of my contribution. What I had done up to that time was to cover a wide range of issues that had been brought to my attention by way of a number of reports. I might also add that I have had quite extensive lobbying from a wide range of people and interest groups expressing concern about clause 15(6). It is an area that I have not been involved in for very long; it was probably first brought to my attention some three or four weeks ago, and obviously I would not even pretend to have expertise in the area. But what I have had brought to my attention is a very large number of concerns from a diverse group of interests.

It may indeed be that there is rebuttal for a number of the matters that I raised by way of the reports that I quoted, but the point I make is that I received far more information from a very wide range of people raising concerns. It is one of those unfortunate situations, where we have this matter which is of some importance, being debated in the last couple of weeks of the sitting of Parliament—in fact, it only came into our House three weeks ago—and when we also have other pieces of legislation, such as the Development Bill, which are of crucial importance to the State, and one's priorities, of course, necessarily get somewhat diverted.

I have been approached by one of the bookmakers who put a contrary view and, in fact, he has said to me that a number of the issues raised in various reports are capable of rebuttal, and I said, 'Well, somebody's going to need to do that', and I presume the Minister will do so. Why the Minister refused to release the TAB letter immediately and at the same time release the contrary view, if the Minister thought it was biased, is beyond me. In my view that was just stupid politics. The longer you hold a report back the greater the suspicions are about what is in it to start off with, and I did not see it for some time after learning of its existence.

Of course, what happens with this being caught in the last couple of weeks of the sitting is that, even with the best will in the world, one cannot give it the attention that one would like to. So, it leaves me in a position of taking a conservative viewpoint. The conservative viewpoint goes along the lines of virtually saying: 'If it ain't broke, don't fix it'. That is the first one. The second is to ask yourself the question: 'What are the benefits and what are the potential losses?' The potential benefits are minuscule except for a very small group of individuals. I am not saying that because they are a small group of people it is not important, but the point is that the benefits do accrue to a few. The potential negatives will, in fact, affect a large number of people.

It has been suggested that country racing, generally, will suffer badly. It has been suggested that the return to the Government may indeed decrease. There have been a number of negatives which I am not in a position to analyse fully now, and that is just a simple human resource consideration. It is a matter that I would be much happier to contemplate in the coming session following some months off, rather than having to consider all of the arguments—and there is a very large number of them—in a matter of days.

The Hon. R.I. Lucas: You have not supported a gambling Bill yet.

The Hon. M.J. ELLIOTT: It would be fair to say that I have not supported expanded gambling; that is accurate, and that has been a consistent position. I have not been convinced whether or not this will in fact lead to expanded gambling or whether or not it is going to be a redirection of betting dollars. I think it is largely a matter of redirection, which is why the country clubs, for instance, are so concerned.

Rather than going to the country meeting to bet with the bookmakers, people can make their telephone bets, and that will have its own ramifications as far as country

clubs are concerned. It is very real concern for them. So, yes, it is true that I have opposed expanded gambling opportunity. I am not sure that this in fact will make a significant difference in the number of dollars being expended. It will be more a matter of how and where those dollars are expended.

So I am opposing this move. Whilst I have taken an unequivocal position in terms of other gambling issues that have been before us in this Chamber, which have all been of the expanding gambling opportunity, that is not the reason for doing so on this occasion. I have had a number of people of, I consider, high repute bring to my attention a large number of concerns, and I believe that to move from the current position without being satisfied that damage will not be done would be an irresponsible move, whether on this or any other issue. That is the final and major reason why I am opposing this move at this time. I am open to be convinced, but doing so right now, with the other 30 Bills we have in this Council, some of major importance to the community as a whole, is just not reasonably possible. I make no apologies for that: that is just the real world. So, I do oppose that clause, but we support the Bill otherwise.

The Hon. PETER DUNN: Like the Hon. Mike Elliott, I find the issue cloudy, but before I go into detail about that let me say that my experience is not great. However, I do attend a number of country race meetings, because that is the patch that I live in and look after. Of the 22 members here, the Hon. Ron Roberts and I are the only two members who live in the country.

The Hon. R.I. Lucas: Tell us about the SP in the old man's hotel!

The Hon. PETER DUNN: I will in a minute. I will go into some detail. I attended the last Kingoonya race meeting and can relate a rather delightful incident that happened there. I was with another young fellow at the time, younger than me, although I was young at the time. It happened to be about 1982, I think. That race meeting now takes place at Glendambo. We were sitting in the broom bush shelter at Kingoonya and there happened to be an SP bookmaker there taking a few side bets—with a policeman sitting alongside him. The young fellow afterwards came and said 'I thought SP booking was strictly *verboten;* you're not allowed to do that. How come he can carry on here with the policeman next to him?' I said 'I think the policeman probably has five on the winner of the last race.' And we left it at that.

But it is true that I have attended a number of country race meetings. They are quite enjoyable and the people who run them and the people who go enjoy the day; it is an outing, whether at Marree, Marla, Oodnadatta, Coober Pedy or wherever; they are all delightful. There are a number closer in that I attend at Lock, Streaky Bay, and so on. But with all of them I would hate them to disappear, because they give the people in those areas the opportunity to attend those race meetings. Although they are often a bit legless at the end of the day, they have a great day and enjoy it very much, so it is something we should not try to knock off or denude.

I am always very guarded about standing in this Chamber and determining people's way of life or income. That is basically what this Bill is doing, whether it is the bookmakers or someone in the industry who is going to lose his job because of a change of direction for the money. So, I do that with some trepidation, but I guess we are elected to make that decision, and we will need to do that sometime this afternoon. I might say that I have had some connection with SP bookmaking. I have a background of living in hotels until I was about 22 or 23, and witnessed a raid on an SP bookmaker.

The Hon. R.I. Lucas: How did he get away?

The Hon. PETER DUNN: He was in the toilet when they raided, and I think he got the message. He did not come back, anyway. But there was a raid and he got away, and that was it. But that is the story of SP bookmaking. You will never stop it: it is a fact of life. It is like jay-walking and exceeding the speed limit: everyone does it. The arguments that I have heard this afternoon are actually trying to make it less of a problem. We have a statute that says SP bookmaking is illegal, and what we are endeavouring to do here, I guess, is to make it more illegal. We are trying to divert money that now goes to SP bookmakers to legitimate bookmakers—and doing it for a reason.

It is a selfish reason, I guess: we want more money. Or the Government wants more money. I do not: I am in the Opposition and it does not worry me much, but the Government wants more money because, as we know, its financial handling has been less than adequate. In fact, it has been atrocious. So, I am not sure that I ought to be saying 'Look, public, give some more money to the Government', because its history of handling money up to now has been atrocious and in the future it does not look as though it will be any better.

That aside, I think the arguments have been well explained in this place. I listened to the Hon. Robert Lucas and found his argument not entirely compelling, because he said he was not sure whether what we were doing would stop SP bookmaking, whether it would make bookmakers fatter or the TAB fatter, or whether it would make country racing any better. He was not sure about it. Then I listened to the Hon. Legh Davis, and he was not even convinced about it. So, I am not so sure. I have had a look at the Bill. I can see that the auditorium would add some flavour and colour to racing, particularly when there are provincial races on and there can be bookies, a consortium of bookies or their agents operating at an auditorium.

I can understand the racing industry's having a tremendous problem attracting the gambling dollar. Good God, if ever there is a gambler it is I! I am a farmer, and I never know what the fixed odds are. The good Lord never tells me what he is going to do at the end of the day or who is going to win, whether it is he or I. In the past couple of years I have been losing, so why would I want to go and gamble what I find hard to earn? However, I do on odd occasions have a small flutter and enjoy it very much and I can understand it. I must say that bookmakers do add a lot of colour and flavour to the racecourse, and I hope that they never disappear. They do in fact set the odds.

But will phone or facsimile betting fix the problem that they perceive today? Will it stop illegal SP bookmaking? I am not sure about that. The other people I have listened to are not sure and neither am I. Will they attract more punters? And will they be able to attract money away from the Casino or from the pokies when they come in?

I suspect that that will be their big problem. When these pokies get into pubs people will go along for an afternoon in the hotel to use the pub TAB, for instance, or to watch the races on telly, and I suspect that some of their money will go into that bottomless pit, the pokies.

My record in this place in the past has been not to support an increase in gambling. However, that is not the point, and I do not know that we can increase gambling much more in this State. I think the gambling led recovery that was once proposed by the Premier, or someone in another place, has failed, as I see this economy. But there is a certain amount of money that people are willing to wager, as the Hon. Mr Burdett said, and that is limited.

There is much on record about what should be done and what should not. There have been so many inquiries: in 1974 by Hancock, 1980 by Byrne, 1987 by Nelson, and the late 1980s and 1990s by Barnes. All of them have split decisions or they introduced a subject, or they recommended, or no mention; and I am just reeling off what was said by some of these committees.

It is not clear, so I will concentrate a little on country racing, because I opened my remarks with that issue. I do have some feeling for country racing. It is an important part of folklore. There are about 26 clubs around South Australia, and they get a portion of the money that goes into racing in South Australia. That money is apportioned fundamentally by the SAJC. There are country representatives, but they do not have the voting power; that is for sure. If we are going to keep a viable country racing industry perhaps we need to look at the scheme of arrangement by which that money goes out to the country areas or perhaps at the portion that the city gets.

I think there is confusion and animosity in this respect. As long as I have been in this Parliament, when we have talked about apportioning money between country and city, there has always been argument. As I said, I am not the full bottle on it, but I hope that people look at it in a magnanimous manner and see that each person gets the correct amount. As I see it, I think the country areas are probably being done in the eye, because I have been informed that it is likely that eight country race meetings could close down because of lack of funds.

It is not clear whether more or less money will go into the system as a result of telephone betting. However, if less money goes in the system, and therefore less goes out to the country, that would be a worry. I suspect that it may pick up a small amount. However, there appears to be a problem to me.

I am aware that some of the SP bookies in the country are fronts for bookies in the ring; there is no argument about that. When the country SP bookie gets a few high bets he will ring up his ring bookie and put that money on there. I think that happens now, so I do not know whether we are losing or gaining very much. It will make a difference to the pub TAB, perhaps. I am not sure; I do not think anyone knows. It is a very fluid situation.

If it in any way cuts down the amount of money that should be available to the country areas, I would have to vote against it. If it can be proven to me that it will increase it—and I have listened to a couple of sides of the argument and have not been convinced yet by either of them—then I would support it. However, I suspect not: I suspect that it will open up other elements. I do not know, for instance, whether they will be allowed to have telephone betting at country race meetings—at Murray Bridge, Balaklava, Victoria Harbor or wherever.

An honourable member interjecting:

The Hon. PETER DUNN: The honourable member nods his head. I am informed that that is correct. But what will it cost them? I am told by the Murray Bridge club that they have six telephone lines and can hardly meet the rental on them now. They will need about 20 lines for telephone betting. How will they pay for it? How will they pay for the equipment and staff to monitor it? There seem to be too many arguments and issues that are not clearly set out.

I understand that the offer for country races to have telephone betting is a relatively recent phenomenon. If that is the case, why? I really do have a bit of a problem with the whole issue. I hope that the whole industry prospers, but I am not sure that this Bill will achieve that. If I were clearer about it and if that were the case, I would be quite happy to support it.

In conclusion, I state that 26 clubs are involved, and there may be room for two or three of them to disappear, but only if they want to do so. However, I would not like to see that happen, because they do feed into the city, I am sure. The pool of people in the country areas must feed into the city. It continues to encourage people to watch racing and they must come down to go to the races here. I know that plenty of people do that.

However, I again raise the issue of this scheme of arrangement for this money, because if at the moment country racing gets $1.92 million and there is a proposal to cut that by $609 000, bringing it back to about $1.6 million dollars or 12 per cent of the take, then a problem will develop and obviously some country clubs will have to close down.

However, I think that the issues are not as clear as they were. As I read it, from where I stand here, I cannot see any advantage in telephone betting and I cannot support that in the Bill.

The Hon. BERNICE PFITZNER: After listening to my colleagues—all of whom I feel have certain doubts about this Racing Bill—and after researching some of the contacts, I have concerns. Horse racing is a form of gambling that can be most enjoyable. To me, one of the joys is the pleasant surroundings and looking at the beautifully bred horses at the top of the range. As well, of course, there is the excitement of betting and, occasionally, of winning, which must not be forgotten.

Betting on horses has now become more complex. There is the TAB, the on-course tote and then the bookmakers. Finally, there are the apparently despised SP bookies. The part of this Racing Bill that is most contentious is clause 16, which relates to the ability for people off course to telephone bets to on-course bookmakers. There is already the ability to telephone bets to the TAB and betting shops off course, but, first, these places need a coding system to identify the caller; secondly, the account must have a credit before acceptance; and, thirdly, the transaction must be recorded and documented immediately.

For the on-course telephone bets none of these safeguards is discussed—just the facility to record the telephone bets. To my mind this sets up a myriad of opportunities for abuse of the system. This concern and this foreboding is not at all dispelled by the meeting that we had with some people representing the bookmakers. Apparently the bookmakers are having a difficult time, and this additional method of betting—telephone betting on course—may help to improve their lot.

However, I have received some reports that argue against this new type of betting. Those who support on-course telephone betting allege that these reports, which were produced in May and June 1990, are out of date and do not pertain any longer. Reading these reports, it is hard to envisage how the very certain and firm attitude of the reports of not supporting telephone on-course betting could make a complete 180 degree turn around. Now it is put to us that the activity has great merit.

To emphasise my complete astonishment at such a change, I would like to read some extracts from three of the reports. The first report to which I will refer is from the South Australian Jockey Club. It is a submission to the then working party to examine the feasibility of permitting bookmakers to accept telephone bets oncourse. I will read some extracts from it which are relevant and which, to my mind, are of great concern. First, it says:

> The committee of the South Australian Jockey Club has come to the conclusion that it, as a controlling authority for the galloping code, cannot support the introduction of telephone betting for bookmakers. However, the club is ready to consider any other proposals put forward that will be of assistance to the bookmaking industry.

Then I read under the heading 'No effect on existing bookmaker betting turnovers held on course' the following:

> The South Australian Jockey Club has difficulty in accepting that the majority of telephone betting turnover will come from new sources. Due to the ability to bet with a bookmaker from an off-course location, it is likely that some of the turnovers achieved from telephone betting will come from persons who would have otherwise attended the course.

Then further on:

> The South Australian Jockey Club is not aware of any evidence that would lead it to believe that large amounts of SP money would be bet with the telephone betting service. It is more likely that a great amount of the telephone betting turnover would come from existing sources of turnover, both on and off course.

There is a great argument as to that, as my colleague the Hon. Mr Dunn has said: will it move this SP money? Again, a careful analysis of the possible financial impact in the report says that the effect on country and provincial, clubs is even more difficult to determine as the likely numbers of bookmakers operating telephone betting and their estimated turnovers at these meetings are not covered sufficiently in the league's proposal. However, it can be assumed that due to the need to travel further to these courses more racegoers will choose not to attend and to telephone bets to the course. So, what does it say for the viability of our country and provincial clubs?

Again, under 'Anticipated benefits to the bookmaking industry', it says:

> As a result it will be only a few of the larger bookmakers who will benefit most from telephone betting as opposed to the majority of bookmakers.

This has been said and put to us time and again in the past two or three days. Again, under 'Operating parameters', it says:

> If more than one price is given out then there would need to be some controls to ensure that the telephone betting service does not become a bookmakers' prices service to off-course bettors.

Under 'Implications which may arise from interstate racing authorities of clubs', it says:

> Despite their opposition to telephone betting it could be reasonably expected that the interstate clubs and authorities would introduce it following its introduction in South Australia to ensure betting moneys do not leave their State. With bookmakers in the Eastern States being stronger both in terms of size of bets taken and odds on offer, it will result in a net loss of betting turnover from this State to the Eastern States.

This fact has also been put to us more than once. They are just a few of the extracts from a submission from the South Australian Jockey Club. Apparently, I gather that there has been a change of heart and that this kind of betting is now accepted. I find it hard to believe what justification and what evidence has made them change their minds. I have another report here of the National Working Party on Telephone Betting by the Oncourse Telephone Betting Service. I will read some extracts from it, as follows:

> On the basis of a resolution of State and Territory Racing Ministers, we have examined the question of registered bookmakers accepting telephone bets from persons off the course. During the examination we did not extend our inquiries to the profitability of bookmaking... However, based on information available to us, we would caution strongly against any Government legislating to extend the operations of bookmakers to provide for a telephone betting service.

Further, the report goes on to say:

> The equilibrium formed from having distinct on and off-course betting environments, coupled with the enormous growth of the various TABs over the past two decades, has contributed significantly to the present viability of the racing industry throughout the country.

The industry makes significant contributions to the economies of each of the Australian States and Territories and the Commonwealth by way of direct and indirect taxation and as a result of the employment opportunities that it provides. Governments should therefore proceed with extreme caution with any proposals to vary the existing successful mix of the on and off-course betting services, and change should be considered only where it can guarantee improved positions for both the industry and the Government.

The proposal under consideration offers no such guarantee. More importantly, although jeopardising the viability and future growth of the racing industry, the proposal does not even guarantee the attainment of its primary objective to improve the viability of the bookmaking service.

So, this national working party also indicates caution. Further, under 'Effect on on-course patronage and turnover', it says:

It is a fact that the various race clubs throughout Australia derive almost their entire income from two sources, viz, TAB distribution and on-course receipts. With respect to on-course receipts, the main items are: gate takings, bookmakers' fees and turnover levies, totalizator commission, and bar and catering profits.

In view of statistics provided above, i.e., current betting ratio of 6:1 in favour of bookmakers, it could be reasonable to assume that a large section of racegoers throughout Australia have a natural preference to invest with bookmakers rather than per medium of totalizator systems. Accordingly, it could be held that many people attend race meetings simply because they provide the only means whereby legal betting with bookmakers is available.

Therefore, if we have this telephone on-course betting, what is to happen to the people whom we would expect to come onto the course? I would suggest that the numbers would be decreased. Finally, in the conclusion of this national report, it states:

Based on the submissions placed before it, together with other available information, the members of the working party are unanimous in the view that:

- the concept of bookmakers accepting telephone bets on the course was most probably developed in the interests of the larger bookmakers with a view to attracting 'the very large' SP bets that are spoken of from time to time;
- however, such a system would only be in the interests of a select few bookmakers and their clients and the metropolitan galloping clubs;
- the concept has now been extended as a matter of expediency and proposed as a means of improving the viability of the whole bookmaking industry;
- increased turnover for bookmakers will not in itself generate an improvement in profitability;
- a legalised telephone system will not in itself eradicate illegal SP betting.

That is the report of the National Working Party on Telephone Betting by Oncourse Bookmakers.

Finally, I would say that the most damning evidence is this report from the South Australian Police Department which was produced in May 1990 and signed by the Commissioner of Police, Mr Hunt. This is a position paper to the working party to examine telephone betting. It states in part:

Whilst an 'oncourse' telephone betting system may well provide a service to each bookmaker's valued clients, will the telephone numbers be advertised and become common knowledge to all and sundry? Will prospective punters ring several 'oncourse' bookmakers to achieve the best odds? What clerical assistance is deemed necessary so that no interference is caused to 'oncourse' punters?. . .Such practices of unrecorded betting avoids turnover tax.

Of more interest to me is what is stated under the title credit betting' as follows:

All legitimate forms of gambling do not allow for credit betting. Whilst it is recognised certain forms of credit betting exist in an 'in house' arrangement, this is not available to the public at large... Of extreme concern is the method of settlement of outstanding betting debts. Suffice to say many individuals, for commission, would avail themselves to retrieve outstanding debts by various means. An increase in crime could be the ultimate result...The installation of TAB agencies in hotels has had a significant retardation of SP betting in South Australia. In the event of 'oncourse' telephone bookmaking facility, what preventive measures can be guaranteed that will ensure bookmakers' agents (as was the case with SP agents) will not emerge as a substitute and phone bets through to the oncourse bookmaker? A proliferation or extension from the traditional oncourse betting with the licensed bookmaker into all areas of the community is likely. This may well be to the nuisance of those uninterested in betting, e.g. work sites, community centres etc... Therefore, a telephone link alongside the betting price board can be envisaged. What impact is this likely to have on the already congested noisy betting arena? Whose bet takes precedence—the punter in the ring or the phone punter? Will a last minute punter be deprived of his bet because the clerk answered the phone first?

Finally, under 'Conclusions', this position paper of the South Australia Police Department states:

1. Despite the convenience, any form of credit betting should be opposed in principle.

2. The proposal would create the first legitimate credit betting.

3. The proposal has not addressed the logistics of telephone betting.

4. The proposal has no interstate precedent.

5. The system relies on self-discipline to record and document each bet. Are there sufficient checks and balances in this arrangement?

6. The credit system lends itself to abuses in trust and excesses in the manner of recovery.

7. The telephone system proposed would discriminate against the TAB telephone betting system.

8. An upsurge of licensed bookmakers' agents throughout the community could result.

9. The reduction of turnover requires addressing. However, the proposal is not seen as the solution most suitable.

Point 6 is particularly worrying. In his final recommendations, the Commissioner of Police recommends:

That the SABL proposal not be accepted on the basis of the perceived and predicted abuses likely to impinge on the racing fraternity.

So, not being fully conversant with the industry myself, I rely on opinions of respected and knowledgeable relevant bodies, and I will mention some of them. I have had further communication from Mr Colin Hayes regarding some other respected people who do not support section 15, that is, telephone oncourse bets. We have heard from one, the Chief Administrator from the Racing Club in Darwin, Mr Paul Cattermole, who had experience of this type of betting some years ago. He related to us how difficult it was when it was on and then how difficult it was to remove it when it was found not to be working.

Again, from an Executive of the Australian Jockey Club in New South Wales, whom I have since rung to check this allegation by Mr Hayes as to whether he supported the proposal, the reply was that they did not support that proposal but if by chance South Australia was successful, and I hope I am wrong and South Australia might be successful, they would no doubt also enter into the fray. Thirdly, I also contacted the Deputy Chief Executive Officer of the Victorian Racing Club, and they were even more vocal about opposing this clause of the Bill. They say they totally oppose it because of three particular points: first, the accountability of its checks and balances; secondly, the disadvantages to small bookies and to the betting public; and, thirdly, they

feel that the racing industry will be diverting income from the TAB to other areas that would not be of gain to the racing industry. With all these experts giving advice, can we discount them? Although I know very little about racing and all the ins and outs of it, I do feel very concerned about this whole Bill.

The other matter of concern is that there has not been sufficient time for us to consider all the factors, and let us not be hoodwinked by some of the statements that if it is not working we can easily retract it and withdraw it. We know that when something is put in place, when hundreds of thousands of dollars have been poured into setting it up, we cannot retract it. Therefore, on the one hand, we would like to support the bookmakers in their attempt to remain viable, but will this method of oncourse phone betting be the best means to achieve viability for them? On the other hand, numerous difficulties have been identified that will affect the balance of the racing industry.

So, at this stage, because I have not received sufficient information to counteract these three reports, because of the total opposition to this Bill by some of the interstate influential people who would know about all such things and because I actually did phone the Police Department of South Australia and there was a great silence on the other end of the phone—because if all this, I am unable to support clause 15 of this Bill, although I support the rest of the second reading.

The Hon. R.R. ROBERTS: I support the Bill. This Bill comes about at a time when all racing codes in Australia—gallops, trots and the greyhounds—are under extreme stress. There is no question that the racing industry is not being insulated from the world and Australian recessions, and this is evident, given the figures around the place that just in the breeding industry alone there are between 6 000 and 8 000 fewer foals this breeding season than in preceding seasons.

This phenomenon is understandable by people who have knowledge of the industry or by those who wish to obtain some knowledge of the industry. They would know that if there is no money about, the whole of the racing industry will collapse. Good stake money attracts good horses which attract punters, and so the circle goes around.

This Bill is the result of extensive consultation between the principal bodies of the three codes in South Australia and the Minister's office. If we in this place believe in representative democracy—I believe we all do—we must assume that those people are acting in what they believe to be the best interests of the racing codes in South Australia.

I have some experience of the racing and trotting business. I held the position of Vice President of the Port Pirie Trotting and Racing Club, and I have been involved in trots. Therefore, I am not absolutely green with respect to some of the problems, especially those that will be faced by country clubs in consequence of these changes.

I have had concerns in the past and been through the debate about telephone betting. I will now address myself to that subject. Telephone betting *per se* holds no fears for me, because I am familiar with it. There are such things as telephone accounts which operate within the TAB and have done for many years. In Port Pirie, where I live, we have betting auditoriums. There are mini betting auditoriums and they have been operating telephone betting for some years. I have not seen many of those bookmakers riding around in new Mercedes Benz cars, and I am sure that they do not have any new luxury accommodation on the Gold Coast. Telephone betting is not the problem.

The main concern of country racing clubs, in particular, about telephone betting is that they will not get people to come to the tracks. They will sit in the pub on a Saturday afternoon, ring their bookie, place their bet, save the $6 to get in and not subject themselves to the cold and the vagaries of the tracks. That has been the major concern with the auditorium, not the fact that there will be illegal bets, and so on.

Reading the Bill and considering the minimum size bets, I would suggest that telephone betting will be attractive to a certain group of punters—not what is known as the mug punter, the $10 punter, call him what we like. Incidentally, they are the backbone of the trotting, racing and greyhound industries. These people will normally turn up on the track because they want to see the horses race. They go there for the interest.

The auditorium does hold some concerns for me. In my view, when those overcoat meetings take place in June, July and August at country race tracks, such as Balaklava, if it is cold and windy I do not envisage too many of the punters from Glenelg driving past Morphettville, spending $25 to get there and paying $6 to stand in the rain all day when they can go into luxury surroundings at Morphettville and punt there. That will have some effect on country racing. Therefore, my concerns are not so much about telephone betting but the auditorium.

I should like now to address the situation with regard to betting distribution. In South Australia there are allocations for the distribution of TAB funds. Approximately 72 per cent goes to racing, 18 per cent goes to trots and the rest goes to the dogs. After the profits have been declared at the end of the year, the funds are distributed to the principal bodies and the trotting and racing clubs then distribute theirs to the metropolitan and country areas. This will be somewhat changed by the auditorium because the arrangement has been made between the SAJC and the Trotting Control Board, with all the moneys turned over at the auditorium. There will be a different distribution because the Greyhound Racing Club has not got involved in the auditorium. There is some private arrangement. In future, 82 per cent of the funds generated at the auditorium will go to racing in South Australia and the other 18 per cent will go to the South Australian Harness Racing Board.

That is slightly different from what normally occurs with what is called Jetbet. That system operates on country tracks. A syndicate will get together and 10 per cent of the turnover money on the TAB goes to that particular club within a fortnight or three weeks. That money will allow country clubs, in particular, to keep their running costs turning over.

With this system in the auditorium, the 18 per cent, which is on all racing and trotting in South Australia, will eventually go into the pool and be distributed to the

South Australian Harness Racing Board at the end of the year, or quarterly, and be distributed on that basis. My concern is that it will put enormous pressure on country racing clubs and, indeed, Globe Derby Park on a Friday night because, in my view, punters will go not to Globe Derby Park but to the auditorium.

This problem can be overcome. My investigations have assured me that it can be done within the regulations, and I assure the Council that I shall be watching those regulations very closely. This problem can be overcome by a simple book methodology. When a TAB meeting takes place at, say, Balaklava or Port Lincoln, we can identify that that was the TAB meeting that was operating on that day. Then, when the allocation of the 18 per cent from the auditorium is identified, it is simple to say that the 10 per cent that would normally have gone into Jetbet, had people gone to Balaklava or Port Lincoln on that day, can be allocated and directed within a fortnight to those clubs that were racing on that day. That will allow them to remain viable. I suggest that the other 8 per cent could be identified and put into the general pool for distribution at the end of the year. That is my concern in respect of that matter, but I am assured that the problem can be overcome by the regulations. As I said, I shall be keeping an eye on the regulations.

I should like to put to rest the concerns about telephone betting. As I said, telephone betting has been a concern in the past and it has been well discussed over the past few years. As members will remember, this was part and parcel of the discussions that took place when we were talking about fixed odds betting last year. The subject has been well researched, and I am assured that, with regard to those who are concerned about skulduggery betting oncourse, the infrastructure that will be put in place to screen or block illegal telephone betting is very sophisticated and adequate to overcome those worries.

I have no doubt that we will experience some problems in the bedding down of the changes, but I see this as a compliment to the racing industry because it has been brought about by the industry itself. I think we need to highlight the fact that at this stage the Government is prepared to legislate to assist the racing codes. These accommodations, together with the recently announced injection of $2 million into South Australian racing, have brought to my attention the fact that the $2 million allocation has certain caveats upon it.

They provided, for instance, that no more race meetings could be set up and that the code had to have a review of its operations. I think that is the crucial point. In all the racing codes at the present moment there is a responsibility on those controlling bodies: that is, the Bookmakers League itself, trotting, racing and greyhounds. The time has come when they have to look at their own administration and implement some reviews, falling into line with every other business that is operating in South Australia today, or indeed Australia. They have to make those reviews in the best interests of their particular codes. I have confidence that that will be undertaken, and I draw to the attention of the peak bodies of all those codes to the fact that they do have a responsibility under their own constitutions to look to the affairs of trotting, racing or greyhounds throughout the whole of South Australia, and that those industries do not just operate in the metropolitan area.

I am confident that those particular bodies will undertake that task. If due attention is given to the distribution of funds, the disadvantages of the auditorium in respect of drawing crowds, especially at those overcoat meetings, will be outweighed by these changes to the system which will allow a better industry to establish and consolidate what has been described as the second or third largest employer of labour in South Australia. I commend this Bill to the council.

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I thank honourable members for their contributions. Before this debate began I barely knew the front end of a horse from the back, but I feel I have learnt considerably from hearing the contributions of honourable members. I do not want to answer what various speakers have said in detail, as I feel a lot of what has been said is personal, deeply felt opinion, and does not relate to factual matter. The Hon. Mr Lucas mentioned the Darwin telephone betting operation, and I suggest to him that we cannot possibly compare the experimental telephone betting operation in Darwin with what has been developed and is proposed to operate in South Australia. The Darwin experiment was over 20 years ago and had far inferior technology—not through lack of will but because the technology did not exist at that time—and modern advances in technology now make a considerable difference compared to what applied at that time. The Hon. Mr Lucas also queried the non-tabling of the much publicised report from the TAB. I understand that it has not been tabled because it contains many inaccuracies, and the TAB admits that.

The Hon. R.I. Lucas interjecting:

The Hon. ANNE LEVY: Yes, and the Minister has been advised that he will be receiving correspondence from the new chair of the TAB which will correct statements made and figures provided in the initial TAB correspondence from the previous chair. He has been advised that these obvious inaccuracies and figures will be corrected by the new chair. As another instance, the letter from the TAB indicated that there would be no Government turnover tax from the proposed bookmakers' telephone betting. This, of course, is totally wrong. The telephone betting turnover is no different from any other turnover generated by bookmakers, and the Government receives approximately .85 per cent of all turnover by a bookmaker, and the codes and clubs receive 1.4 per cent of the turnover generated by bookmakers. So, in total, there is a 2.25 per cent turnover tax on bookmakers' activity, and that will certainly include the new proposed bookmakers' telephone betting.

The Hon. Mr Elliott queried whether the Minister had consulted with his interstate counterparts on the question of telephone betting, as was undertaken by the previous Minister, the Hon. Kym Mayes. I would certainly acknowledge that a commitment given by a previous Minister is not necessarily binding on a current Minister, but I can certainly indicate that the new Minister did consult extensively with his counterparts at a Racing Ministers' conference which was held in Adelaide, and I understand that their collective response could be summed up as indicating great interest in the proposal

and with a statement that they will be monitoring very closely the outcomes. We understand that one State is actively undertaking the necessary work to introduce similar legislation, which could well be expected before the end of this year in that particular State.

I will not respond at this stage to any of the other points made by various speakers. As I stated, a lot was in the category of opinion—and obviously everyone is entitled to their opinion—but there does not seem much point in attempting to respond. If there are any matters relating to questions of fact which were raised and which I have not addressed I will be happy to do so in the Committee stages.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. R.I. LUCAS: I understand that it is the Government's desire if the legislation is successfully passed by this Chamber to have telephone betting by Saturday for the start of the carnival. If the legislation is passed by 6 o'clock this evening, is it possible for it to be proclaimed and in operation in such a short time?

The Hon. ANNE LEVY: Parliamentary Counsel's advice is that it can be done: with regard to Saturday it is expected that it can be in operation for 8 May. That is my understanding of the situation.

Clause passed.

Clause 3 passed.

Clause 4—'Amendment of section 44—Constitution of board. '

The Hon. R.I. LUCAS: I do not expect the Minister to have a response to this question, and I do not require it during the Committee stage, but I would be interested if she would say whether there has been an example in the past 10 years since the Labor Government came into office in 1982 where the Minister of the day has rejected the recommendation of one of the industry groups in relation to membership on the TAB board.

The Hon. ANNE LEVY: I am happy to give an undertaking to seek that information and bring back an answer.

Clause passed.

Clauses 5 to 14 passed.

Clause 15—'Amendment of section 112—Permits for licensed bookmakers to bet on racecourses.'

The Hon. PETER DUNN: Will more money be available for country racing if telephone and facsimile betting becomes operational? I would like a definite answer: 'Yes' or 'No'.

The Hon. ANNE LEVY: As I understand it, it is difficult to be emphatic on this matter, but I am given to understand that the officers expect that there could be—through the betting auditorium which will be associated with telephone betting—an increase for the country clubs.

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

To strike out paragraph (d).

The Hon. PETER DUNN: In the light of the Minister's answer that it is not clear, if there is by some chance a shortfall to the racing code, will the Government make up the deficit to either country racing or to racing in general?

The Hon. ANNE LEVY: The Government would not be making up any shortfall, but the projected revenue distribution from the auditorium (that is, what is expected) is that the galloping code would benefit by an extra $753 000. That is a guesstimate, I agree, but an educated guesstimate of the additional sum available for the galloping code. Obviously, the country racing clubs share in the total that is allocated to the code.

The Hon. R.I. LUCAS: The Minister indicated in reply to the second reading debate that the Minister of Recreation and Sport had received advice from the new chair of the TAB that he was going to send a letter of clarification that was, in effect, different from the letter that the Minister received from the past chairman in early March of this year. I want to place on record, as I did during my second reading contribution (it is the only aspect of our contribution where I think I agree with the Hon. Mr Elliott) that the Minister's handling of this whole issue has not added to the debate and, indeed, has potentially jeopardised members' support for the legislation.

If the report were available it should have been made available to all members for consideration. If there were errors in the report, as we have highlighted and as the Minister has now conceded, the Minister should have been open, frank and honest enough to have indicated where those errors were, rather than sneaking around hoping that no-one would get a copy of the report and hoping that the legislation could be sneaked through the Parliament without proper consideration of the report, even though at the same time, as I said, it was the most widely circulated secret and confidential report I have seen or heard of in my time in this Parliament.

The Hon. T. Crothers: And that is saying something!

The Hon. R.I. LUCAS: It is saying something. I am placing on the record that I believe the Minister's handling of this has been a long way short of satisfactory. Is the advice that the Minister can give to this Chamber that the new chairman of the TAB has made some new estimate as to the potential effect on TAB revenue from the passage of this legislation?

The Hon. ANNE LEVY: As I understand it, the indication given is that the new chair will correct some of the statements regarding the figure of $25 million that was mentioned in the former chair's letter, and that figure of $25 million should be subdivided into $20 million through agency betting and $5 million through telephone betting. It would seem more appropriate to make estimates on the $5 million through telephone betting than on the total invested with the TAB. The letter is also expected to correct the absolutely wrong statement that there will be no turnover tax payable on bookmakers' telephone betting. That is patently untrue.

The Hon. M.J. ELLIOTT: I had also been told that this was likely to happen. In fact, I was told this was likely to happen before the board meeting actually occurred. Considering that this matter was going to be handled in Parliament today, I am surprised that, following the board meeting, such a letter did not come out post haste and that we did not all receive copies of it. We received copies of the other one fairly quickly, and if this one is correcting misinformation, I would like to know why it has not got to us before consideration rather

than our simply being told that the letter is in the mail, which is a very old story.

The Hon. ANNE LEVY: I understand that the board met only on Tuesday, two days ago. If the honourable member wishes, I will inquire of the new chair why it has taken him more than 48 hours to write the letter.

The Hon. PETER DUNN: I just did a quick calculation. I am not too good at maths and never was too good at school.

The Hon. Anne Levy: Hear, hear!

The Hon. PETER DUNN: I can count, though. The Minister has just said there would likely to be $5 million lost from the TAB by phone betting.

The Hon. Anne Levy: I did not say that.

The Hon. PETER DUNN: What did you say?

The Hon. ANNE LEVY: I said that the total investment with the TAB, $25 million, must be broken up into $20 million which is cash investment through agents, and only $5 million currently is invested by telephone through the TAB. That is the current takings of the TAB by telephone, and if one is considering the effect of telephone betting with bookmakers on the TAB, one obviously needs to look at what proportion of TAB investment is by telephone.

The Hon. PETER DUNN: An excellent answer by the Minister. How much of that do they expect to lose to telephone betting to bookmakers?

The Hon. ANNE LEVY: It is all a guesstimate. Obviously, the maximum possible which could be lost is the total telephone betting with the TAB. There are educated guesses that, perhaps, 20 per cent of that figure might be affected by telephone betting with bookmakers. I do not know on what that estimate is based, but it is made by people with knowledge and experience and is not just a figure plucked out of the air.

The Hon. PETER DUNN: If we take the maximum, then we finish with the same amount of money you are going to get from the auditorium. You are going to lose it. If they pay 15 per cent into the code now from the TAB, and that works out on $5 million at about $750 000, you will get about $700 000 from the auditorium, and then we have gained nothing. Absolutely nothing. We have gone backwards by $50 000.

The Hon. ANNE LEVY: This is a question of interpretation. It is true that, if all telephone betting with the TAB ceased and the whole 100 per cent moved to bookmakers, then virtually a break-even situation would result. There would be no difference in the total turnover tax. However, it is not estimated that 100 per cent will be lost to the TAB: it is thought that only about 20 per cent will be lost to the TAB. So, there will still be income from the TAB plus the $700 000-odd through the auditorium.

The Committee divided on the amendment:

Ayes (6)—The Hons Peter Dunn, M.J. Elliott (teller), I. Gilfillan, K.T. Griffin, Bernice Pfitzner, J.F. Stefani.

Noes (13)—The Hons T. Crothers, L.H. Davis, M.S. Feleppa, Diana Laidlaw, Anne Levy (teller), R.I. Lucas, Carolyn Pickles, R.J. Ritson, R.R. Roberts, T.G. Roberts, C.J. Sumner, G. Weatherill, Barbara Wiese.

Pair—Aye—The Hon. J.C. Burdett. No—The Hon. J.C. Irwin.

Majority of 7 for the Noes.

Amendment thus negatived; clause passed.

Clauses 16 to 22 passed.

Clause 23—'Rules of Board.'

The Hon. ANNE LEVY: I move:

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Line 2—Leave out 'is amended by striking out from paragraph (j) 'two' and insert 'is amended—'.

Line 3—Leave out this line and insert the following paragraphs:

(a) by striking out from paragraph (j) 'two hundred dollars' and substituting 'a division 6 fine';

(b) by inserting after its present contents as amended by this section (now to be designated as subsection (1)) the following subsection:

(2) Rules made under subsection (1) may confer powers or impose duties on the board, the board's secretary or any other person.

This refers to two different matters, but I doubt whether either would be controversial. One is to replace—as we are doing in so many Acts—a penalty expressed in dollars by a penalty expressed as a divisional fine, and the other relates to existing and proposed rules. It gives the secretary and betting supervisors the discretion to make certain decisions relating to the rules, and it will overcome existing problems of subdelegation.

The Hon. R.I. LUCAS: I support the amendment, and I am not aware of any member of the Opposition who will oppose it.

Amendments carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

DEVELOPMENT BILL

Adjourned debate in Committee.

(Continued from 28 April. Page 2135.)

The CHAIRMAN: I draw the attention of the Committee to a clerical error in clause 24 (a)(iii) (line 22). Instead of reading 'specified by the Minister; or', the subparagraph should read 'specified—by the Minister; or'.

Clause 24—'Council or Minister may amend a Development Plan.'

The Hon. M.J. ELLIOTT: When we were debating this clause it was getting fairly late in the evening, and I have had a chance to go back and have a look at clause 24 more closely in the light of the arguments being put by the Minister. Even with a clearer mind that looking at this at an earlier hour of the day provides, I still fail to see what the Minister's real objection was to the amendments that I was putting forward. Her reaction appeared to be along the lines that there are times when the Minister needs to be in a position, particularly in relation to regional development, to amend the development plan. It appears to me at least that the Minister, in putting forward that general argument, has ignored subclause 24(g) which provides:

Where the Minister considers that an amendment to a development plan is appropriate because of a matter of significant social, economic or environmental importance—by the Minister.

So, the Minister, even if I have subclause (b) deleted, still has the power to amend the development plan in one or more councils under paragraph (g). It refers to the Minister's considering that the matter is of significant social, economic or environmental importance. I would put it to the Minister: under what other circumstances would the Minister be wanting to impose a development plan and justifiably would not give councils, singly or jointly, the opportunity to amend the development plan?

The Minister may be of the opinion that changes are necessary, but under the amendments that I would be making to paragraph (a), the Minister would be able, under clause 24(a)(ii), to request the council to do so, and under 24(a)(iv), if the Minister considers that the council has demonstrated undue delay, then the Minister can still intervene. So, the Minister still has the ultimate power and ultimate discretion. All I have done is seek to remove 24(b), where a Minister, as a matter of course, as soon as an SDP has covered two or more councils, intervenes directly and often draws up a plan—and has done on a number of occasions—without consultation. Sometimes that lack of consultation is not justified and the changes being made have not been of State importance.

I would really like the Minister to address that fundamental question: what extra power can the Minister foresee being necessary over and above that which is offered under 24(g) and (a) with my amendment?

The Hon. ANNE LEVY: It is certainly true that there is plenty of power for the Minister under paragraph (g), if it is a major matter, but not all matters of disagreement are major. As we all know, there can be what appear to be violent disagreements on something which, to an outsider, appears utterly trivial and not very important. It is felt by the Government that such an amendment is inappropriate, as it means there is no clear body in charge which is clearly accountable.

The Hon. Diana Laidlaw: Which amendment are we talking about?

The Hon. ANNE LEVY: Clause 24, line 30.

The Hon. Diana Laidlaw: Are you referring to my amendment?

The Hon. ANNE LEVY: Yes. There is no doubt that where there is one council, as applies in paragraph (a), the council can act, but where more than one council is involved, if approval is given by the Minister for the two councils to do it and they reach a stalemate, then it may not be a matter of significant social, economic or environmental importance viewed from a State perspective, but it can still cause many problems at a local level between two councils and there is no clear line of accountability at that stage. I presume that in that situation the whole thing would fall down. One would have to go right back to the beginning and start again with consequent waste of time and further uncertainty.

I am not suggesting that this will happen very often, but obviously in legislation such as this one has to think of every possible eventuality and it is not unreasonable to assume that two councils can fall out over what to them is very important but to everyone else is a fairly trivial matter. You may say, 'Well, in that case it does not matter if there is going to be extra time, fuss or uncertainty resulting, if it is a trivial question' but one must not forget that such a thing may not be trivial to the individuals concerned. Hence my opposition to the amendment on the basis that it is not really an appropriate amendment, but I am certainly not going to divide on the question.

The Hon. DIANA LAIDLAW: I would not divide because I am not sure what advice the Minister is receiving. Generally, in terms of the Minister's intelligence in debates on planning matters and other things the argument is much better than she has given in opposition to this amendment. I give her credit for that, but I am disgusted at the advice she is receiving in respect to this proposition.

It is my understanding that if the matter could not be resolved it could be referred by the Minister and dealt with by the Minister under clause 24 (a)(iv),'where the Minister considers that a council has demonstrated undue delay in the preparation or processing of an amendment under this subdivision, or a council has decided not to proceed with an amendment'. As I understand it, under the Acts Interpretation Act these days, 'council' also means 'councils'. So, logically one could apply clause 24(a)(iv) to the situation that the Minister has been outlining as the Government's reason for opposing my amendment. I suppose the only thing that is clear, even after a night's sleep, is that (and I would intend to agree)—

An honourable member interjecting:

The Hon. DIANA LAIDLAW: I got four hours: bed by 2.30 a.m. and the phone rang at 6 a.m., so I did not even get that. The one thing on which I do agree entirely with the Hon. Mr Elliott is that, in the debate on this Bill so far, one cannot help assessing that the Government's position in respect of this Bill is that it will do everything in its power to maintain a stranglehold over the planning process in this State. I think that is so unfortunate, given that we are looking at 2020 Vision, and that the public face of the Government is that it wants community consultation and more mature relations with local government in the future. But, when you get into this place and get down to the detail, it is quite clear that the Government has no intention of putting into practice any of those public statements. It wants to maintain control at almost any cost and for every possible eventuality. I think that is most unfortunate, as we address this major Bill and as we address circumstances for the future.

It is particularly unfortunate when you look at the record of this Government over the past 10 years. If you thought this Government had an excellent record in terms of planning success and community confidence, perhaps you would not be so concerned about the way in which the Government is approaching this Bill, but one cannot argue that it has had success or that it enjoys community confidence.

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

Page 23, lines 29 and 30—Leave out 'by the Minister' and substitute

(i) by the relevant councils after consultation with the Minister; or

(ii) by the Minister on the basis that he or she considers that the amendment is reasonably necessary to promote orderly and proper development within the relevant areas and that, after consultation with the relevant councils, it is appropriate for the Minister to undertake the amendment; or.

It is exceedingly difficult to debate a subject when logic seems to have been thrown out the door. I can accept that there will be philosophical differences from time to time and disagreements on that basis but, when logic does not enter the debate on this clause, it makes things far more difficult. My further amendment in relation to clause 24, page 23, lines 29 and 30 comes at exactly the same problem as the one which I attempted to address with my first set of amendments and which the Hon Ms Laidlaw has tackled. I guess it has come somewhere between the position of the Hon Ms Laidlaw and me. It is not my preferred position but I think it picks up the ideas the Hon. Ms Laidlaw has within her amendment and fleshes them out a little further. I seek the support at least of the Opposition to this further amendment.

The Hon. DIANA LAIDLAW: I indicate support.

The Hon. ANNE LEVY: I am happy to indicate Government support for this circulated amendment.

The Hon. DIANA LAIDLAW: I seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

The Hon. M. J. Elliott's amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 24, after line 8—Insert new subclause as follows:

(2) The Minister must, in relation to the preparation of an amendment under subsection (1)(e) or (f), consult with the Minister responsible for the administration of the Heritage Act 1993 and the State Heritage Authority.

This amendment arises from the fact that there is a Bill in the other place addressing the Heritage Act, and we are just arguing that, in relation to the preparation of amendments under various provisions of this Act, the Minister must consult with the Minister responsible for the administration of the Heritage Act and the State Heritage Authority.

The Hon. ANNE LEVY: I am happy to accept this amendment.

Amendment carried; clause as amended passed.

Clause 25—'Amendments by a council.'

The Hon. DIANA LAIDLAW: I move:

Page 24, line 14—After 'if' insert:

—

(a) [include the remainder of lines 14 and 151; or

(b) the proposed amendment designates a place of local heritage value.

Clause 25 addresses amendments by a council, and it is proposed that if a council is considering an amendment to a development plan the council must first reach agreement with the Minister on a statement of intent prepared by the council, and then that the Minister must in terms of the statement of intent consult with the advisory committee. The Government is proposing then that the consultation take place if the Minister considers that the proposed amendment would be seriously at variance with the planning strategy. I propose that there is further reason for the Minister to consult with the advisory committee, and that is in circumstances where the proposed amendment designates a place as a place of local heritage value. I would like at this opportunity to speak to this whole issue of local heritage value, because there are a number of amendments related to this, and so I will speak to the issue at this time, although the major amendment will be a new clause 26a.

We believe, particularly after witnessing and to some extent being involved in the discussions with the Adelaide City Council and all the trauma over streetscape and townscape, that there is a need for special consideration of this issue of local heritage value and in particular we will be arguing in the discussion on clause 26a that there is a reason for rights of appeal. It was a great sadness to me that so much of the issue of townscape in the metropolitan area and probably throughout the State was discredited by the fact that the list of items to be included on that townscape register was inappropriate, yet there were no grounds for appeal for those people who had their properties nominated for the register.

The Hon. Anne Levy: Was your penthouse nominated?

The Hon. DIANA LAIDLAW: My apartment certainly was not; I fear it is one of the ugliest buildings in the block. I always feel very guilty about speaking with such passion on heritage issues, hoping no-one like the Minister will identify where I live. I am very comfortable where I live but I would not necessarily want similar styles of apartment blocks built all throughout North Adelaide.

When I argue that, people say that I am trying to preserve the capital value of my property, so I can hardly win. I suggest that if people are so fortunate as to have their properties nominated for the local heritage list—most people would agree they are fortunate, but some take exception and there was reason for some to take exception with the Adelaide City Council's streetscape list—they should have a right of appeal. I believe the whole system of streetscape has been set back a great deal in winning community support because there was not this logical and legitimate right of appeal for those who were disgruntled, and there was reason for many to be disgruntled. Ultimately it was worked out by the Minister stepping in, but much good will has been lost in the meantime. That need not be the case if we have this provision for consultation as proposed in the amendment and, in later amendments, a right of appeal for properties nominated for the local heritage list.

The Hon. ANNE LEVY: I oppose this series of amendments. However, I would not want it to be thought that I am opposed to a proper procedure for designating local heritage values. This series of amendments attempts to establish a process for development plan amendments dealing with local heritage. For these types of amendments it is proposing a process which is different from that applying to other amendments to the development plan. It is setting up a vetting role for the advisory committee over local policies proposed by a council. It requires direct notice to owners of sites proposed to be listed and establishes appeals to the courts on policy issues. For all those reasons it seems undesirable to have these procedures written into the Bill at this place.

It is true that the listing of a local heritage item can affect development potential and property values, but so can any other zoning changes. Many different possible zoning changes can occur in a development plan amendment and they can affect development potential and property values. Other forms of amendments to the plan under this legislation do not have appeal rights to the

court, and it seems inappropriate that local heritage plans alone, of all possible development plan amendments, should have rights of appeal to the court. The whole philosophy of this Bill is that policy making is a political function which ultimately is responsible to this Parliament, not the courts. The whole process which is set out for amendments to plans recognises this by having authorisation by the Governor and disallowance is possible by the Parliament.

The whole process for amending development plans is ultimately accountable to this Parliament. It would be anomalous to have one possible amendment plan type—that is, heritage—treated totally differently with appeals to the courts; in other words, it would be an appeal to a court on a policy matter. I feel that it is inappropriate for heritage plan amendments to be singled out for court decision; but it is more than reasonable, where it is proposed to put a property on a heritage list, to insist that property owners be advised and have the ability to comment. The regulations, which have been made available to honourable members, provide for this. It is not that these people are being deprived of rights; the regulations make allowance for this, but do not treat heritage plan amendments differently from other zoning plan amendments which can have equal effects on development potential and property values to owners of properties.

The Hon. M.J. ELLIOTT: I agree with the Minister that this applies not only in relation to amendments affecting local heritage values; a number of amendments could have equal impacts. At this point in the Bill it is impossible to justify having this matter picked up and not a large number of others. I do not support the amendment, but that does not affect my view about later possible amendments in relation to local heritage values.

Amendment negatived.

The Hon. DIANA LAIDLAW: I move:

Page 25, line 3—Leave out 'six' and substitute 'four'.

I am proposing that there be a period of four weeks in which Government departments and agencies can comment on plans and amendments by councils to plans. The Government is proposing six weeks. I noticed in the draft Bill last November that it was four weeks, so much of the Government's sentiment in bringing in the Bill has been to speed up the process. My view is that the Government should set an example in that regard, and this is an opportunity for it to do so.

The Hon. ANNE LEVY: The Government opposes this amendment. Obviously nothing tremendous hangs on it. The reason why it was changed from four weeks to six weeks was the practical problems for agencies such as E&WS. It may be that an agency such as E&WS receives an amendment and needs to distribute it to a number of different branches and regions, receive comments back from those branches and regions, collate the comments, and from them extract a consolidated submission. It was felt that it was impractical to expect this to be done in four weeks.

It is different if the decisions and information are available on the spot, but if one has to refer out and wait for responses before one can collate and formulate a response on the basis of those responses it was felt that four weeks would not be a practical time and that six weeks would be more desirable. However, as I say, there are no sheep stations hanging on it.

The Hon. M.J. ELLIOTT: I point out to the mover that there is one time of the year when I would see this as being rather difficult. I would imagine that, if a plan amendment report lobbed with an agency around mid-December, getting it treated properly in four weeks, and regardless of anything else, would be almost impossible. For the rest of the year I think four weeks would be quite reasonable but I do feel that if it did lob in mid-December four weeks would be totally inadequate for a proper response, and that would be in no-one's best interests.

The Hon. DIANA LAIDLAW: I understand the concerns expressed by the Hon. Mr Elliott. However, I stick by the advocacy of four weeks. I do not recall the clauses, but there are provisions elsewhere in the Bill where the Government is indicating that if councils do not meet prescribed time frames for responding to various applications then in fact the developer can actually take them to court and they can be fined for not meeting those.

The Hon. M.J. Elliott interjecting:

The Hon. DIANA LAIDLAW: I expect the Government would not want to be bound by that, as it has not wanted to be bound by other things. It is an option, though, that we have some penalties on the Government for not meeting the time frames. However, I was interested to see that between the draft Bill and this Bill the Government extended the provision from four weeks to six weeks, when upon reading the debates in the other place I noted that the Minister was actually arguing against some of our amendments that were seeking consultation with the public because it was an extension of time for this whole planning process. It does not seem to matter here that the Government gives itself an extension of time but when the Parliament seeks to give the people some opportunity to have some input into this, that is seen as a waste of time. It is for that reason that I argue very strongly for this amendment, because it is an example of where there is one rule for the Government and one for everyone else.

The Hon. M.J. ELLIOTT: Mr Chairman, just so you do not have to watch the mouths move, I indicate that I will not support the amendment. I understand the need for short periods, but I think sometimes, as the Hon. Ms Laidlaw has commented, unreasonably short periods are imposed upon local government, and they have real problems because of their meeting frequency. As I said, there is at least one time of the year when six weeks would be plainly inadequate and, as I said, I do not think it is in anyone's best interests that we cut that back to four weeks.

Amendment negatived.

[Sitting suspended from 6.5 to 7.45 p.m.]

The Hon. DIANA LAIDLAW: I move:

Page 26, after line 10—Insert new subclause as follows:

(14) A reference in this section to a council includes, where an amendment relates to areas of two or more councils, a reference to the councils for those areas.

This amendment is consequential upon amendments that have been moved and accepted earlier.

Amendment carried; clause as amended passed.

Clause 26 passed.

New clause 26a.

The Hon. DIANA LAIDLAW: When I moved my amendments to clause 25 some time ago I indicated that they were part of a package and that I would give my explanation at clause 25 to include this new clause 26a, which addresses local heritage value. I was not successful with the amendments to clause 25, and subsequently in clause 26, but I asked the Hon. Mr Elliott for clarification. When the member addressed those earlier amendments he seemed to suggest that there was some possibility that he had interest in making some special provision for places of local heritage value, so I wanted to ascertain from him whether, if I moved this amendment in a different form, he would still be interested in the concept of providing some grounds for appeal, and appeal processes, in relation to places of local heritage value.

If that was the case, I would suggest that we take out the words 'advisory committee' and some further words and suggest that this amendment could read, 'If a proposed amendment designates a place as a place of local heritage value, the council or the Minister, as the case may be, must give each owner of land this opportunity to have their views heard as a part of a right of appeal.'

The Hon. M.J. ELLIOTT: I must say, with apologies, that I am not sure that I quite follow all that. I did indicate previously that I was willing to explore some other things, without any commitment one way or another, and I guess all we can do at this stage is perhaps take this clause and explore that further. The honourable member might then make her your own decisions about whether or not she wanted to proceed.

The Hon. DIANA LAIDLAW: I would like then to ask the Hon Mr Elliott what he means by 'explore'. Is he suggesting that I make further amendments to the amendment or that, in the amended form that I proposed, he would be at least prepared, at this stage, to accept that, and either in the other place or during the conference we could look at some rights of appeal for people who had had their properties deemed as local heritage value. I would remind him of his shared concern, I think, about what happened in the Adelaide City Council area in terms of Streetscape and Townscape, where there were no avenues of appeal.

The Hon. ANNE LEVY: It is not that I am feeling left out at the moment, but I would draw to the attention of both the Hon. Ms Laidlaw and the Hon. Mr Elliott regulation 15.3.2, which provides:

> Where a council or Minister proposes to designate a place as a local heritage place by means of a development plan amendment, the council or Minister must inform in writing the owner of the place and provide information to the owner about the period of public consultation and the owner's right to make representations. Such notification must be made on or before the first day of the public consultation period for the relevant development plan amendment...

Then it goes on with regulation 15.3.3, 15.3.4, 15.4.1 (dealing with a hearing), 15.4.2, and 15.4.3. Then, in the report, there are regulations 15.5.1, 15.5.2 and 15.6. In these regulations the proposals for a local heritage plan are being treated in exactly the same way as any other proposal for an amendment to the development plan and go through the same procedure as any development plan amendment. Local heritage is specifically mentioned and catered for in the regulations.

The Hon. DIANA LAIDLAW: They are catered for, as the Minister indicated, to the extent that the owner is informed and they can make submissions, but my amendment goes considerably further in terms of providing for the appeal rights; that is not in the regulations, and nor should it be.

The Hon. ANNE LEVY: I agree completely and, as I said earlier, local heritage classification is not the only matter that can affect property values or development potential. It is felt that all proposals for amendments to the development plan should be treated in the same way and that one particular type, that of local heritage classification, should not be singled out for completely different treatment.

The Hon. DIANA LAIDLAW: This is one of the difficulties, as the Hon. Mr Elliott pointed out earlier, in not having all the Bills before us at the current time. It is a fact that for places of State heritage value in the Heritage Bill there are appeal rights in a similar form to what I have proposed here for places of local heritage value. The Minister is arguing that, in terms of State heritage, there are in the Heritage Bill grounds for appeal as I have indicated in this Bill, but then when it comes to local heritage the Government is not prepared to provide the same grounds for appeals, yet the impact can be the same on the property concerned. So, this is just another example of where it is so difficult, when we are discussing a range of Bills that are interrelated, that we do not have that range of Bills before us.

The Hon. ANNE LEVY: There is a difference between something that is of State heritage value and something that is of local heritage value. If something, however important it is to a local community, is of great heritage value, it will be put on the State heritage list. That imposes quite a lot of obligation on the owner. Under the Heritage Act considerable obligations are put on the owner of any item that is classified on the State heritage list, so it is highly appropriate that there should be an appeal system there because of the obligations that flow from it. Local heritage items are those which are not worthy of State heritage listing but which are of heritage importance locally.

The Hon. Diana Laidlaw: And have restrictions attached.

The Hon. ANNE LEVY: There is nowhere near the same obligation on the part of the owner as there is when an item is on the State heritage list and, whilst it can have an effect on, say, the property value, so can any development plan amendment have an effect on the value of a particular property. A rezoning obviously can have an effect on property value, and our argument is that at the local level, where the council is the planning authority and is making the local policy, local planning matters and amendments to the local development plan should all be treated in the same way.

The Hon. M.J. ELLIOTT: I will support the amendment at this stage. We seem to be getting ourselves in a position where the Bill as a whole will need to be recommitted to look at a number of clauses. This is an issue, like a couple of others, that I believe

should remain alive at this stage, but it is an amendment about which I feel somewhat equivocal. I should like some further time to reassess that and, at this stage, it looks as though we will be concluding this debate tomorrow. By then, I will have had a chance to concentrate on those few issues that are unresolved, of which this will be one.

The Hon. DIANA LAIDLAW: I thank the honourable member for his support, albeit tentative. I will then need to move my amendment in an amended form and I seek leave to do so, as follows:

Line 2, leave out the words 'the advisory committee must on the referral of the amendment to it under section 25(2)(b) or 26(3)(a)' and insert in lieu thereof 'the council or the Minister (as the case may be) must'.

Leave granted.

The Hon. DIANA LAIDLAW: Also, I move to amend the amendment to clause 26(a)(iv) by adding the following words at the end thereof so that the subclause reads 'the advisory committee must then prepare a report in relation to the matter for the council or the Minister.'

Leave granted.

New clause, as amended, inserted.

Clause 27—'Operation of an amendment and parliamentary scrutiny.'

The Hon. DIANA LAIDLAW: I move:

Page 27, line 8—Leave out 'may' and substitute 'must'.

Since it took me some time in my Party to argue for this amendment, I will certainly speak to this. This will mean that clause 27 (1) will provide that an amendment approved by the Minister under this subdivision must be referred to the Governor, and the Governor then may, by notice in the *Gazette,* go through many processes. It was thought that this should not be a matter of discretion for the Minister.

Amendment carried.

The Hon. M.J. ELLIOTT: The amendment that I have on file is quite comprehensive, and relates to the ability of Parliament to scrutinise proposed plan amendments. Currently there is little chance of Parliament's having an input as the amendment must be rejected by the ERD Committee before it gets to Parliament, and then both Houses must reject it for it not to apply. That is a change from the old Planning Act where not only the ERD Committee but also one of the two Houses had to reject it. This amendment proposes that amendments be treated in the same way as regulations and provides that either House may disallow the amendment.

So, every amendment must be laid before both Houses of Parliament and either House may reject it. The amendment will still be referred to the ERD Committee for in-depth consideration. If the committee believes the amendment should be disallowed then it must report this to Parliament. Under the current Planning Act, and proposed here, we have the theoretical ability of Parliament to reject a plan. But it relies, first, upon the Minister's referring it to the ERD Committee. The committee—which happens to have three Government members out of a membership of six—decides that the plan should be rejected. Then it comes to Parliament. The Government can now propose that, even having jumped over those hurdles, both Houses have to reject it. In other words, the Government is going to take no risk whatsoever that Parliament would ever reject anything, because the Government has the power not to refer it to the ERD Committee.

It controls the ERD Committee if it chooses to do so and, by definition, the Government controls one of the two Houses. So, it puts three hurdles about 1 000 kms high over which one needs to jump before an amendment plan can be rejected. Any fool will tell you that that will not happen, and it is quite a farce even to suggest it.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: Why do they bother putting it there? It looks good on paper, but the reality is that it will not happen. Once again, it is not hypothetical because we can look at recent experience. I raise Craigburn Farm once again. This issue was studied by the ERD Committee. I do not think the Craigburn Farm was referred to the committee by the Minister. If the Minister chooses not to refer it to the committee then, while the committee can have a lot of fun looking at it, whether or not it decides to reject it is neither here nor there.

There is frequent abuse of this power. One question is whether it is 'may' or 'must'. The Hon. Diana Laidlaw has picked up that issue in amendments, providing that things must be referred to the ERD Committee. That addresses the first of the hurdles. However, the amendment I have tabled in fact addresses all three issues. I think the Hon. Miss Laidlaw also addresses one of the other hurdles in a further amendment, where she recognises that one of the two Houses should be sufficient. However, that still relies upon the ERD Committee referring it. I do not think that has been addressed. My comprehensive amendment picks up all three issues.

We have to be honest with ourselves. Do we or do we not intend Parliament to have a role? If we do then we must ensure that it is a real role, and one that cannot be avoided whenever a Minister decides that he or she wishes to avoid it, which is the way things will stand at present without all three issues being addressed. If we are not serious about Parliament's having a review role, let us be honest right now. In fact, if that is the case we should not only throw out this whole amendment but also the clause as well, because it is not worth the paper it is written on.

The Hon. ANNE LEVY: The Government opposes this amendment from the Hon. Mr Elliott, but I would like to make clear that the series of amendments relating to the parts of this clause that are going to be moved by the Hon. Mr Laidlaw are, with one small exception that need not concern us here, acceptable to the Government. We are happy to accept the amendment proposed by the Hon. Miss Laidlaw in relation to the whole question of either House or both Houses.

The only amendment we are not happy to accept relates to line 27, where it is felt that it is inappropriate to bind the Governor. It is not a function of legislation to bind the Governor. However, with that exception—which is a completely different philosophical point—we are happy to accept all the amendments proposed by the Hon. Miss Laidlaw. They certainly seem to me to be very reasonable and rational amendments, without attempting the convolutions that the Hon. Mr Elliott proposes.

The Hon. M.J. ELLIOTT: There was one other issue that my amendments also addressed that I did not raise when I spoke before. The current clause refers to the role of the Governor. Members will find that my amendment does not talk about the Governor, but about the Minister. Two things occur as a result of having the Governor there. The first is that it does need to go before Cabinet before it goes to the Governor.

However, the other question is a question of law. The fact is that the Governor cannot be taken to court. 'The Governor' has been used in a number of places through here. It would be a very rare opportunity that that sort of thing would be exercised. Ultimately, it is my belief that the reality is that the Minister takes decisions, clearly in consultation with Cabinet. If there are particular requirements under the Act, and they are not complied with, and it refers to 'Governor' then, once again, ultimately they are not enforceable. I am not up with my terms, but I believe that you cannot take out a prerogative writ or something like that. Such action can be taken against the Minister but not against the Governor. That is the fourth matter that I have also attempted to pick up in the comprehensive set of amendments I have to this clause.

The Hon. DIANA LAIDLAW: I would like to refer to the whole concept of the amendments to these plans and parliamentary scrutiny. I do so before moving my own amendments to clause 27. As I understand it, the past practice has been that the Minister would first refer these amendments and what have been known as 'supplementary development plans' to the Subordinate Legislation Committee and now the Environment, Resources and Development Committee. Only after that process has been completed would they then go to the Governor. It seemed to me after reading this that the whole process has been reversed. Why is that so?

The Hon. ANNE LEVY: I suppose basically the proposed change is treating them like any regulations, which go to the Governor and then can be considered by Parliament at its leisure. Whereas if an amendment has to go to a parliamentary committee before going to the Governor it can hold it up for a lengthy time before it comes into operation. If they are treated like any regulation under any Act, they can be brought into operation rapidly, but the Parliament, at its leisure, can have its say.

The Hon. DIANA LAIDLAW: Can the Minister then indicate that if the Parliament, at its leisure, has its say, does that tend to make Parliament irrelevant to the process? If the Parliament does get to that situation—and it will be quite hard, as the Hon. Mr Elliott identified, for the Parliament actually to disallow any of these plans—what are the repercussions upon a council or developer who has gone ahead with a development based on the plan approved by the Governor but subsequently disallowed by the Parliament? What are the circumstances? I think it is referred to somewhere in the Bill that the development may proceed anyway, even though the Parliament may have disallowed it, but I just do not recall the circumstances and it seems a rather—

The Hon. T.G. Roberts: Rather like a half built bridge.

The Hon. DIANA LAIDLAW: Yes, rather like a half built bridge. There is one that I hope is never built in this State, so perhaps that is one way of achieving it. But I would like to know what the situation would be. My regret is that I think this arrangement of the Parliament considering it at its leisure is really rather a sop to the Parliament and undermines the current important role that it has had in assessing these matters before they take effect.

The Hon. ANNE LEVY: One of the aims of this whole Bill is to provide certainty. We are yet to come to it, but clause 53(2) makes quite clear that the provisions of a development plan that are relevant to a particular application are those that apply at the time the application was lodged. So, whether an amendment is permitted and then 'depermitted' will not change the situation as far as a particular development is concerned. What will be applicable is what is the legal situation at the time an application is lodged. That will remove uncertainty. There can be no question of changing rules half way and so inconveniencing people.

But certainly, with regard to an earlier comment the honourable member was making, the process of having development plans considered by the Parliament—and, as I say, I am happy with the amendments that either House can disallow a plan—means that the ultimate authority is the Parliament and not the courts. It is keeping the process out of the courts, out of the hands of lawyers, out of lengthy and expensive litigation, and putting the responsibility with the elected representatives of the whole community—the Parliament.

The Hon. M.J. ELLIOTT: The Minister was wrong in one comment that she made then. The ultimate authority is not Parliament, because if the ERD Committee chooses not to refer it to Parliament, Parliament does not get a chance to look at it. While the current ERD Committee has been behaving in a very non-political fashion, there can be no guarantees that that will always be the case.

The Hon. Anne Levy: But the ERD Committee can be instructed by the House.

The Hon. M.J. ELLIOTT: The ERD Committee chooses whether or not matters are referred to the Parliament.

The Hon. Anne Levy: But the House can pass a motion to tell one of its committees to do something. All committees are subservient to the Parliament.

The Hon. M.J. ELLIOTT: It can, but that is not the mechanism, as defined in this clause, under which an amendment plan can be referred to the Parliament.

The Hon. Anne Levy: A committee cannot control the Parliament. The Parliament controls its committees.

The Hon. M.J. ELLIOTT: The Minister has missed the point. Under clause 27, as it now stands, the Minister says she is going to accept that one House can disallow an amendment plan, but it can only come before either House if the ERD Committee chooses to send it to the House, if the committee resolves that it objects to the amendment. The Parliament is not the ultimate authority; the Parliament only gets to look at it if the committee chooses to refer it on. That is quite different from regulations, where most regulations will go to the appropriate committee, but either House can pick it up independently. I believe the same mechanism should be applying to these plans as applies to regulations. The Parliament is not the ultimate authority; it may be the

ultimate authority if the ERD Committee chooses to refer it on.

The Hon. ANNE LEVY: Mr Chair, I cannot accept that. Whilst I do not have before me the Act which set up the parliamentary committees, I certainly recall debate on the topic. These committees are all creatures of the Parliament. The House can pass a motion instructing its committee to bring a report. The House can instruct a committee to do anything. The committees are subservient to the Parliament. It is totally unacceptable to suggest that a committee is above the Parliament on any matter—it is not—and this Parliament would never have passed legislation which allowed one of its committees to tell it what to do or what not to do. The Parliament has the right to instruct a committee to do anything. The committees are creatures of the Parliament, surely.

If the ERD Committee passed a motion that it did not wish to refer something to the Parliament, the Parliament could pass a motion telling the ERD Committee to bring a report on a particular day. The Parliament has authority over the ERD Committee. To suggest that the ERD Committee is above the Parliament is not acceptable. We would never have passed that Act setting up these committees if we were giving them authority over us.

The Hon. Diana Laidlaw: I for one would have certainly been very keen to be a member of the committee.

The Hon. ANNE LEVY: Well, I do not have it before me, but I cannot imagine that we have done such a thing.

The Hon. M.J. ELLIOTT: Mr Chair, either House can instruct the ERD Committee to produce a report on a matter. I do not believe that we can instruct the committee to resolve to object to the amendment. That is an absolute absurdity, and we cannot do it.

The Hon. Anne Levy: We can instruct it to report.

The Hon. M.J. ELLIOTT: All right; but if they report we cannot, as a consequence, proceed to the next stage.

The Hon. DIANA LAIDLAW: This matter would not be an issue if the members of the committee acted as representatives of the Parliament and not necessarily representatives of their Parties, or in particular of the Government, because it is a fact that the Government members have the majority on this committee. So, the misgivings that are expressed by the Hon. Mr Elliott have some basis, and I know that they are shared by my colleague the Hon. Peter Dunn. It would not necessarily have to be the case that the committee thwarts the processes of bringing this matter before the Parliament by resolution of the committee if in fact the members of that committee were prepared to act in the best interests of the community and the Parliament. I suspect that that may happen.

The Hon. M.J. Elliott: They have so far.

The Hon. DIANA LAIDLAW: Yes, and I suspect that it will happen again. So, some of the misgivings—while I understand them—as expressed by the Hon. Mr Elliott do not necessarily have the basis of fear and concern that he has expressed, because the committee, while still finding its feet, has already acted in an independent role, and I suspect that as it gains confidence it will do so increasingly in the future, especially as it appreciates that it may be that that select number of people on the committee may not be the only group that should be having a say on some controversial issues. They may believe that they alone should not make such decisions and they should refer them to the wider forum of Parliament.

I think that will happen increasingly in the future. I welcome the advice that the Minister will support amendments moved by both the Hon. Mr Elliott and me to ensure that, as proposed in the Bill, it will not in future require the two Houses of Parliament to pass resolutions disallowing an amendment, but the current situation of the one House. While I recognise the Minister's move, it was going to pass this place in that form anyway.

The Hon. M.J. ELLIOTT: The Minister has said two things that are demonstrably wrong. First, she started with the claim that this Parliament had the ultimate authority. I countered that by saying that it has the authority only if the committee refers it on. She then said that we can instruct the committee to refer it on. The Minister will see that clause 27(7) provides:

> If the Environment, Resources and Development Committee resolves to object to an amendment, copies of the amendment must be laid before both Houses of Parliament.

That clearly demonstrates that we cannot instruct a committee as to how it should vote on something.

The Hon. Anne Levy: No; but we choose the membership.

The Hon. M.J. ELLIOTT: That is exactly the case.

The Hon. Anne Levy: We can sack them all and appoint somebody else.

The Hon. M.J. ELLIOTT: Three members are Government members and three are from the Opposition Parties. That will not change. The point is that if the Government determines that it wants something, then Parliament loses its authority. The Government and Parliament are not one and the same thing. The Government will, as a matter of course, have three members on the committee and ultimately it controls the committee if it chooses to do so. I have been very pleased that so far that has not happened, but there is no written money-back guarantee that it will not happen in future. I fail to see—and the Minister has not put forward any good reason—why the Houses themselves of their own volition, in the same way as with regulations, cannot take up an issue. I would expect that to be a rare occasion, but to rely upon a committee which is ultimately dominated by the Government means that the Parliament loses its authority.

The Hon. PETER DUNN: For what it is worth, we are talking about a trigger mechanism. I can see what the Hon. Mike Elliott is getting at. He wants each one of us in this Parliament to have a mechanism by which we should know that there is a regulation, or an amendment in this instance, going through and, therefore, any one of us can stand up in the Parliament and stop it by having it referred to the ERD Committee. In effect, what happens in the ERD Committee is that it makes a report, and it may not come down with the report that the person who triggered off the ERD Committee wanted.

The committee gets these SDPs referred to it and it looks at them. The committee then writes to the person whose electorate it is and asks for a comment. If that

person chooses not to respond—the Minister who handles this did just that the other day; he failed to respond to our request—then we let it go. There is no chance after that point, because the committee has not referred it back here. The committee has not said that it objects to it. In the case of the Craigburn estate we suggested some amendments, and we have that mechanism within the Act. However, it does not come here. We made suggestions in relation to the Adelaide Hills, and they were agreed to by all and sundry across the board except the Minister. If we had been half smart, we would have rejected it and it would have finished up back here.

The Hon. Diana Laidlaw: You'll learn as you proceed.

The Hon. PETER DUNN: Exactly. We are in an embryonic stage. What the Hon. Mike Elliott said is correct. I agree with the amendment that one House is better—

The Hon. Diana Laidlaw interjecting:

The Hon. PETER DUNN: Yes, I think that is a good idea. It is important to understand the mechanism, because it can bypass this place. It comes straight from the Government to our committee and we ask the representative of the electorate concerned and if there is no response we do not bother. We have had 50 in the few months that we have been going and they are clogging up the work of the committee. To be honest, they should not come to us like that. They should come back through this mechanism into the Parliament and be referred to us if there is a glitch in the system, or if the Minister has the right to refer them to us. I think that is how it ought to be done. They should not automatically come to us, because they clog up the work of the committee, which has other and better things to do.

The Hon. M.J. Elliott: You support my amendment, though, don't you?

The Hon. PETER DUNN: I am supporting the Hon. Di Laidlaw's amendment; but the Minister seems to be unclear as to how the mechanism works. The Minister says we will determine who shall be members of that committee. That can be done on an annual basis, or they can be chucked out halfway through the term if necessary. But if they choose not to ever let you know what happens, how will you know? You personally have not at this stage known what has happened to any SDP that has gone in.

The Hon. Diana Laidlaw interjecting:

The Hon. PETER DUNN: Yes, we are; but you do not know unless we reject one, and we have not done that. That is a fact of life; that is how it works. The Minister should be aware of that.

The Hon. ANNE LEVY: I am aware of the present system. My outburst was at the suggestion that a committee of Parliament had more power than the Parliament, which I most emphatically deny. I reassert that that is not possible under the legislation which sets up these committees. The Hon. Mr Dunn suggests that I do not know about an SDP. If there is a controversial matter, then people do know about the SDP and its existence without it having formally been presented to the Parliament. I do not know of a large number of SDPs which go to the committee. If they are not controversial, there is no need for anyone to know about them. The whole process of developing them will throw up agitation and controversy if it is in any way controversial. People will then be aware of it and can chase up the information. There is no reason why we should all be bombarded with 50 SDPs a week. I am sorry if the committee has to suffer that. I agree that a more efficient system is highly desirable. This Bill attempts to streamline procedures, make them more certain, and retain desirable flexibility. That is the whole aim of this piece of legislation.

The Hon. DIANA LAIDLAW: There are problems with this new procedure going to the Government first, but we can look at that in time. I should like to make a personal statement in response to the Hon. Peter Dunn. I do not agree that the ERD Committee should not receive all these development plans. I feel that the only way that we shall get any scrutiny by Parliament is by insisting that the Minister forward all these plans to the ERD Committee. Otherwise, we would be providing the Minister with discretion whether or not to do so, and I suspect that on controversial issues the Minister would not. While I appreciate that the committee may be getting bogged down, I think it is something that the Hon. Peter Dunn will have to cope with.

The Hon. Peter Dunn: Have to endure it, yes.

The Hon. DIANA LAIDLAW: He will have to endure, and do so with the knowledge that his colleagues wish him to endure it so that we may have some opportunity to scrutinise them.

The Hon. Anne Levy: You get paid for your endurance.

The Hon. DIANA LAIDLAW: Yes. One does not get paid as a shadow Minister, I might add. So I have that small disagreement with my colleague, which is a rare disagreement. I shall move my amendments separately. First, I move:

Page 27, line 27—Leave out 'may' and substitute 'must'.

The Hon. ANNE LEVY: I oppose this amendment. In our system it is not appropriate to bind the Governor because this could lead to litigation involving the Governor. It is better to leave the Governor with discretion. Consequently, and as a philosophy of our system, we do not bind the Governor in legislation, as technically the Governor is part of legislation. We are quite happy with subclause 5 (a) which provides 'the Governor, may...', and we are happy with (b), that if the Governor does not the Minister must. One can impose a duty on a Minister, but it is not appropriate to impose a duty on the Governor.

The Hon. M.J. ELLIOTT: I think the Minister's argument has really underlined the concern I have about the role the Governor has in several parts of this legislation. The fact that the Minister, following the Governor's action, must do particular things does not cause such a great problem, but the Minister in this place has underlined the problems where the Governor is required to undertake particular actions.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 27, line 29—Leave out 'may' and substitute 'must'.

The Hon. ANNE LEVY: We accept the amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 28, line 3—Leave out 'both Houses of Parliament pass resolutions disallowing an amendment laid before them' and

substitute 'either House of Parliament passes a resolution disallowing an amendment laid before it'.

This relates to the capacity of either House of Parliament, not both Houses of Parliament, to disallow an amendment.

Amendment carried.

The Hon. M.J. ELLIOTT: I have supported the amendments of the Hon. Di Laidlaw up until now because they are all elements that I have included within the clause that I have on file which I propose in lieu of clause 27. But I note that there are two ingredients missing within the Hon. Ms Laidlaw's amendments which are incorporated within mine. The first is the reliance upon the ERD Committee to refer a matter to this House, and if it chooses not to do so, then this Parliament does lose control, and I believe that that is wrong and should not occur. That is the first point which is not picked by the Hon. Ms Laidlaw's amendments. The second issue concerns whether or not we should be using the term 'Governor' or 'Minister'. It is something that I discussed with the Hon. Mr Griffin, and I thought he had some sympathy, but unfortunately he is not here tonight to pick that up. I hope I am reporting him accurately when I say that I thought, at least in the brief conversation we had, that he had some sympathy with the notion in relation to several parts in this Bill where the term 'Governor' is used. I think they are two important issues which also need to be addressed but which will not be picked up unless this existing amended clause is defeated and my amendment is carried.

Clause as amended passed.

Clause 28—'Interim Development Control.'

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

Page 28, line 12—Leave out 'the Governor' and substitute 'the Minister'.

The amendment seeks to make the Minister responsible for the decision regarding interim control instead of the Governor. It is widely known that the Governor makes the decision on the recommendation of the Minister, anyway. By removing the fallacy that the Governor is the decision maker the Minister would be more accountable to Parliament for the decision to give the amendment interim effect, and also more accountable under law. The amendment also provides that either House may disallow the amendment to the plan. Proposed subsection (7) provides that, if an amendment ceases to operate, any application or development authorisation made on the basis of the amendment ceases to have affect, except where development has been commenced by substantial work before the amendment ceases to operate. This will avoid people taking advantage of an amendment which may be have been disallowed the very next day after it has been given interim effect.

I have a series of amendments to clause 28, and they are picking up all of those issues. As I have said, the first issue which is addressed is the Governor versus the Minister issue, and in later amendments to this clause I pick up a series of other issues as well, which I will address as we deal with them, so that I do not complicate matters too much.

The Hon. ANNE LEVY: The Government opposes this amendment. Four such amendments are proposed by the honourable member, so I will speak to all four of them. Development plans and their amendments can have very important consequences throughout the community. We do not feel it is appropriate that such a decision should be made by one Minister. We feel that there should be an obligation for the Cabinet to consider it and the inclusion of the words 'the Governor' means that the Cabinet considers the matter. If 'the Governor' is not written, the Minister has authority under the legislation to make decisions without referral to Cabinet. The Government feeling is that these decisions, or the effects of these decisions, are too important to be left to one Minister but should be considered by Cabinet.

Their effects can be widespread right across the community, depending on what they are, and in consequence they should be regarded as sufficiently important to be considered by the whole Cabinet, and writing in 'the Governor' means the whole Cabinet. It is downgrading the status of the decision to leave it to one person who may or may not refer it to Cabinet. I should indicate that it is the same situation as applies in the current Planning Act where such matters must be referred to Cabinet and are not within the control of a Minister on his or her own self.

The Hon. M.J. ELLIOTT: In the real world in which we live I do not believe that when the Minister introduced the interim development plan, or gave interim effect to the plan, in relation to the Mount Lofty Review the Minister did not first go to Cabinet. I would not believe, if I was successful with my amendment, that the Minister would not discuss that sort of matter in Cabinet. My main concern is that if the Minister does not uphold the requirements of the law the Minister is protected by the fact that the Governor is theoretically making these decisions.

In response to an earlier amendment, the Hon. Ms Laidlaw already demonstrated how that fiction will work. In fact, the Governor is not likely to end up in the courts if something occurs that should not occur. When I say 'should not occur' I mean not by way of opinion but by way of not upholding legal obligations. I have consistently looked for this amendment, for which I have been lobbied extensively by some members of the legal profession.

The Hon. ANNE LEVY: I could perhaps draw to the attention of honourable members that subclause (3) makes it quite clear that after a decision has been made under interim development control a report must be laid before Parliament. The accountability of the Minister is to Parliament. A report before Parliament means, of course, that Parliament or any member can move a motion to debate that report, so that there is every opportunity for the Parliament to be involved, if it wishes, through the fact that the report is presented to Parliament. I repeat that some of these matters are important enough, we maintain, to be considered by the whole Cabinet, not just one Minister, as applies currently and that to change it from 'Governor' to 'Minister' would be downgrading from the current situation.

The Hon. M.J. ELLIOTT: The Minister, again with a little bit of what is pretty close to fiction, is suggesting that because a report must be laid before Parliament and we can debate it the Minister is therefore accountable. The Minister is very much accountable after the event, and if you do something as occurred with Craigburn—where, within 24 hours of interim effect occurring the

developer had lodged their application—we can enjoy ourselves moving motions saying that the Minister was very naughty for doing that. But, that is all that we can do. So, it is really very much of a fiction. I do not think the Minister is brought to account at all. If a particular deal has been stitched up, it cannot be undone.

The Hon. DIANA LAIDLAW: I find this issue very difficult, and I fully appreciate the instances that the Hon. Mr Elliott has talked about. It is a fact, however, that the situation as outlined in the Bill at the present time is that which prevails in the current Act. We believe that there has been some prospect of foul play in terms of the administration of the current interim development controls. Nevertheless, it was the view of the majority of members of my Party that the provisions in this Bill relating to the powers of the Governor should be supported notwithstanding my personal misgivings.

Amendment negatived.

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

Page 28, lines 12 and 13—Leave out 'in the interests of the orderly and proper' and substitute 'in order to prevent the undesirable'.

I am now picking up a different issue, and it gets to the heart of what interim development control should be about. I have already, on other occasions in this debate, cited two real world examples and I will do it again. I refer to the example of the Mount Lofty Ranges SDP comprehensive No. 1 and the Craigburn SDP. They did two quite different things. The Mount Lofty Ranges review comprehensive No. 1 SDP was brought in and given interim effect to stop something from happening. A Government, if it wishes to prevent something from happening and in relation to Mount Lofty Ranges it was having further undesirable development, needs to have the capacity to give interim effect to a plan.

However, the Government in the Craigburn Farm issue was not giving interim effect to a plan to stop something undesirable happening; it was giving interim effect to allow something to happen. As I have already said on a couple of occasions, what it was allowing was that within 24 hours of getting interim effect the developer had lodged an application for a development and, having lodged that development, the legal right for that development had been established and nothing that happened in the development plan process thereafter could overturn that possibility. We must ask ourselves whether we are willing to give a Minister the power to do something that cannot be undone.

I believe that interim effect should be used to prevent the undesirable from happening, and you have brought it in as a matter of urgency. However, to give it urgency to make something happen and theoretically say that Parliament has the right to overturn while legal rights have already been established makes a fiction of the whole thing. There are further amendments later, but I am saying here that where the Governor is of the opinion that it is necessary in the interests of the orderly and proper development of an area of the State, rather than having 'in the interests of the orderly and proper development', I am saying 'in order to prevent the undesirable development of an area'.

So, in relation to Mount Lofty Ranges, where it was absolutely imperative that the Government acted—it acted wrongly, but that is a second issue—it had to do it by way of interim effect. It was trying to stop an undesirable development so there are no problems. But to use interim effect in the way it did in Craigburn was immoral, as far as I was concerned. It was legal but totally immoral, and I do not think we should be allowing that to occur.

I have on file amendments that address this question further. What I need now, before taking it to extraordinary lengths, is to get an indication whether or not the Liberal spokesperson in the other place (John Oswald) has spent too much time on his Racing Bill or whether he has actually seriously considered any amendments I have to this Bill.

The Hon. DIANA LAIDLAW: The other amendments that the honourable member is talking about relate to clause 28, line 27, and over the page to line 35. I will then indicate that the Liberal Party will be supporting this amendment.

The Hon. ANNE LEVY: The Government opposes this amendment. It seems to me that to replace the words 'orderly and proper', which have an understood legal meaning, with the words 'preventing undesirable', is opening a can of worms that will be of enormous benefit to lawyers. How one defines what is and is not undesirable will depend on the point of view. Obviously, in any controversial situation there will be people saying it is undesirable and people saying it is desirable, and this change of words is likely to do nothing but enrich a lot of lawyers through court cases.

Amendment carried.

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

Page 28, line 14—'Leave out 'the Governor' and substitute 'the Minister'.

The Hon. ANNE LEVY: I oppose it. I thought we had dealt with those four all together.

The Hon. M.J. Elliott: In different contexts they may be treated differently.

The Hon. ANNE LEVY: I indicate that we oppose all four for exactly the same reasons.

Amendment negatived.

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

Page 28, line 22—'After 'cause copies of' insert 'the amendment and'.

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

The Hon. ANNE LEVY: The Government opposes it, for the same reasons as given previously.

Amendment carried.

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

Page 28, line 25—'Leave out 'the Governor' and substitute 'the Minister'.

The Hon. ANNE LEVY: The Government opposes it.

Amendment negatived.

The Hon. DIANA LAIDLAW: I move:

Page 28, line 27—'Leave out 'both Houses of Parliament pass resolutions' and substitute 'either House of Parliament passes a resolution'.

The Minister indicated earlier that the Government would support these amendments. There are two amendments to the same line and I will be proposing that the line that reads 'if both Houses of Parliament pass resolutions disallowing the amendment' should read 'if either House of Parliament passes a resolution disallowing an

amendment laid before it after copies of the amendment have been laid before the Houses of Parliament under section 27 (7)'. That section 27 (7) relates to the earlier discussion we had about the role and responsibilities of the Environment, Resources and Development Committee. I am aware that the Australian Democrats have a similar amendment to the first part. I suspect that they may object to the second. Perhaps I should move it in two parts.

The Hon. ANNE LEVY: As indicated, we accept the amendment.

The Hon. M.J. ELLIOTT: I would like now to speak to my amendment, which picks up the issue of one House of Parliament rather than both Houses, but I also require that if Parliament is to knock out an SDP it should do it within a prescribed period of time. The reason for doing that relates to a later amendment that I also intend to move to the same clause.

It picks up the issue covered by the Hon. Miss Laidlaw. However, the reason why I am suggesting that there should be a specific time frame during which this should happen relates to an amendment I have to a later part of clause 28. It is my submission that if a development plan, which is given interim effect, has established a legal right—for instance, Craigburn Farm—and if Parliament rejects the development plan, then I believe that that legal right should be taken away with particular provisos. I cover those provisos, and I think I need to talk about them as well while speaking to the later amendment I will be moving.

In fact, if it lapses as a result of any of those circumstances, then I think any legal right established by interim effect should be lost. Any development authorisation which was previously given on the basis of the amendment and which would not otherwise have been given ceases to have effect.

The Hon. Anne Levy: Retrospective law.

The Hon. M.J. ELLIOTT: Let me finish. Subclause (7)(b) does not apply in relation to a development authorisation where the development has been commenced by substantial work on the site of the development before the amendment ceases to operate. If a person has been given a legal right, has begun exercising it and has started substantial work then the legal right will continue. If, as in the Craigburn case, all that has happened is that within 24 hours of interim effect they have lodged an application, which then establishes the legal right, if this House chooses to overturn the development plan and they have not started building roads or doing anything else of a substantial nature, I do not believe that legal right should remain.

Yes, there is an issue of retrospectivity, but there is also the issue of a Minister abusing and using a power in the way that happened in relation to Craigburn, which, as I said, was quite wrong. I do not think people should have a legal right established by way of an agreement made in a back room, which is what happened in relation to Craigburn. They knew the SDP was coming out and they had the application sitting and waiting. They knew damn well that no matter what happened after that the legal right could not be taken away. That was wrong in every sense, and I do not believe that is tolerable. That is what the later amendment is about.

That is why I have included a time frame during which Parliament must act. Recognising that there are businesses that have had a legal right established, I do not think they should be left hanging forever. So, I am essentially saying that within 12 sitting days there must be a motion to disallow, and within a further 14 sitting days it must be voted on. So, we will not have legitimate business hanging around forever after interim effect has been given. I have done everything I can to take into account legitimate business interests, while at the same time trying to minimise the potential abuse of the use of interim effect. That is not hypothetical abuse, because we have real world examples of it.

The Hon. ANNE LEVY: The Government opposes this. It is all very well to say that this is not applying retrospectively. It is applying retrospective law and if for some reason actual work has started that makes an exception. However, if legally binding contracts have been signed that is not regarded as sufficient cause by the Hon. Mr Elliott. He would have people sign legally binding contracts, involving enormous sums of money if they are broken, but that is not allowed. But, if they have put a spade in the ground and turned one sod as the start of substantial work, that makes all the difference. I think it makes a mockery of the whole business procedures of our community.

The Hon. M.J. ELLIOTT: There is other legislation that has this same sort of provision. To suggest that turning a sod of earth would be substantial is a nonsense. If this amendment does get up and the Minister feels that there are other matters that need tidying up along the way, I invite her to suggest further amendments. I move:

Page 28, line 27—Leave out paragraph (b) and substitute new paragraph as follows:

(b) if either House of Parliament passes a resolution disallowing the amendment within 12 sitting days (which need not fall within the same session of Parliament) after a notice of motion for disallowance is given, provided that that notice was given within 14 sitting days (which need not fall within the same session of Parliament) after the day on which the amendment was laid before the House;.

The Hon. DIANA LAIDLAW: I recognise that there may be some difficulties with this amendment. Nevertheless, at this time I am pleased to support it. Given that support, I seek leave to withdraw my amendment to page 28, line 27.

Leave granted; amendment withdrawn.

The Hon. M. J. Elliott's amendment carried.

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

Page 28 line 28—Leave out 'the Governor' and substitute 'the Minister'.

Amendment negatived.

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

Page 28, after line 35—Insert new subclause as follows:

(7) If an amendment ceases to operate by virtue of subsection (4) (a), (b) or (c) then, despite any other provision of this Act (but subject to subsection (8))—

(a) any application under Part 4 which has been made on the basis of the amendment (and would not otherwise be valid) automatically lapses; and

(b) any development authorisation previously given on the basis of the amendment (and which would not otherwise have been given) ceases to have effect.

(8) Subsection (7)(b) does not apply in relation to a development authorisation where the development has been commenced by substantial work on the site of the development before the amendment ceases to operate.

I canvassed this amendment substantially when I spoke to the earlier amendment.

The Hon. DIANA LAIDLAW: The Liberal Party will support the amendment.

The Hon. ANNE LEVY: The Government opposes it. It is retrospectively lapsing approvals. I cannot imagine there will be many members of the business community who will be amused by that. It is not just lapsing applications; it is lapsing approvals retrospectively.

Amendment carried; clause as amended passed.

Clauses 29 to 32 passed.

Clause 33—'Matters against which a development must be assessed.'

The Hon. DIANA LAIDLAW: I move:

Page 32, line 11—Leave out paragraph (f).

This amendment relates to a new Part 4 in respect to development control. Specifically, clause 33 deals with matters against which a development must be assessed, and a host of matters are mentioned. There is also provision for any 'other matters as may be prescribed'. The Liberal Party regularly in Bills, and again in this Bill, has taken exception to the fact that so much of the important knowledge that people should have in relation to this Bill is going to be of a prescribed nature. We believe that these matters against which development must be assessed are important and should be incorporated within the body of the Bill.

The Hon. ANNE LEVY: The Government opposes this amendment, Mr Acting Chair. One of the aims of this legislation is to bring into the Development Bill about 100 other pieces of legislation which refer to development. The aim is to get them all into the one Act and have them all integrated together. Obviously, this cannot be done in five minutes, but to retain paragraph (f) means that these things can be brought in. If there is some provision in the Highways Act relating to the provision of roads in subdivisions or something, and if we wish to bring that in as part of the Development Bill, that can be prescribed under paragraph (f). So, this relevant provision in another Act can be brought under the Development Act, rather than either have to amend the Development Act specifically—it is not enough that we are going to spend 24 hours on it now; we would be spending 24 months on it—but it can be done by prescription and hence enable other matters to be brought under the Development Act rather than leave them scattered around everywhere. It has to be a broad clause like this to enable all the different situations which are going to arise to be covered.

The Hon. M.J. ELLIOTT: I find this amendment very difficult. I guess that ultimately, as long as things are happening by way of regulation and as long as this Parliament still retains its ultimate control, I am not so concerned that I would reject this particular provision. So, I will not be supporting the amendment to delete paragraph (f).

Amendment negatived; clause passed.

Clause 34—'Determination of relevant authority.'

The Hon. DIANA LAIDLAW: I move:

Page 32, after line 29—Insert new paragraph as follows:

(iiia) the Minister, acting at the request of the proponent, declares, by notice in writing to the relevant council, that the Minister is satisfied that the council has a conflict of interest in the matter on the basis that the council has undertaken, is undertaking, or has resolved to undertake (either on its own or in joint venture with any other person), a similar development within its area;.

This amendment relates to development controls. Clause 34 reads:

(1) Subject to this Act, the relevant authority, in relation to a proposed development, is ascertained as follows:

(a) where the proposed development is to be undertaken within the area of a council, then, subject to paragraph (b), the council is the relevant authority;

Then my amendment comes into paragraph (b). We believe that paragraph (b) is too restrictive. We are particularly concerned that clause 34 (1) (b)(iii) allows a council but nobody else to request the Minister to declare that the Development Assessment Commission acts as the relevant authority in relation to a proposed development. We believe that this provision should be extended to cover the specific circumstances where a council should be disqualified from assessing the proposed development, because the council has undertaken, or (as I have indicated in the amendment) is undertaking or has resolved to undertake a similar development within its area, either on its own or in a joint venture. One would hope that in such circumstances the council, because of conflict of interest provisions which are currently being discussed in papers being circulated in the community, would have the decency and integrity to realise that there was a conflict of interest and that it should disqualify itself from making decisions. But, if the council does not do so, it actually means that the developer is prejudiced in terms of its application because of those circumstances in which the council has this interest.

So, we believe that in such circumstances there should be the provision for the developer to 'appeal' to the Minister and, if the Minister is so satisfied that the council has a conflict of interest in this case, on the basis that the council has undertaken, is undertaking, or has resolved to undertake this matter, the Minister should then refer it to the Development Assessment Commission.

I would argue that this amendment is very important, notwithstanding any conflict of interest amendments that will be debated with respect to local government over the next few years. It is a fact that amendments that we made to the Local Government Act a few years ago have tolerated local councils undertaking entrepreneurial endeavours. There was a lot of discussion in Prospect some time ago with the proposed tavern; we have seen it with Henley and Grange housing developments; and certainly Port Augusta has a series of aquaculture initiatives.

If a similar development is being proposed and the council is asked to assess the application, because those councils have or propose to have an entrepreneurial interest in those developments, we believe the council should withdraw from assessing the application; but, if it does not, we believe that if the applicant is to have a fair hearing and the council does not withdraw from hearing it, then the applicant should in those very rare

circumstances—and I trust it would be very rare because we would hope that the council would have sufficient integrity to withdraw itself from assessing in that circumstance—be able to appeal or apply to the Minister and, if the Minister so considers the circumstances warrant it, to have this application assessed by the Development Assessment Commission.

The Hon. ANNE LEVY: The Government opposes this amendment.

The Hon. Diana Laidlaw: It is so reasonable, I am surprised that you could.

The Hon. ANNE LEVY: Perhaps I could explain. I listened to your explanation. The amendment would give applicants for development the ability to initiate the transfer of development control responsibility from the councils to the commission, and the proponent just has to state that he considers the council biased. I point out that under existing legislation, and certainly under the Bill, if a proponent feels that the council is biased, puts that matter to the council and the council agrees that it is biased, the council can then refer it to the commission. If the proponent puts it to the council that the council is biased and the council says, 'No, we are not,' the developer has appeal rights under this legislation. Where there are allegations by the proponent that the council is biased, it can be dealt with at local level, or the proponent has appeal rights. Transferring it to the Minister would mean that the Minister would be deluged with requests to take individual applications out of the hands of councils and transfer them to the commission. This would be a standard way for any applicant trying to bypass the local council to get it transferred to the commission.

This amendment is against the whole philosophy of the Bill, which is to give local decision making to councils. This would be an open invitation to take local decision making out of the hands of councils. As I said, if someone feels that their local council is biased, they can indicate the same to the council. If the council agrees that it has a conflict of interest, it can refer it to the commission. If the council does not agree that it has a conflict of interest, there is an appeal right. The developer has appeal rights not only against adverse decisions, but against unreasonable delays. If a council should attempt not to make a decision, unreasonable delays can also be appealed against.

While the honourable member may feel that a potential wrong is being addressed in this amendment, I think it is doing far more than dealing with the situation about which she is concerned. This would open the door for any development applicant to appeal to the Minister and try to get the matter referred to the commission. The Minister would obviously have to make investigations whether a conflict of interest existed, and the decision making processes would be taken out of the hands of local councils and transferred to the State level, which is contrary to the whole philosophy of the Bill.

The Hon. M.J. ELLIOTT: I am glad that the Minister has now adopted the tack of supporting local government, which is something that I have been pushing for some time. The people to whom I have spoken in local government have been concerned about quite significant elements where they feel their powers have been reduced.

The Hon. Anne Levy: The Bill is about giving control to local government.

The Hon. Diana Laidlaw: That is what you keep saying.

The ACTING CHAIRMAN (Hon. M.S. Feleppa): Order!

The Hon. M.J. ELLIOTT: The issue raised by the Hon. Ms Laidlaw in this amendment is important. I would prefer to see it handled in the body of the Bill rather than by way of appeal rights to another group. It may be that this amendment could have been worded slightly differently. However, its sentiment is important. We cannot have a council acting as a land developer, for instance, and refusing other subdivisions. That issue should be confronted directly within the legislation. I do not believe that at this stage that has been done adequately.

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: The point is that one has to get involved in court proceedings. I believe it should be possible—and I want to explore this further—to have a form of words which does the job slightly better than this amendment. The sentiment of the amendment is good and, in the absence of further amendment, I shall support it.

The Hon. ANNE LEVY: Up until now we have been dealing with the question of policy. We have now passed that section of the Bill and we are dealing with development control. This is a very different matter from the making of policy, and honourable members need to consider the difference. Obviously there is the involvement of the State and the Government in terms of policy, and that is what we have been looking at until now. We are now moving to the control mechanisms, which represent a totally different situation from what we have considered previously. I can only repeat that development control should be locally based. The amendment will lead to a flood of applications from proponents alleging bias. The example that the honourable member used of a council undertaking subdivision itself and refusing other subdivisions would clearly represent bias, and it has been ruled so by the courts. Precedents are available in that situation. There is no question about a council being able to get away with that, but it will be only too easy for an applicant to allege bias as a way of avoiding local control of development, which is one of the aims of this Bill.

The Hon. M.J. ELLIOTT: As I read the amendment, it is not just a question of an allegation of a conflict of interest; there is also a need for the council resolving to undertake a similar development or venture. There cannot be a flood of applications on that basis. Councils either are or are not doing something similar to what a proponent is putting up.

The Hon. Anne Levy: The Minister will need an army of investigators.

The Hon. M.J. ELLIOTT: I do not think so.

The Hon. Anne Levy: They do not have to prove it; they have only to allege it.

Amendment carried; clause as amended passed.

Clause 35—'Special provisions relating to assessment against a development plan.'

The Hon. DIANA LAIDLAW: I move:

Page 34, after Line 1—Insert new subclause as follows:

(5) Subsection (4) does not apply if the proposed development is within the area of a council and, as at the time the application was made, the council was in breach of section 30 by reason of a failure to complete a review of the relevant development plan within the time prescribed by that section.

This amendment relates to building work, and I note that the Australian Democrats have an amendment to this clause but is on a different issue. The amendment I move qualifies subclause (4) which relates to grounds of appeal where a development is of a kind described as a non-complying development under the relevant development Act. Clause 30 of this Bill provides for development plans to be reviewed every five years. Our amendment applies only in such cases, and hopefully they will be rare cases, where a council is in breach of clause 30 and has failed to complete its review on time. I respect the fact that there are other measures provided in the Bill to address the circumstances where a council breaches section 30, but all of these measures involve ministerial intervention. Our amendment allows a developer to appeal in such circumstances, and it is this approach of appeal rather than that of ministerial intervention that the developers themselves have sought as the means to resolve the impasse.

The Hon. ANNE LEVY: The Government opposes this amendment. We feel that what it is doing is creating appeal rights for applicants where they are applying for approval for a non-complying development. In other words, this clause is creating appeal rights for what in the current Planning Act is classed as a prohibited development, rights which do not exist under the current planning Act. One cannot appeal against a refusal for a prohibited development, and this is in the situation where a council has not reviewed its development plan. In terms of creating certainty for both developers and the community, we feel it is important that certainty is maintained by adherence to a development plan. There are many clauses in this legislation which encourage councils to review their plans on a regular basis, and there is also the ability in a clause we have already considered that, if a council refuses to review its development plan, the Minister can do it for the council, so that reviews of development plans can occur and cannot be stymied.

However, it is not appropriate to have an appeal right for something which is against a development plan. We must maintain the community's confidence in its development plans. So, it is not appropriate to have a clause which will allow the overriding of policies in a development plan. The plan will then not have the certainty which the community expects it to have. Even if a plan says something is prohibited it will be possible for someone to apply and have appeal rights, and that is not the approach which this Bill is taking. The development plan should provide certainty so that people know that they cannot try to get around it.

The Hon. M.J. ELLIOTT: I am not happy with establishing a right of appeal for non-complying use, even under these circumstances. I feel that if councils are not reviewing their plans that is another issue and should be confronted in other ways. However, I would not be willing to accept establishment of appeal rights because of failure on the council's part. I oppose the amendment.

Amendment negatived.

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

Page 34, after line 1—Insert new subclause as follows:

(5) A development that is of a kind described as a prohibited development under the regulations or the relevant development plan must not be granted a provisional development plan consent.

Under the Planning Act we currently have a prohibited category and it comes as quite a shock for people who first start working with the development plan to find out that prohibited indeed does not mean prohibited at all.

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: I think the terminology 'complying' and 'non-complying' is very sensible and I like the way those two categories work. However, I would argue that there still is a case for 'prohibited development', which means prohibited, and exactly that. It is sending a clear message to developers that, no matter what, they will not get a tannery, or some other particular industry, and that they should not even start to spend their dollars and cents exploring it, that it is absolutely, undeniably and unquestionably prohibited. It is a category which might have a fairly short list, but if councils have no intention of ever approving particular types of development why indeed do we not have a prohibited category, which means exactly that. It is something that I have talked through with some developers and they feel quite relaxed with the concept of 'prohibited', as well as the 'complying' and 'non-complying' provision because it does give certainty, once again.

The Hon. DIANA LAIDLAW: I ask the mover: in the instance of a prohibited development are you arguing that it is prohibited for all time or only for the life of the development plan which, in turn, must be reviewed every five years?

The Hon. M.J. ELLIOTT: Clearly, if the development plan is to be reviewed then what is prohibited is subject to review as well. The list is always open to review at any stage, but I think we should send a clear message that particular developments will not in any circumstances be entertained. You cannot have anything clearer than that: that is, having prohibited meaning prohibited.

The Hon. ANNE LEVY: The Government opposes this concept. These amendments would introduce a fourth tier into the planning system. We would then have complying development, consent development, non-complying development and prohibited development. It is introducing a fourth category. The word 'prohibited' would mean no ability to approve a plan, no matter what the merits. I agree that, philosophically, this does have some attraction, but I feel it is not practicable. It assumes that people who are drafting development plans can foresee all possible eventualities but, in reality, plans will go wrong from time to time and one does need the flexibility to have the ability, on rare occasions, to approve development which, although non-complying, does have merit.

If an escape clause was not available, it would mean that if there is a suggested development that everyone agrees has merit such a development would need a more complex EIS process—which would be totally unjustified for that development—so that the Governor could

approve the development notwithstanding the prohibition. Alternatively, spot rezoning would be needed, and that would create both a hotchpotch plan and the potential for a good development to attract a rezoning, only to find that after rezoning the good development does not proceed but the rezoning remains.

Spot rezoning can, of course, cause all sorts of delays and is not philosophically a good idea. Remember what the situation is: if a council decides against a non-complying development there is no appeal against that. In addition, if a non-complying development does get approval, it requires the concurrence of the Development Assistance Commission. A council on its own cannot give approval for a non-complying development. However, even though non-complying, if in a particular situation, it is felt that there is considerable merit, there is the flexibility, through the Development Assessment Commission, for approval to be given. Introducing the absolutely prohibited development category is, I think, assuming perfection on the part of plan drawers which is unreasonable. It is better to keep to the three tier system which has been developed after a lot of discussion with a lot of people and is approved throughout the community as being the best way to go to maintain a three-tier system—although far more appropriately named than they are at the moment.

The Hon. M.J. ELLIOTT: I appreciate the arguments that have been put by the Minister but I still believe that there are particular activities that people would like to see prohibited. They may be activities that people do not want within a certain distance of a school. I am sure people can come up with a list of things in their own mind; they will say, 'I don't want these particular activities [perhaps a hotel or something else] within a certain distance of a school. That is a matter which I think a council would resolve very firmly in its mind and which would be absolutely prohibited. I do not think that would be hard to determine. I do not think the list of prohibited developments would be a long one. I have already said that earlier. I do think that there are some developments that would fit into that category.

It is a good thing that the term 'prohibited' has, under the current Planning Act, become non-complying because clearly it was being misunderstood. People got the shock of their life when they saw something that they thought was prohibited suddenly being given consent. There is the danger that a council, on a particular night, with a member or two missing, may approve something. Certainly, one then has the Development Assistance Commission.

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: It does, but nevertheless something has already gone past the first step. I have heard it said on many occasions that, in some ways, it was easier to get prohibited developments than it was to get consent developments. The important thing was that you had enough money for your lawyers. Certainly, once one got it past the council, things really were not that hard to get up. Prohibited developments were often easy to get up, for some ungodly reason. I like the concept of non-complying; I accept that there needs to be flexibility with many types of development and that there is a need for some discretion, allowing for the quality of a particular development. I reiterate, however that I believe there will be particular types of developments and activities in relation to which a council can quite easily say, 'This will be prohibited.' The only danger one has is if a council produces a very long prohibited list and included many matters that perhaps would have been better on the non-complying list. That is something which can be argued and debated while the development plan for the area is being produced. Once that list has been produced, let the community and have some certainty in relation to certain developments.

The Hon. DIANA LAIDLAW: The substance of the matter introduced by the Hon. Mr Elliott has been discussed widely within the Liberal Party. We have resolved, however, not to support the amendment, and not because there are not instances where we believe it could apply. However, all the representations we have received on this matter have been keen to support this new system of complying and non-complying with the safeguards that are provided for in the Bill, and we believe it is worthwhile giving this system a chance. We can see how it works. If things are going astray there is the possibility before the next round of reviews in five years time to address the matter.

Amendment negatived; clause passed.

Clause 36 passed.

Clause 37—'Consultation with other authorities or agencies.'

The Hon. DIANA LAIDLAW: I move:

Page 36, line 10—Leave out paragraph (b) (and the word 'and' immediately preceding that paragraph).

This relates to an amendment I moved to clause 7 last night and that amendment, in turn, related to appeal rights. We argued that such appeal rights should not be removed by regulation. We won that, and I think we should win this as a consequence.

The Hon. ANNE LEVY: I oppose it, as I opposed the previous one. It can stand alone. For exactly the same reasons as I opposed the earlier one I oppose this one.

The Hon. M.J. ELLIOTT: The Democrats support the amendment.

Amendment carried; clause as amended passed.

Clause 38 passed.

Clause 39—'Application and provision of information.'

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

Page 39, after line 33—Insert new subclause as follows:

(5a) If a relevant authority permits an applicant to vary an application that relates to a category 2 or category 3 development within the meaning of section 38, the application will, for the purposes of this part, be subject to any exclusion or modification prescribed by the regulations, to the extent of the variation, be treated as a new application.

The Hon. DIANA LAIDLAW: The Liberal Party will support the amendment.

The Hon. ANNE LEVY: The Government opposes it. It will unnecessarily delay applications, particularly if the variation is a direct result of accommodating neighbours' concerns. In effect, it will diminish an applicant's wish to accommodate neighbours for fear of having to start all over again. People will not be able to accommodate the concerns of neighbours without enormous delays, so they will refuse to do so and this will lead to conflict. I point out that regulation 3.3.2 deals with variation to proceed without renotification to neighbours and public if the

decision maker considers that the amendments are not substantial.

If they are substantial, obviously the renotification must occur. If they are not substantial, it will allow minor variations to be made, so accommodating the concerns of neighbours without having to go right back to the beginning. In other words, what is intended by this amendment is dealt with in regulation 3.3.2.

The Hon. M.J. ELLIOTT: I make one comment at this stage. Any fine tuning difficulties we may confront can be dealt with by exclusion and modification, which is prescribed by regulation, so I think that the problems raised by the Minister are not great but are easily catered for by that mechanism.

Amendment carried; clause as amended passed.

Clause 40 passed.

[Sitting suspended from 10.1 to 10.18 p.m.]

Clause 41—'Time within which decision must be made.'

The Hon. DIANA LAIDLAW: I move:

Page 40, line 31—After 'relevant authority' insert:

(a) [include the remainder of lines 31 and 32];

(b) to pay to the applicant an amount, determined by the court, to compensate the applicant for any loss which the applicant has suffered, or is expected to suffer, from the date of the commencement of the proceedings on account of the relevant authority's failure to decide the application within the time prescribed by the regulations.

This clause deals with situations where a relevant authority with an application must deal with that application as expeditiously as possible and within the time prescribed by regulations. Subclause (2) provides that, if the application is not decided within the time prescribed, the applicant may apply to the court for the relevant authority to make its determination with a time to be fixed by the court. Then there is a further provision that the court may order the relevant authority to pay the applicant's costs of proceedings, but there is no provision for any other costs—for instance, holding costs—to be met in cases of such delay. This issue is raised time and time again, as the Minister would be aware, by developers. It is one of their greatest concerns in terms of development decision delays in this State.

My amendment seeks to redress this deficiency. It is a seemingly harsh amendment. It provides that the court may not only order the relevant authority to pay the applicant's costs of proceedings but also to pay to the applicant an amount determined by the court to compensate the applicant for any loss that the applicant has suffered or is expected to suffer from the date of commencement of the proceedings on account of the relevant authority's failure to decide the application within the time prescribed by the regulations.

I have spoken at some length with the Local Government Association about this matter. I admit that the association has some concerns about what appears to be an unduly harsh measure. It believes that in the circumstances, if this amendment is passed, a number of councils would opt to reject the application as a safeguard rather than face the court and the penalties we are providing. I have not been persuaded at this time to withdraw or move the amendment in another form, because I think it is important that the amendment is moved and is debated as an indication of our concern about the implications of delay, particularly when the Government has indicated within this Bill that certainty is one of the key features that it is keen to see introduced in the future.

The Local Government Association has told me that it is keen to work with the Liberal Party, I suspect also with the Government and the Democrats, with BOMA and developers generally to look at the problem that we are addressing in this amendment and I respect that undertaking by the LGA. Nevertheless, I am keen to move this amendment for the reasons I gave; that is, it is important that the severity of the problem be understood and debated in this place.

The Hon. ANNE LEVY: The Government opposes this amendment and shares the concerns of the Local Government Association on the matter. The existing provision in subclause (3) does allow a court to award costs against the council or the commission, but to allow damages as well could unfairly penalise the ratepayers, who have to provide the damages, and it could result in poor planning decisions by councils that rush decision-making on what can be very complex applications for fear of damages claims which could result if they give them proper consideration and take a bit of extra time in the process.

On the other hand, it could also result in councils refusing applications on the grounds that any further delay would start adding to court costs. If that occurs to avoid the situation outlined in the amendment, then the applicant will find that he or she will have to appeal. It will take the applicant far longer to get approval and it will cost a lot more in court fees. So, it has the potential either to cost the developer a lot more in court fees and/or the potential unfairly to penalise ratepayers, who would have to provide the damages through their rates.

The Hon. M.J. ELLIOTT: I think the Hon. Miss Laidlaw has raised an area of legitimate concern. However, she certainly acknowledged some of the problems raised by Minister, in that there is a downside to this amendment as well perhaps in terms of negative decisions being made that otherwise might not have been made and generally contributing to rushed and bad planning. On balance, I will be rejecting this amendment.

Amendment negatived; clause passed.

Clause 42—'Conditions.'

The Hon. DIANA LAIDLAW: The Minister would be aware that the present Act and regulations provide that the planning authority keep a register of approvals and conditions for people to be able to search a local government register to ascertain those conditions imposed by a council. I understand that the conditions imposed by the Ministers, the Crown or the planning authority are not always registered in this form. I have looked and have not found any reference in the new regulations to such a requirement. Is there such a requirement in the regulations and could it be highlighted at this time?

The Hon. ANNE LEVY: It is dealt with in regulation 17.2.1: 'Register of applications.' The regulation provides that the relevant authority must keep available for public inspection without fee during its office hours a register of applications for consent or development approval or assignment of building classification made

under these regulations. There is a whole list of matters in relation to each application that must be recorded in the register, including the decision thereon, whether the application was refused, whether approval or consent was granted subject to conditions, together with a statement of the conditions, if any, and, if the situation was the subject of an appeal, the result of that appeal.

Clause passed.

Clauses 43 to 45 passed.

Clause 46—'Environmental impact statements.'

The Hon. DIANA LAIDLAW: Why has the Government selected the title 'major projects' and not 'major developments', and used the term 'projects' in this section, both for the title and throughout the body of the next few clauses? There is no definition of 'projects', but there is a definition of 'developments'.

The Hon. ANNE LEVY: As I understand it, throughout the clause there is talk of developments and/or projects, which of course is reflected in the title to which the honourable member refers, because when the Environmental Protection Authority Act is proclaimed it is intended that it will call up the controls in the Development Act and not repeat them all in the EPA Act; and there could well be projects under the EPA legislation which would not be classified as development but would be regarded as projects. So, it is to enable cross-referencing from the expected EPA Act.

The Hon. Diana Laidlaw: Should it read 'Major developments or projects', as that is the expression used?

The Hon. ANNE LEVY: It certainly could.

The Hon. Diana Laidlaw: Would it be clearer?

The Hon. ANNE LEVY: I would not oppose it.

The Hon. DIANA LAIDLAW: I move:

After 'Major' insert 'developments or'.

Amendment carried.

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

Page 42, after line 30—insert new definition as follows:

'The appropriate authority' means a body prescribed by the regulations for the purposes of this definition;.

This is part of a package of amendments I am moving in relation to major projects. These amendments are, in my mind, among the most important that I am putting to this Bill. The very reason that the planning review came about was that a number of major projects suffered significant delays or fell over totally after going through a fairly tortuous path and, while I was vocal in opposition to some of those projects, I have great sympathy for what the developers went through along the way. I have great sympathy for the need to increase certainty.

As the parent of three young children, I am looking to an economy that will grow and offer jobs to those children, and I think we can do that without destroying what is so good about South Australia. It is one of those cases where I think we can have our cake and eat it too, as long as we get some of the development processes right. I see the environmental impact assessment process as being crucial in getting it right. I do not mean just in terms of making sure projects are environmentally sound; I mean that the process, while it is working, does not knock on the head or frustrate projects that are all right at the end of the day. I want to see a process under which a project will be looked at, and if there are difficulties the developers will hear about them early. I know the Government is talking about an early 'No', but even that is too simplistic.

The alternative to an early 'No' is really an early 'Yes', when in fact there are 'maybes' and subtleties of 'perhaps this project could change a little bit by way of location or form'. I want a process whereby developers can get messages early not only as to whether or not the project is a goer but as to whether or not, with modification, it might be a goer and what those modifications might be. The current process for major developments has had a number of problems; some of them relate to the EIS and some are on the edge of it.

I think that one of the problems has been groups like the former Special Projects Unit in the Premier's Department. It was disbanded but it has been resurrected in other guises; some of the people are now with the MFP and some are with the new Economic Development Board. What was happening was that they were cooking up schemes or people were coming to them with schemes and they said, 'Yes, we like this; let's go for it.' Developers were encouraged to go a long way along the road before they suddenly started hitting barriers. Jubilee Point is a classic case in point. The whole process from go to whoa was a sad indictment of the processes we had for handling development in South Australia.

I want to see these processes fixed up, and I believe that there is a way of doing it that is not a compromise but is genuinely a system which can help everybody. It is important that whether or not there is an environmental assessment should not be a political decision. Either there are environmental issues that require addressing or there are not. I do not think it should be a matter of discretion within the hands of a political body, in particular the Minister. I believe that we should have—and this is what I am alluding to in this first amendment of the package—an independent body, at this time termed 'the appropriate authority', which has responsibility for determining whether or not an EIS is necessary and for carrying out that process.

How would it decide whether or not environmental assessment is necessary? I believe that, by regulation, we would prescribe the circumstances under which an EIS would be deemed to be necessary. That would kill, once and for all, allegations of political interference at the level of deciding whether or not there is to be an EIS. I think that is important. Having made the decision that an EIS is necessary, it is a question of how to progress the situation from there. Under current legislation, the proponent is given guidelines by the department and goes away and prepares an EIS. Usually the EIS has been prepared before there has been any significant input from the public.

That means that the developer may spend a significant amount of time—it can be a year or more sometimes—working on an EIS and spending a great deal of money and time but at the end of the day not really knowing whether or not approval has any real prospect of success. I am aware that under the current proposal the Government is talking about an early 'No', but I think we can have something that is more flexible than that. What I propose would happen is that, once the development proposal has been lodged and the appropriate authority has deemed that an EIS would be necessary, an advertisement would be published in the

newspapers circulating throughout the State describing the project or development and inviting members of the public to make written submissions.

The EIS process would begin only after the hearings where submissions could be made. There are advantages in this. I will take a couple of projects to illustrate what I mean. The question of sand movement was always going to be the major barrier for the Jubilee Point development. Yet that did not become an issue until fairly late in the process, by which time the developers had spent a lot of money and time developing a project which had a breakwater going a long way out to sea. I believe that if the issue of sand movement had obviously and clearly been a problem to the developers early, they may have decided, even before proceeding to an EIS, to modify their project. They might have made a couple of decisions. The first would have been that they did not want to proceed because it was beyond modification. Alternatively, they may have come up with a project which moved on shore, somewhat similar to the proposed development at Glenelg.

Without casting an opinion on the current form, it has largely overcome the problem of sand movement. By getting those clear messages early, the developers would have been in a position to say, 'We can see that there is a potential problem here and we want out.' Alternatively, they could have said, 'We do not think it is a problem. We think that through the EIS process we can show that there is no problem.' Or, on the basis that CSIRO experts were saying it is a problem—that is what happened once the public were involved—they may have said, 'There is something here and we will seek to modify our proposal.' What we would have had is not just an early 'No', but warnings of a potential problem and the proposal could have been modified. The Mount Lofty development is another example. With the processes that I have described so far, very early on the developers would have heard a clear signal from the public that the cable car would not be accepted. I believe that the cable car finally scuttled the whole project.

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: The Government always encouraged it; it never saw the cable car as being a problem. Even under this early 'No' system it would not have seen it as a problem. If in this significant development the public had sent a message earlier, I do not think that the developers would have packed their bags and gone away; they would have said, 'We want to modify this development.' It is not early 'Yes' or early 'No'; it is early warnings that there is a problem and they would have modified it.

The Hon. Diana Laidlaw: They have had to modify it since.

The Hon. M.J. ELLIOTT: They have had to modify it since. I believe that in those circumstances we would have seen modification very early by the developers, they would not have become frustrated, and the thing would have been built years ago. I have no doubt that there would have been a development on Mount Lofty years ago if this possibility had existed. I could take major project after major project and make similar points. Tandanya is another example. While I would rather see small-scale ecotourism involving lots of smaller developments on Kangaroo Island, the major difficulty with Tandanya is that it is being sited in a significant patch of native vegetation. That was always going to be a problem. Anybody who had their antenna up would have realised that was always going to be the major problem. If that development were about 400 metres east of the proposed site, the major opposition to that site—that being the clearance of native vegetation, which still looks like being illegal under the Native Vegetation Act—would have disappeared.

Once again I think there might have been a chance that the developer was already at work. Instead they are not; they are bogged down, because they realise the Native Vegetation Act is stopping them. There were no clear, early signals. Once again I do not think that this early 'No', which is coming from within the Government, will work.

The Hon. L.H. Davis: Tandanya is a very unusual case all around.

The Hon. M.J. ELLIOTT: I always had severe doubts about the Glenelg development but I think the form of the others could have been changed, as was Mount Lofty. There could be a change in form in relation to the Glenelg development; a minor change in site, like about 400 or 500 metres in relation to Tandanya; and a relocation of about 3 or 4 kilometres south in relation to Wilpena. If only the message had got through early enough, but instead we have a system at the moment which entrenches people into black and white positions which become portrayed as development and anti-development. We have to find a way to get around that.

I am afraid that the mechanisms currently within the Development Bill simply do not do that. They are not significantly different from the system that we have already. If we do not significantly change this process, I guarantee we will continue to have the same confrontation. That is not a threat. We will continue to have that confrontation, and that is an observation of fact. We only need a feel for the way the community is reacting at the moment. They will not have projects inflicted upon them, and any attempt to facilitate it by internal machinations will always fail. That may not be the intention of the current structure of the clause in relation to major projects, but I am afraid it will end up working in much the same way as the current system. It will fail exactly as has the current system.

While the recommendations were somewhat different, the Government has really been on notice since 1985 that there was a need for a substantial change in the EIS process. The Government has avoided that and, as a consequence, it shares a great deal of the blame for the failure of projects. It is just all too easy to say, 'Oh, it is these greenies or these anti-development people who are stopping things.' That is simplistic and wrong.

I would hope that a developer who has antennae working will have recognised, by way of those early submissions, where likely problems will occur and will make appropriate decisions about continuing modification or not in the light of even those early submissions. I am really talking about a period of a few weeks, and at that point the appropriate authority can then set down the guidelines for the EIS, and the EIS process can begin.

The next important thing about the EIS process, now that it is under way, is that I believe it is a process that

should be transparent and interactive. By 'transparent' I mean that information being gathered should be available for analysis. At the moment, the EIS is prepared and, at the end of that process, it is made available on a once only basis to the public. The public have a chance to make a written submission to the EIS. That written submission disappears into a black hole. Somebody in that black hole summarises what those people are saying in their submissions, and then the proponent responds to them.

As a person who has been involved in many of the EIS processes and studied them carefully, I believe that that process has been seriously flawed. The summaries of submissions which are prepared are dangerously simplistic and often, deliberately or accidentally, misunderstand the very thrust of the submission. On the basis of these simplifications, we get a response. As a trained scientist I would say that, as a scientific process, the EIS process is seriously flawed, and if people are making environmental assessments I would have thought that they would be scientifically sound and capable of being tested.

I believe that we need a process whereby, if the proponent is gathering information and is making a claim, for instance about the amount of water available. in Wilpena, one should be able to contest and test those claims. I do not mean contested by simply someone writing a letter stating that something is wrong. I believe that the appropriate authority should be in a position to act in an inquisitorial fashion and question the proponent and the person who may be putting a contrary view in some way until that appropriate authority has satisfied itself as to the true position in relation to the matter under question. That simply does not happen at the moment, and it cannot happen under the current EIS process or that which is being proposed by the Government.

At the end of this process, which I have simplified somewhat, the appropriate authority, which is an independent body, would prepare a report indicating its findings with respect to the issues that were addressed. The appropriate authority would then pass that submission back to the planners and the Minister, who have the power to say 'Yea' or 'Nay'. So, the appropriate authority has no political power at any stage. It cannot say 'Yes' or 'No' to a project: it is simply given guidelines as to how it must operate and it goes through the system.

I know that, when I first discussed the matter with Mr John Oswald, he asked whether or not what I am proposing would take longer than the current process. I would say no. If we look at what it does compared with the current process, we see that the only potential additional time is during that public hearing process which runs for a couple of weeks at the very beginning. However, at the end of the day that extra couple of weeks may save time for the developer in a number of ways. First, it will clearly define potential problems, and the developer may find that, by modification of the project, time is saved.

There have been several environmental impact assessments carried out in South Australia in the last two years where there has been a supplement to the supplement of the EIS; the EIS process has been carried out so inadequately that the supplement was not sufficient, and the developer had to go away and prepare further responses. In that case the process was significantly lengthened. I believe that happened, in both cases that I recall, because the process was not sufficiently interactive that those problems were properly sorted out the first time through. If we want to talk about time, we should ask the developers of the proposed Mount Lofty development about that. That has taken years and the project is still not complete. We could ask the people at Tandanya, Glenelg or elsewhere about time. I would say that, at the end of the day, anybody involved in a major project would find that a couple of weeks early on would save them an enormous amount of time and money later on.

The Hon. Anne Levy: There has been a lack of money in those projects you have mentioned.

The Hon. M.J. ELLIOTT: That is the case now, but many of those projects would have got up before the financial crash if they had not taken so long. That is the reality of the situation. The Mount Lofty development was begun when money was around, well before the State Bank and other problems in South Australia occurred. The money was there, but it just seems to have disappeared.

While developments at this stage are not getting up because of a lack of money, most of those developments were being discussed well before the crash. I believe that South Australia would have seen more-not less-development if we had a proposal along the lines that I am putting to the Committee, rather than the Government's clauses which, at the end of the day, do not make a really significant change to the fundamental processes that we have had for the past seven years that I have been in Parliament and longer, a process which has been a dismal failure.

The Hon. ANNE LEVY: The Government opposes the amendments. There are two main effects of the whole bunch of amendments. An important one is that it removes the Minister from supervising the EIS process and instead allows the appropriate authority to supervise the process. Despite the almost coyness of talking about the appropriate authority, it was made clear in his second reading speech that the Hon. Mr Elliott feels that the appropriate authority to which he is referring would be the Environment Protection Authority, so it is the EPA that he is talking about.

The Hon. Mr Elliott is proposing that the authority to supervise the whole EIS process will be the EPA. An EIS is more than just a statement of the environmental effects of a development or project. An EIS as defined in the Bill is a statement of the expected social, economic or environmental effects of the development or project. It involves not just the environmental effects—it is much broader than that. Furthermore, the EIS is a statement of the extent to which a development or project fits the provisions of the development plan and the strategy.

An EIS is far more than just the environmental effects of a particular project. It is looking at the whole range of effects: environmental, economic and social, and evaluating whether the proposal is concurrent with the development plan and with the provisions of the planning strategy.

The supervision of the preparation of an EIS should not lie with a body whose only concern is environmental protection. It is for that reason that I oppose this whole bunch of amendments from the Hon. Mr Elliott. It is giving the EPA a role that it is not designed to take. The supervision of the preparation of an EIS must be with the development authorities who can look at the whole range of areas. It is very definite that the resources of the EPA will be called on to get their advice on the environmental effects but the EPA should not have responsibility for the whole EIS process, which goes far beyond the role of the EPA, although it will be involved in its area.

The Hon. M.J. ELLIOTT: The Minister said I was coy. I quite plainly said during the second reading that it was my preference that the EPA be the body. However, the clause that I have put in there says 'appropriate authority' and 'the body prescribed by regulations'. So, in fact, nothing about the amendment makes it plain that the EPA is to be the body and, in fact, it can be the Minister's discretion, by regulations, who that body should be. I did deliberately remove the 'Minister's supervision', because the process is not, I believe, assessment. Environment assessment is not a political process.

Whether or not the project proceeds is a political decision but whether there are, or are not, social, economic or whatever strengths or weaknesses of the project are, I believe, subject to examination without political interference. I can tell this Minister, if she is not aware, that ministerial interference in EIS processes does occur now.

I have had departmental officers complain to me that they had been instructed to rewrite sections of EIS material because the Minister was not happy with it. It has involved the rewriting of material which goes to the public and upon which they make their own judgments as to whether or not something is okay.

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: When you go from EIS to assessment; it is the assessment report about which I am talking.

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: Well, the Minister can be pedantic but I said 'EIS'; I meant 'assessment' and I have corrected that. The fact is that the Minister has interfered, and does interfere, with the process. As I said, that process should be a matter of determining fact, and it is a process in which the Minister has no right to interfere, but this happens. It is the Minister's power to intervene which reduces, at the end of the day, the certainty for developers. So long as developers such as Kinhill at Jubilee Point are told, 'Don't you worry about that; we will fix it up'—because that is what they were being told repeatedly—it does not increase the certainty of a project getting up, as Kinhill's later on found out. This is because the Minister's capacity to promise, 'Don't you worry about it, we will fix it up' allows the developer to avoid confronting what are important issues. It allowed Kinhill's to avoid the issue of sand movement until far too late, until they had committed themselves too far down the line. While we are trying to resolve questions of fact, I argue that the Minister has no rightful role.

The Hon. DIANA LAIDLAW: I oppose the amendment in the form moved by the Hon. Mr Elliott, but I am sympathetic to much that he has referred to. I am keen to see whether he would be prepared either to move or for me to move an amendment in relation to major developments and projects so that the Minister—and not the appropriate authority as suggested by the Hon. Mr Elliott—would be in charge of the process. The Liberal Party would agree with that. I have quickly canvassed some but not all of my colleagues, but I think they understand the reason for my proposed amendment. I believe strongly in the preconsultation process outlined by the honourable member. I think there is a great advantage in having as many people as possible alerted and informed about where the strengths of the project are and where the weaknesses may be.

I suggest that the honourable member's proposed subclause (3) should be amended by deleting 'appropriate authority' and inserting 'Minister'. The suggested process would then continue until proposed subclause (7) which would be amended in the same way to provide:

> The proponent must then, in consultation with the Minister, have prepared, or arrange for the preparation of, an environmental impact statement in relation to the proposed development or project in accordance with guidelines prescribed by the regulations.

I have an amendment on file that indicates that it is important that the guidelines or criteria for an EIS be prescribed by regulation and that those guidelines must be taken into account by the Minister in determining whether an EIS should be conducted into a project. This is a bit of a compromise. I acknowledge all the work the honourable member has done over many months on this matter, and I know he has taken an intense interest in it, perhaps more so than other members of this place. I think that what the honourable member is suggesting in terms of preconsultation is sound, and I think we should try to keep that alive in this Bill. It is hoped that it will go through all the processes; otherwise, the Liberal Party cannot accept the appropriate authority being the proposed EPA. We do not accept the remainder of the honourable member's amendment regarding the environmental impact statement. We feel that what the Minister has provided in the Bill is appropriate, subject to my amendment—the honourable member has a similar amendment—that the regulations should prescribe the criteria to be taken into account.

The Hon. ANNE LEVY: Is the Hon. Ms Laidlaw proposing to amend the Hon. Mr Elliott's amendment?

The Hon. DIANA LAIDLAW: Yes, or the Hon. Mr Elliott might choose to amend his amendment along the lines I have suggested.

The Hon. M.J. ELLIOTT: One does not need to have many counting lessons to work out that I would accept what the Hon. Ms Laidlaw is suggesting. Much of what I was proposing I am not getting, although I am getting some components of it. I believe that this early consultation stage can have a significant impact in relation to the whole development process. At least if I can recover that out of the various points I have raised, I will say 'Yes'; I will accept that. It is that or nothing, and I think that it is sufficiently important that being petulant about it and saying that I want the whole lot will not help anyone. So, having had sufficient counting

lessons, I can work out what is possible and what is not. I seek leave to withdraw the amendment in relation to 'appropriate authority', to facilitate things at this stage.

Leave granted; amendment withdrawn.

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

Page 43, lines 12 to 17—Leave out paragraphs (a) and (b) and substitute 'the Minister may, by notice in writing to the proponent, declare that this section applies to the development or project'.

The Hon. ANNE LEVY: I support the amendment.

The Hon. DIANA LAIDLAW: I support the amendment.

Amendment carried.

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

Page 43, after line 17—Insert new subclause as follows:

(2a) The Minister must make a declaration under subsection (2) if the proposed development or project falls within criteria prescribed by the regulations.

The Hon. ANNE LEVY: As I understand it, the regulations, when discussing EISs, indicate factors to be taken into account when decisions are being made on whether or not to call on an EIS. These factors include such matters as the character of the receiving environment, the potential impacts of the proposal, the resilience of the environment to cope with change, confidence in the prediction of impacts, the presence of planning or policy framework or other procedures or statutory approval processes and the degree of public interest. In consequence, I would much prefer it if the provision being moved by the honourable member did not provide, 'If the proposed development or project falls within criteria prescribed within the regulations...' but provided, 'If the proposed development or project took account of criteria prescribed by the regulations'. I do not see how you can say something falls within things such as resilience of the environment to cope with change, or confidence in the prediction of impacts. To say that it 'took account of' means that these things have certainly been considered and evaluated. I do not see how one can say that the development or project falls within a criterion such as the confidence of the prediction of impacts. If it said 'takes account of' that makes much more sense, given the way the criteria are worded in the regulations.

The Hon. M.J. ELLIOTT: This might be one of those matters, among many others, that we will be tidying up. I prefer to keep the words 'falls within'. There is a significant difference in meaning between 'falls within' and 'takes into account'. 'Falls within' does mean that the Minister has been given guidelines under which decisions are made. 'Taking into account' really means the Minister has looked at these things and how much account is taken is not really prescribed in any way. By using the words 'falls within', if criteria are set then the Minister, under certain circumstances, would be expected to carry out an EIS. That is really the same sort of thing I was trying to achieve in relation to the appropriate authority. There should be guidelines and if those guidelines require an EIS then that is the way we should go.

Amendment carried.

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

Page 43, after (2a)—Insert new subclause as follows:

(2b) The Minister must, within 14 days after making a declaration under subsection (2a), cause to be published in a newspaper circulating generally throughout the State a notice—

(a) describing the development or project in reasonable detail; and

(b) if an application has been lodged under this Act in relation to a proposed development, specifying a place at which the application may be inspected; and

(c) inviting members of the public to make written submissions to the Minister within a period specified in the notice (which must be a period of at least four weeks from the date of publication of the notice) on—

(i) the development or project; and

(ii) the matters which an environmental impact statement in relation to the development or project should address.

This is setting up what we might call the early consultation phase. I believe that this phase brings in the public much earlier than has previously been the case. I think that that is valuable not only from the point of view the public having knowledge about what is happening but it also gives the developer very early clear signals as to where potential difficulties might lie.

As I said, with a number of major projects in South Australia, if those signals had got to the developer early they may have modified location or form and if that modification had occurred perhaps many of the developments still on the drawing board might in fact be reality.

The Hon. ANNE LEVY: The Government opposes this amendment. I suppose it is best described as an overkill. What is being suggested would certainly be desirable and beneficial where a really major project is under consideration. However, it is making mandatory a procedure which may be totally inappropriate for some developments. It will lengthen the process and apply to more minor situations what may be quite desirable for some projects, but it will make it mandatory for all.

Furthermore, I indicate that it is contrary to the nationally agreed approach relating to EIS criteria. There is a national agreement and the EIS provisions of this Bill are consistent with the national approach to environmental impact assessments agreed in October 1991. The Bill is consistent with the intergovernmental agreement on the environment of February 1992. The EIS provisions, as included in the Bill, are consistent with the national strategy for ecologically sustainable development, which was agreed in December 1992.

The provisions of the Bill are consistent with the draft guidelines and criteria for determining the need for and level of environmental impact assessment in Australia which is currently being prepared by the Australian and New Zealand Environment Conservation Council. What the Bill had originally in relation to EIS is consistent with all these nationally agreed procedures. What the honourable member proposes will take South Australia out of the national agreement, whereby the EIS procedures applied will not be consistent with the national procedure and could only be regarded as overkill, treating what is not a major matter of concern in a mandatory fashion as if it were a major matter of

concern. I reiterate: it is contrary to the nationally agreed processes on EIS.

The Hon. M.J. ELLIOTT: This argument about national agreements and what other States are doing would have been used back in the days when South Australia first introduced the secret ballot or gave the vote to women. Just because the other States are not doing something is not a reason why we should not do it. In fact, with the amendments as they will now stand, most of the structure that is the agreed national standard will be there, but this early consultation phase happens to be additional.

I said at the outset when moving these amendments that I believe they are amongst the most important that I will move to this Bill. I have been intimately involved in a large number of development projects and have formed opinions as to why they have failed. I may be wrong, but I have not moved these amendments lightly. I genuinely believe that having this early consultation phase will be in the best interests of all interested parties. That is the very purpose of it. It is not a matter of trying to stop things from happening. It will actually facilitate things happening but, hopefully, in a better form.

The Hon. DIANA LAIDLAW: I support the new subclause in the belief that this will improve the circumstances. The amendments will have to be further discussed by my colleagues who are not present at the moment. I also support the argument that we are not upsetting the formal process of the EIS. We are simply suggesting a short, preliminary process which is hardly overkill but in fact may abbreviate considerably the whole EIS process and which may well be watched with great interest interstate if in fact this provision goes through all the processes of the Parliament before the Bill is finally passed.

The Hon. ANNE LEVY: I do notice on the copy before me that in some places the Minister is still referred to as 'it'. Presumably, that can be corrected to 'he or she' without querying the validity of anything passed by this Parliament, thereby leading to another court case as occurred in Adelaide today.

Amendment carried.

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

Page 44, lines 1 to 30—Insert:

(2c) The Minister must then hold such hearings as he or she thinks fit in relation to the matter.

(2d) At a hearing held pursuant to subsection (2c)—

(a) Any person who made written submissions to the Minister will be entitled to appear personally or by representative and to be heard on his or her submissions; and

(b) The Minister may hear and consider such other evidence and representations as he or she thinks fit.

(2e) The Minister may (whether or not he or she holds a hearing referred to above) conduct such private inquiries into the development or project as he or she thinks fit.

(2f) The proponent must then, in consultation with the Minister, have prepared, or arrange for the preparation of, an environmental impact statement in relation to the proposed development or project in accordance with guidelines prescribed by the regulations.

These amendments are all consequential. While we have an early hearing process as well, what it really means is that a lot of evidence that would otherwise have been examined later in the process is being brought forward. I do not see that as extending the process in any way, but simply raising the issues a lot earlier. I will not take it beyond that.

Amendment carried; clause as amended passed.

Clause 47 passed.

Clause 48—'Governor to give decision on development.'

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

Page 45, line 22—Leave out 'The Governor' and substitute 'The Minister'.

While the Opposition has opposed previous amendments to substitute 'the Minister' for 'the Governor' it might find that the issues here are somewhat different. Decisions are being made on approvals of development. I believe that in relation to all these clauses the appropriate person should be the Minister and not the Governor. I believe that right through these clauses decisions are being made, and there are conditions under which those decisions should be made and, in those circumstances, if an error is made that error should be contestable. I understand, though, that it is not contestable so long as the term 'Governor' is used rather than the term 'Minister'.

The Hon. ANNE LEVY: The Government certainly opposes this amendment, for much the same reason as I indicated previously when we were discussing 'Governor' versus 'Minister'. The current Planning Act states it is the Governor, and that has remained unchanged since 1982. Decisions on major projects should be a Cabinet responsibility, not the responsibility of a single Minister, and that in fact is what putting 'Governor' means.

The Hon. DIANA LAIDLAW: I agree with the Minister.

Amendment negatived.

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

Page 46, lines 8 and 9—Leave out 'the Minister requires the preparation of an environmental impact statement' and substitute 'the proponent receives a notice under section 46(2)'.

This amendment is consequential on amendments that we have already passed, so I do not think I need speak to it further.

Amendment carried; clause as amended passed.

Clause 49—'Crown development.'

The Hon. ANNE LEVY: I move:

Page 47, line 29—After 'CROWN DEVELOPMENT' insert 'BY STATE AGENCIES'.

The Hon. DIANA LAIDLAW: I support the amendment.

The Hon. M.J. ELLIOTT: In the light of the motion that the Hon. Mr Lucas presently has before the Chamber, I thought that the Liberals might have had a different attitude to this matter than that which has been indicated across the floor by way of conversation. However, my reason for wanting to leave out the heading and, of course, for opposing the whole of clause 49 is that I believe that Crown developments should operate entirely under the same rules as every other development. The most recent example—and it is nice to have examples we can quote—is the Waite development, in relation to which the Government was able to go ahead with an office development at a location where no other developer would have been allowed to do so.

The Government abused the fact that Crown developments are not absolutely bound in the way other developments are. We had what amounted to being very close to lies during this debate in relation to Crown development. People were going on the media on a number of occasions saying that the Crown was bound. I heard interviews on the Keith Conlon program, among others, with the new head of planning in South Australia telling those people listening that, yes, Crown development would be bound.

The Crown is not bound. The clause ensures that the Minister can at the end of the day largely do what he or she pleases. It is very convoluted language but, if the Government is genuine about the Crown being bound, there would not be a clause on Crown development; it would not be necessary. The only thing that we might need by way of regulation is the capacity to exempt particular types of development. I concede that certain types of development, in relation to road works and so on, may not need to be bound by the Bill and may not want to be seen to be development. Here we have an exercise in fancy language which means that the Crown is not bound. All the assurances that we have had for some time count for nothing.

Recent history tells us that the Government is willing to abuse the power in relation to Crown developments. No justification has been put forward as to why the Crown should not be bound the same as everybody else. If there is a State interest which requires the State to go ahead with a particular development, let it come to this Parliament, which oversees State interests, and convince the Parliament that there is a State interest truly at stake. Alternatively, let it, by way of regulation, exempt particular categories of development. Those categories of development would be exempt. Let us not have a charade, which this clause is.

Late last year I had a meeting with representatives of BOMA, GICOP, the Conservation Council, independent lawyers, local government and a couple of other groups. There was a diverse range of interests. Everybody around the table agreed on three or four issues, one of which was that the Crown should be bound. But this Government and its advisers will not tolerate that sort of thing. They believe that they know best, and they are persisting. Frankly, I am surprised that the Opposition looks like supporting the Government, and I am even more surprised when the Opposition, by way of a motion in private members' business, recognises that abuse does occur.

The Hon. ANNE LEVY: The Government opposes the approach taken by the Hon. Mr Elliott on this matter. The Crown is bound far more under this proposed Act than it ever was under the old Planning Act. It will need to lodge a development application and receive development approval, which it did not have to do under the Planning Act. All new buildings of the Crown will have to conform to the building rules, which did not apply previously. There will be the ability for a council or a member of the public to take civil action against a Crown development which has not been constructed and maintained in accordance with the approval and associated conditions. In these and other areas the Crown is bound far more than it ever has been. However, it is necessary that a different procedure be followed in regard to Crown development, because such development can be part of essential services which must be provided by Government. I will choose an example which I am sure will be of interest to the Hon. Mr Lucas. There is an Act of this Parliament which requires that schools be provided by Government; it is the responsibility of Government to provide schools.

It is appropriate that in the provision of schools the Government is responsible to Parliament. I agree with the Hon. Mr Elliott in his statement of that principle, but that is not what his opposition to this clause would result in. He would make the Government accountable to local government or on appeal the courts instead of being accountable to Parliament. The Crown has responsibilities not just within one council area but to the whole State—to the provision of facilities for the benefit of the whole community across the State—and it should not be subject to decision making by an individual council, subject to third party appeal and dispute resolution in the courts. That is an abdication of the accountability of Government to Parliament.

The Hon. Diana Laidlaw: And I support you.

The Hon. ANNE LEVY: I think the Hon. Mr Elliott, while expressing the view that the Government should be accountable to Parliament, is in fact going against that and making the Government accountable to local government, or susceptible to the whims of local government, or the courts on appeal, which is contrary to the whole philosophy which he was expounding.

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

The CHAIRMAN: I do not think Mr Elliott moved his amendment.

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

Page 47, line 29—Leave out this heading.

I move that amendment, because every interest group in South Australia I have spoken to believes that it should occur.

The Hon. Mr Elliott's amendment negatived; the Hon. Anne Levy's amendment carried.

The Hon. ANNE LEVY: I move:

Page 47, after line 31—Insert new definition as follows:

'the Crown' means the Crown in right of the State;.

There is an obtuse legal argument on which I have several pages of notes.

The Hon. Diana Laidlaw: With which I agree.

The Hon. ANNE LEVY: Does the Committee wish me to read them? If not, I will take it that it is lawyers' law and agree with it.

The Hon. DIANA LAIDLAW: I support the amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 48, lines 15 to 17—Leave out subclause (3).

While the Liberal Party has been prepared to understand the reason for some exemptions for Crown development from this Development Bill, I would add that the Liberal Party is not tolerating bad development, nor would we seek to encourage the Government or tolerate the Government abusing the rights that the Parliament would provide for it. I think they are two quite separate issues and we would not necessarily assume that there will be abuse of this process. If there is abuse, there will be a great deal of trouble.

Subclause (3) that I am seeking to remove seeks in part to curtail some of the powers that the Government will be seeking for Crown developments. Subclause (3) at present provides:

No application for approval is required either under this section or any other provision of this Act, and no notice to a council is required under subsection (2), if the development is of a kind excluded from the provisions of this section by regulation.

I feel, and the Liberal Party also feels, that the Government is allowing for any type of development at all, whether it be a uranium enrichment plant, an airport or anything else, to involve an application that did not require approval, and the Government would not even be required to give notice to councils. We think that is going over the top and should be excluded and deleted. I suspect that the Australian Democrats would support us, as they did not wish to support the whole of this provision.

The Hon. ANNE LEVY: The Government opposes this amendment. A vast number of minor Crown developments are excluded from the approval process, and this equates to the complying development from the private sector. In the case of the private sector there are complying developments, and these minor Crown developments become their equivalent. Examples of this, which could be summed up as sundry minor works, are creating a personhole, providing a safety railing on a bridge, dredging an existing channel or wharf, or leasing a portion of a vacant allotment—minor things in relation to which it would be ridiculous to go through the entire approval process.

The Hon. M.J. ELLIOTT: I am not supporting this amendment. I know that the Hon. Miss Laidlaw said that she thought I would, but if she had listened to my explanation, she would know that I did say, when opposing the clause, that there might be a need by regulation to exempt particular activities, and this is exactly the sort of thing that I had in mind. So, of all this clause, this part is probably the piece that I was most likely to support. However, I do not support the amendment.

Amendment negatived.

The Hon. DIANA LAIDLAW: I move:

Page 48, after line 27—Insert new subclause as follows:

(7a) The report must include an assessment of the proposal against the planning strategy if it appears to the Development Assessment Commission that the proposal is of major social, economic or environmental importance.

We debated this issue last night. I was trying to ensure that development proposals were assessed against the planning strategy. It was not supported because the Government and the Democrats expressed some concern that it would involve all proposals, both major and minor. I have indicated here that they must be assessed where such proposals are of major social, economic or environmental importance.

The Hon. ANNE LEVY: The Government opposes the amendment. Where the Minister is seeking an EIS, the strategy would be called up as part of the EIS statement. However, if the Minister does not call for an EIS, the amendment asks the commission to undermine the Minister's decision by itself concluding that there are major economic, social and environmentally important factors. It is asking the commission to make decisions that it is not set up to make.

Furthermore, it is asking the commission to consider the planning strategy where it does not have an EIS, unlike private development where the strategy is not relevant. In private development it is the development plan, not the strategy, that is the basis for assessment. The development plan is the only source document—not the planning strategy—and yet the amendment asks the commission to consider the strategy.

The Hon. Diana Laidlaw: That's not unreasonable for a major project.

The Hon. ANNE LEVY: But it is making a difference between major Crown projects and major private projects. The development plan is the resource which is the legal document—not the planning strategy.

The Hon. M.J. ELLIOTT: I find this amendment rather difficult. In a semi-legal sense at least it is the development plan against which we should be measuring things. The planning strategy is supposed not to be a justiciable document. It is not a legal document in itself. If we are measuring up a proposal, it should be measured against the plan. The plan is then based upon the planning strategy. The planning strategy may or may not be a sufficiently detailed document to be of value for the sorts of things that the Hon. Ms Laidlaw is proposing. The development plan should be a fairly explicit document that is capable of having proposals measured against it.

Amendment negatived.

The Hon. DIANA LAIDLAW: I move:

Page 48, lines 28 to 32—Leave out subclause (8) and substitute new subclause as follows:

(8) If it appears to the Development Assessment Commission—

(a) that the proposal is seriously at variance with—

(i) the provisions of the appropriate Development Plan (so far as they are relevant); or

(ii) any code or standard prescribed by the regulations for the purposes of this provision; or

(b) that the proposal would have an adverse affect to a significant degree on any services or facilities, or businesses, provided or carried on in the proximity of the development; or

(c) that the development could be undertaken at least as efficiently or effectively by a private developer; or

(d) that the proposal is in direct competition with a development that has been undertaken, or is being undertaken, by a private developer in the proximity of the development,

specific reference of that fact must be included in the report.

The amendment requires the Development Assessment Commission to report on various issues when a Crown development application is seriously at variance with the appropriate development plan. Under the clause at present, the Crown is at a significant advantage in terms of its own developments and this is particularly so when the development is not a joint venture. If the Crown is a sole proponent the Crown can short circuit the whole system with which all other people in private developments must comply.

The Hon. ANNE LEVY: I wish to indicate very strong opposition to this clause. It is a totally inappropriate function being given to the commission. The commission is appointed to consider planning issues. It is appointed because it has expertise in planning issues. It is not part of its function to consider the role of Government; it has no expertise in that area. The commission does not have the function of considering whether there should or should not be competition between different private bodies, nor should it have the role of considering whether there should or should not be competition between the Crown and a private body. That is not its role. That is not part of planning, and it is asking the commission to undertake evaluation in areas of which it has no knowledge, no expertise and which is nothing to do with planning, and that should not be the role of the commission. It is trying to extend it into areas that the commission is not set up to consider and to enter into matters which are questions of policy and have nothing to do with planning, which is what the commission is there to undertake. I oppose the amendment very strongly on philosophical grounds.

The Hon. M.J. ELLIOTT: The Democrats support the amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 49, lines 12 to 16—Leave out all words in these lines after 'thinks fit' in line 12.

The Hon. ANNE LEVY: This amendment could have cost implications. If the honourable member is happy with that, we accept the amendment.

The Hon. DIANA LAIDLAW: There are two parts to the amendment, the second part of which is the important part as it will provide that the Crown in the same way as private developers should comply with building rules in the future.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 49, after line 16—Insert new subclause as follows:

(13a) An approval under this section will be taken to be given subject to the condition that, before any building work is undertaken, the building work be certified by a private certifier or by some person determined by the Minister for the purposes of this provision, as complying with the provisions of the building rules (or the building rules, as modified according to criteria prescribed by the regulations).

This amendment is consequential.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 49, lines 21 to 23—Leave out paragraph (b) and substitute new paragraph as follows:

(b) the Minister approves a development that required a specific reference under subsection (8),.

The Hon. ANNE LEVY: I accept the amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 49, line 28—Leave out '(including a certificate or approval under part 6)' and substitute '(other than to fulfil a condition under subsection (13) (a), or to comply with the requirements of part 6)'.

Subsection (13)(a) relates to a Minister being able to approve whole or part of a development or to comply with the requirements of part 6, which relates to the regulation of building work. This means that the Government is not exempt from building regulations.

The Hon. ANNE LEVY: The Government opposes this amendment. The first part of the amendment, which calls up clause 49 (13) (a) is not unacceptable, but the Government is strongly opposed to calling up part 6 as set out in the second part of the amendment. There are many Acts of Parliament under which the Government is required to provide essential public services such as schools, which I mentioned earlier, prisons and hospitals, etc. It is inappropriate that, in carrying out development to meet its obligations imposed by Parliament, the Government should be bound by rigid procedures and be subject to appeals to courts by community groups and individuals. It is not appropriate that a Government in carrying out its proper role as Government should be subject to such appeals. The Government has already agreed to add subclause (13a) to clause 49. This means that the Government has agreed that all plans will be assessed and granted consent by an independent person.

But if there is any suggestion of a failure by a responsible Minister to act properly in respect of new developments, that should be raised in Parliament. It is to Parliament that a Minister is responsible, and the imposition of the controls imposed by the suggested amendment would be likely to frustrate the Government's plans to deliver essential services, services that it is required to provide by the Parliament, and the benefits to public safety would be absolutely minimal, since it has already been agreed that the plans will be assessed and granted consent by an independent person. The rest is quite unnecessary.

The Hon. M.J. ELLIOTT: I support the amendment.

Amendment carried; clause as amended passed.

Progress reported; Committee to sit again.

SUPERANNUATION (VOLUNTARY SEPARATION) 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.

This Bill seeks to make an amendment to the *Superannuation Act* which establishes the contributory superannuation schemes for Government employees.

The proposed amendment introduces a new benefit option for a member of either the pension or lump sum scheme where that contributor resigns from employment as a result of accepting a voluntary separation package.

The proposed option will enable a contributor other than a pension scheme member aged over 55 years, to take a refund of his or her own contributions to the scheme, together with interest on those contributions, and in addition receive an employer financed lump sum. The option for a pension scheme member aged 55 years and over is a lump sum based on the fully commuted value of the accrued pension entitlement.

The benefit will immediately be payable as an additional incentive for employees to accept a voluntary separation package where one is offered to the employee.

Under the existing provisions of the schemes, where a contributor resigns and elects to take an immediate refund of his or her own contributions to the scheme, no employer benefit, other than the superannuation guarantee or commonwealth compulsory benefit is payable.

The proposed employer financed component for a contributor other than a pension scheme member aged over 55 years, is structured in order to provide twelve per cent of salary (as defined in the *Superannuation Act)* for each year of membership of the superannuation scheme, up to 30 June 1992. The proposal has no effect on the superannuation guarantee charge benefit which will continue to be payable in respect of service after 30 June 1992. The lump sum payable to a pension scheme member aged over 55 years will include the superannuation guarantee benefit.

The proposed benefit is expected to be attractive to members of the scheme who wish to take up a separation package. The proposal is also attractive to the Government because of the savings it brings, particularly where a pension scheme member takes the option. The savings to the Government in respect of a lump sum scheme person who takes up the option are however not as large. The average savings on an accrued pension benefit are of the order of thirty-seven percent.

The Government believes it is necessary to now introduce this provision in order to ensure that the voluntary separation program continues to be effective.

The provisions of the Bill are as follows:

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Insertion of s. 28a

This clause inserts new section 28a into the principal Act. This section provides another option for a contributor to the new scheme who decides to resign. Under section 28 the contributor has the option of resigning and taking a refund of contributions and the equivalent of the Commonwealth Superannuation Guarantee benefits or of preserving his or her benefits until 55. The new option comprises the first option under section 28 plus a lump sum which is 12 per cent of the contributor's final salary in respect of each year of contribution. The option must form part of a voluntary separation package with the contributor's employer and must be approved by the Treasurer.

Clause 4: Insertion of s. 39a

This clause inserts a similar provision into Part V of the principal Act (the "old scheme"). The old scheme deals with resignation up to the age of 60. New section 39a is the same as new section 28a in respect of resignation below 55 years. Resignation above 55 years results in a benefit that is the pension the contributor would have received if he or she had retired converted to a lump sum by commutation.

The Hon. L.H. DAVIS secured the adjournment of the debate.

STATUTES AMENDMENT (FISHERIES) BILL

The House of Assembly intimated that it had agreed to the recommendations of the conference.

TOBACCO PRODUCTS CONTROL (MISCELLANEOUS) AMENDMENT BILL

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

HERITAGE BILL

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

MUTUAL RECOGNITION (SOUTH AUSTRALIA) BILL

The House of Assembly requested a conference, at which it would be represented by five managers, on the Legislative Council's amendments to which it had disagreed.

RACING (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendment.

EVIDENCE (MISCELLANEOUS) AMENDMENT BILL

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 12.22 a.m. the Council adjourned until Friday 30 April at 11 a.m.