LEGISLATIVE COUNCIL

Friday 30 April 1993

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

DEVELOPMENT BILL

Adjourned debate in Committee.

(Continued from 29 April. Page 2203.)

Clause 50—'Open space contribution system.'

The Hon. ANNE LEVY: I move:

Page 50, lines 10 to 12—Leave out all words in these lines and substitute 'and, in so acting, the council or the Development Assessment Commission must have regard to any relevant provision of the development plan that designates any land as open space and, in the case of a council, must not take any action that is at variance with the development plan without the concurrence of the Development Assessment Commission'.

This amendment could be regarded as introducing a greater flexibility, and relates to the same question that the Hon. Ms Laidlaw is addressing in her amendment. The Bill provides that in considering a major subdivision 12 1/2 per cent open space, or cash in lieu of 12 1/2 per cent, must be provided. Alternatively, a council can take a combination of some land and some money instead of the 12 1/2 per cent. The Bill, as drafted, specifies that the 12 1/2 per cent of land must be taken, and no money taken where the development plan specifically designates land in that area as open space; the council would not have the flexibility to take some as land and some as money. That is based on the philosophy that, if the community has, through an advanced planning process, designated open space as part of their plan, it is inappropriate for a council to waive that open space provision and take the money instead.

The amendment relates to this question in that we accept that it may be appropriate to allow some variation from the designation of open space under the Development Plan, and that is the question being addressed by the Hon. Ms Laidlaw's amendment. However, we certainly feel that this should be allowed in very limited circumstances only, and should not, for example, involve any serious variation from the plan, and specifically that it should occur only with the concurrence of the commission. So, my amendment is trying to provide a proper balance between the flexibility which is being sought by the Hon. Ms Laidlaw's amendment and the certainty, without possibility of change, which comes from a development plan. We are saying, 'Do permit variations to occur, but if it is against the provisions of the development plan it can only occur with the concurrence of the commission.'

The Hon. DIANA LAIDLAW: I move:

Page 50, lines 10 to 12—Leave out all words in these lines and substitute 'and, in so acting, the council or the Development Assessment Commission must have regard to any relevant provision of the development plan that designates any land as open space'.

This amendment allows for a council to negotiate the redrawing of open space. It is essentially a technical amendment. It retains the ratio of 12.5 per cent in area as a relevant area but it does allow a council and a developer, if it seems a good reason, to renegotiate the siting of that open space. As I say, it maintains the ratio.

The Hon. ANNE LEVY: While the Hon. Mr Elliott is considering, perhaps I could add to what I have said and might even bring the Hon. Ms Laidlaw up to speed on what I have been saying.

The Hon. Diana Laidlaw: I didn't have a copy of your amendments.

The Hon. ANNE LEVY: I am sorry; I am sure they were on file. Currently, when there is a non-complying development being proposed, that can still occur but only with the concurrence of the commission. That is what is proposed in the legislation and that has been accepted so far. What my amendment does is say that, in the situation where the development plan says 'this should be open space' but the council wants to take its 12.5 per cent, partly as land and partly as money, that can be regarded as not complying with the development plan. We are saying that in the same way as other non-complying matters can occur if the commission agrees, the council and the developer could strike a deal, which is contrary or non-complying with the development plan, provided the commission agrees. The Hon. Ms Laidlaw's amendment, however, is saying that that swap, between land and cash, can be done by negotiation merely with the council, and even if it is non-complying with the development plan, would not require the concurrence of the commission.

The Hon. M.J. ELLIOTT: I support the amendment of the Minister. Both amendments are tackling the same issue and I must say that I feel that the Minister's amendment is a more secure form of amendment and certainly I prefer it.

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

Leave granted; amendment withdrawn.

The Hon. Anne Levy's amendment carried; clause as amended passed.

Clauses 51 and 52 passed.

Clause 53—'Law governing proceedings under this Act.'

The Hon. DIANA LAIDLAW: I move:

Page 54, lines 9 to 15—Leave out subclauses (4) and (5).

The Minister has at all times argued for the need for certainty, but we argue in respect of subclauses (4) and (5) that uncertainty is introduced. This would allow for a development to be submitted that complies with the development plan but then, at a later date, to be told that the application does not comply because the Government has belatedly decided to place the building on the State Heritage Register or to slap a work ban under the Heritage Bill which, of course, is before the other place. Eighteen months ago we went through this debate in respect of amendments to the Planning Act and all the controversy over Gawler Chambers.

The Liberal Party would hope that the Government has learnt from that experience and would not seek to proceed with this method of planning when in fact it claims at all other times and in all other clauses that certainty is what it wants. This does not introduce certainty and, in fact, we think it is bad planning law.

The Hon. ANNE LEVY: The Government opposes this amendment. As indicated by the honourable member, it is the equivalent of what was inserted into the Planning Act by this Parliament only 12 months ago to provide heritage protection, and I would be surprised if the Parliament changed its mind in the intervening time. We acknowledge quite readily, however, that owners need some protection from what some people would regard as unfair listing of their property as a heritage item after they have lodged an application for development.

But if members will look at the Heritage Bill, which arrived in this place last night and which is part of this entire package of development and related matters, they will see that that Bill provides for owners to obtain a guarantee that their land cannot be heritage listed for a period of five years. That provision of the Heritage Act will provide the certainty which some people feel is necessary without destroying the planning powers that were agreed to by this Parliament only 12 months ago.

The Hon. M.J. ELLIOTT: This demonstrates the double standards that the Minister applies from time to time. She opposed an earlier amendment I moved, saying that it had some retrospective activity, yet this clause does almost exactly the same thing.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: It certainly does. I argued at the time that retrospectivity is a principle that I handle with great care but, on balance, I am willing to accept it in these circumstances. For that reason, I am accepting the amendment to leave out these two subclauses. But I do want to point out that the Minister is terribly inconsistent. She is willing to support what is retrospective application of a determination here but was not willing to accept retrospective application of what would have been a parliamentary decision in another clause.

Amendment negatived; clause passed.

Clause 54—'Urgent building work.'

The Hon. K.T. GRIFFIN: This clause relates to where building work must be performed as a matter of urgency to protect any person or building or to provide accommodation for students at an educational institution or in any other circumstances of a prescribed kind. A person may perform the building work. That suggests that it is the accommodation for students at the educational institution. It is a question of whether that encompasses a situation where you have a student campus for the day-to-day schooling activities, but you have another location, still part of the school but away from the day-to-day school campus, where the school provides accommodation for students so that they are not actually on the primary campus. Does this mean that urgent work cannot then be undertaken in relation to that accommodation? Or does the Minister envisage that this is more broadly interpreted?

The Hon. ANNE LEVY: I am not a lawyer, but I would presume that students at an educational institution refers to the students, not the accommodation. Whether or not the educational institution can be regarded as having separate loci—there may be classrooms at one site but accommodation somewhere else—in any case, that is all part of the educational institution. However, if Crown Law gave a differing opinion, I would not argue with it, but that is my understanding.

The Hon. K.T. GRIFFIN: I appreciate the Minister's response and I do not expect her to give legal advice on it. However, it seemed to me that there was some ambiguity in that. The point the Minister has made is the interpretation I would prefer to see given to it, but I think it is somewhat ambiguous.

Classed passed.

Clauses 55 and 56 passed.

Clause 57—'Land management agreements.'

The Hon. DIANA LAIDLAW: I move:

Page 57, line 4—After 'relating to the' insert 'development,'.

Subclause (1) would thus provide:

The Minister may enter into an agreement relating to the development, management, preservation or conservation of land with the owner of the land.

The Hon. ANNE LEVY: The Government opposes this. We would consider that it is quite inappropriate for agreements on land management to start getting into the realm of development plans. Land management agreements are essentially contracts, in legal terms. They should not be used to control development, as they are certainly not formulated in the same public context and they do not go through the same procedures as a development plan.

There is not the same open scrutiny and debate as applies to the formulation of development plans. Further, there have been concerns by some councils that they need to refer to transfer of development potential—particularly this has been discussed by the Adelaide City Council—and it is felt that any concerns that councils have in this regard have been met by subclause (9), which does specifically envisage such agreement. So, one does not need the amendment moved by the Hon. Ms Laidlaw to take this into account.

The Hon. M.J. ELLIOTT: On the argument I have heard so far, I am not convinced that it is appropriate for the term 'development' to be used here. It does not seem to be my understanding of the purpose of land management agreements. In the absence of any contrary argument, I will not be supporting the amendment.

Amendment negatived; clause passed.

Clause 58 passed.

Clause 59—'Notifications during building work.'

The Hon. DIANA LAIDLAW: I move:

Page 58, line 11—Leave out 'A' and substitute 'Subject to subsection (1a), a'.

Both the Australian Democrats and the Liberal Party have amendments to insert a new subclause in relation to building work carried out on a building owned or occupied by the Crown. The amendment currently before us allows that notifications during building work take into account the new subclause (1a) that I will seek to move. So, this is simply a facilitating amendment.

The Hon. ANNE LEVY: The Government opposes this amendment, but in the light of amendments which were passed last night it is quite obvious that this is part of a package, and with the aim of speedy passage of the remaining clauses, I will not detail our arguments against this amendment.

The Hon. M.J. ELLIOTT: The Democrats support this and the consequent amendments.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 58, after line 14—Insert new subclause as follows:

(1a) If the building work is being carried out on a building owned or occupied by the Crown, the person must notify the Minister (instead of the council) of the commencement or completion of a prescribed stage of work.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 58, line 15—Leave out 'by a statement' and substitute 'or supported by a statement from a person who holds prescribed qualifications'.

I believe that the Government will accept this amendment, and I will not elaborate due to the time.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 58, lines 18 to 24—Leave out subclauses (3) and (4) and substitute new subclauses as follows:

(3) A person who is carrying out building work must, if the regulations so require, ensure that the building work is inspected by a person who holds prescribed qualifications when a mandatory notification stage has been reached.

Penalty: Division 6 fine.

(4) A person must not give a statement, or carry out an inspection, for the purposes of this section if—

(a) the person is the building owner, or the builder; or

(b) the person—

(i) has a direct or indirect pecuniary interest in any aspect of the development or any body associated with any aspect of the development; or

(ii) is employed by any person or body associated with any aspect of the development,

other than as an officer or employee of the Crown, or as an officer or employee of a council.

Penalty: Division 6 fine.

This relates to notifications during building work. The Government proposes that work stops when directed by a council to do so when a mandatory notification stage has been reached for work undertaken to date to be inspected by an authorised officer who holds prescribed qualifications. The Liberal Party also proposes that when a mandatory notification stage is reached and the regulations so require, a person who is carrying out the building work must ensure that the work is inspected by a person who holds prescribed qualifications. This relates to the earlier amendment that has just been passed. It removes the reference to a council having power to stop work and to do so even if no inspection is carried out during this period of the stop work. We believe this is an important provision.

The Hon. ANNE LEVY: The Government opposes this amendment. I think that we need to recall some important principles which were drawn up by the Planning Review after very wide consultation and which are reflected in the Bill. These principles will be discarded and struck down and could lead to lots of delays and disputes, and particularly increased costs, if the amendment is passed.

Under the Building Act councils have been concerned at their exposure to liability in the event of building defects. As a result, some councils have tended to make excessive requirements of applicants in terms of demanding greater detail in application, or over engineered designs. The extra and quite unnecessary cost has had to be carried by the developers if they want the plans to be approved. It has been suggested that allowing qualified private certifiers to assess building plans would bring a more realistic perspective to this task, but that innovation of private certifiers could not stand alone. We need to have a logical and coherent process of planned assessment and quality assurance of building work.

It is clearly inappropriate for the council to shoulder all the responsibility for building work, so the Bill calls on other parties to accept some of the responsibility and hence some of the liability. The Bill does this both by the requirement that builders furnish written statements that the work has been performed properly and the important modification of the joint and several tort feasor principle in clause 72. The amendment could lead to all sorts of unnecessary conflicts and delays between a private certifier who has certified that plans are proper and an inspector who says that things are not going well, when the builder will have to give his certificate at the end, anyway. It also has the potential to introduce all sorts of contradictions and costs.

The Hon. M.J. ELLIOTT: The Democrats will not support this amendment.

Amendment negatived; clause as amended passed.

Clauses 60 to 64 passed.

Clause 65—'Buildings owned or occupied by the Crown.'

The Hon. DIANA LAIDLAW: I move:

Page 61, lines 14 to 17—Leave out this clause and substitute new clause as follows:

Interpretation

65. In this Division—

'the appropriate authority' means—

(a) in relation to a building owned or occupied by the Crown (or an agency or instrumentality of the Crown), or to any building work carried on by the Crown (or by an agency, instrumentality, officer or employee of the Crown)—the Minister; or

(b) in any other case—the council for the relevant area.

We have the same amendments on quite a number of these provisions as the Australian Democrats. Therefore, I will not elaborate at length. Our concern, and that of the Australian Democrats, is that clause 65 allows Crown buildings to be built in accordance with a different classification from that which applies to private developments.

The Hon. ANNE LEVY: The Government opposes these amendments, but as they all relate to the vote we lost last night I shall not take up time by explaining our opposition.

The Hon. M.J. ELLIOTT: This amendment is identical to mine, so obviously I support it.

Clause negatived; new clause inserted.

Clause 66—'Classification of buildings.'

The Hon. DIANA LAIDLAW: I move:

Page 61—

Line 20—After 'in accordance with the regulations' insert 'and assigned by appropriate authority (as at the date on which the classification falls to be determined)'.

Line 27—Leave out 'or the Minister assigns a classification under this section' and substitute 'assigns a classification

under this section, or the Minister assigns a classification under subsection (3),'.

After line 37—Insert new subclause as follows:

(7) This section does not apply in respect of any building owned or occupied by the Crown (or an agency or instrumentality of the Crown) erected before the commencement of this section.

The Hon. Mr Elliott and I have the same amendments relating to classifications.

Amendments carried; clause as amended passed.

Clause 67—'Certificates of occupancy.'

The Hon. DIANA LAIDLAW: I move:

Page 62—

Line 9—Leave out 'a council' and substitute 'the appropriate authority'.

Line 11—Leave out 'council' and substitute 'appropriate authority'.

Line 20—Leave out 'council' and substitute 'appropriate authority'.

Line 22—Leave out 'council' and substitute 'appropriate authority'.

Line 32—Leave out 'A council which refuses an application' and substitute 'If an application is refused by a council, the council'.

Page 63, line 5—Leave out 'A council' and substitute 'The appropriate authority'.

The Democrats have similar amendments on file.

Amendments carried; clause as amended passed.

Clause 68—'Temporary occupation'.

The Hon. DIANA LAIDLAW: I move:

Page 63—

Line 8—Leave out 'a council' and substitute 'the appropriate authority'.

Line 10—Leave out 'the council' and substitute 'the appropriate authority'.

Line 12—Leave out 'A council which refuses an application' and substitute 'If an application is refused by a council, the council'.

Again, the Democrats have similar amendments on file.

Amendments carried; clause as amended passed.

Clauses 69 to 74 passed.

Clause 75—'Applications for mining production tenements to be referred in certain cases to the Minister.'

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

Page 71, lines 12 to 18—Leave out subclause (4) and substitute new subclause as follows:

(4) An environmental impact statement must be prepared under this Act in relation to the proposed operations if those operations fall within criteria prescribed by the regulations.

This amendment is not dissimilar to one I argued before and lost, but I will proceed with it. I believe that the question of whether or not an EIS is carried out should be subject to criteria prescribed by regulations. I think that gives greater certainty as to whether or not the EIS will be carried out. In the absence of that certainty we will have ministerial discretion abused from time to time, and that is an unsatisfactory situation.

The Hon. ANNE LEVY: The Government opposes this amendment on similar grounds to the one argued last night.

The Hon. M.J. Elliott: It is not quite the same. It is not an authority this time.

Amendment negatived; clause passed.

Clauses 76 to 84 passed.

Clause 85—'Applications to the court.'

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

Page 78, lines 32 and 33—Leave out ', or with the approval of,'.

The point I make about this is that exemplary damages are in the nature of punitive damages and they can run into multiples of the amount of the damage which is assessed by the court. It seems to me to be quite improper in principle for a lay commissioner to make a decision which has the effect of imposing a significant liability upon a person—a liability which in some instances magistrates cannot even impose because it might be above the jurisdictional limit. I do not believe it is appropriate for a judge to be able to grant approval for a commissioner to address the issue of exemplary damages, and it is for that reason that I propose the amendment so that it is only the judge who has the power to deal with damages which are in the nature of punitive damages over and above what one might regard as ordinary and reasonable compensation.

The Hon. ANNE LEVY: The Government opposes this amendment. While we agree that the damages are not something to be treated lightly, the clause clearly provides that the power can only be exercised either by a judge or with the approval of the judge. There is the judicial oversight. The judge can always exercise the power himself or herself if that is felt desirable. To bring in a mandatory use of a judge could destroy the informality of the court which is intended, and head back to the more legalistic formal approach which we hope to get away from in these matters.

The Hon. K.T. GRIFFIN: It is not a question of getting away from what might be legalistic or the imposition of exemplary damages. If someone is going to be charged with a Bill that might run into hundreds of thousands of dollars for punitive damages, that ought to be treated seriously and not informally. It is a very serious issue. The power is unlimited, and I take a very strong view that it is not sufficient to exercise the power through the judge because the judge may not necessarily have all the facts at his or her fingertips. It is important when we are talking about punishment being imposed by way of what could be substantial damages that the matter is dealt with by a person who is properly trained in making assessments of this nature. I do not believe lay commissioners are equipped to address that sort of issue, and certainly they ought not be given that very important power. I think it ought to be treated formally and not informally because it is not just a matter of an approval or disapproval but is a matter of punishment.

The Hon. ANNE LEVY: I would just point out that it means an extra hearing which means more formality, more time and more cost.

The Hon. M.J. ELLIOTT: I would like to explore the consequences of this. I think I understood correctly what the Minister said. If this power can be exercised only by a judge of the court, is the consequence that there will need to be a special hearing just in relation to the damages question, but the rest of the proceedings would be carried out by a commissioner?

The Hon. K.T. Griffin: It is exemplary damage as distinct from ordinary damage. It is punishment.

The Hon. M.J. ELLIOTT: I think the conference or whatever else we have after this will have an awful lot of

matters to sort out. I do not see that there is going to be an extraordinary difficulty if the judge does sit just in relation to that last matter. Perhaps there is another form of words which would provide more direct supervision of a judge in relation to damages, but that is not being offered at the moment. I think that there could have been some reworking of this clause to make the supervision of a judge more direct. However, in the absence of such an amendment I will support the Hon. Mr Griffin's amendment at this stage.

Amendment carried; clause as amended passed.

Clause 86—'General right to apply to court.'

The Hon. DIANA LAIDLAW: I move:

Page 80—

Line 30—After 'who has applied' insert 'to a council'

Line 31—After 'against a refusal' insert 'by the council'.

These amendments are consequential.

Amendments carried; clause as amended passed.

Clause 87 passed.

New clause 87a—'Powers of court on determination of a matter.'

The Hon. ANNE LEVY: I move:

Page 82, after line 22—Insert new clause as follows:

Powers of court on determination of a matter

87a. The court may, on hearing any proceedings under this Act—

(a) confirm, vary or reverse any decision, assessment, consent, approval, direction, Act, order or determination to which the proceedings relate;

(b) affirm, vary or quash any order, notice or other authority that has been issued;

(c) order or direct a person or body to take such action as the court thinks fit, or to refrain (either temporarily or permanently) from such action or activity as the court thinks fit;

(d) if appropriate to the subject matter of the proceedings, order—

(i) that a building (or any part of a building) be altered, reinstated or rectified in a manner specified by the court;

(ii) that a party to the dispute remove or demolish a building (or any part of a building);

(e) make any consequential or ancillary order or direction, or impose any condition, that it considers necessary or expedient.

This clause effectively transfers a provision in the Environment, Resources and Development Court Bill to the Development Bill. I will not expand on it as I understand it is acceptable.

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

New clause inserted.

Clauses 88 to 103 passed.

Clause 104—'General provisions relating to offences.'

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

Page 87—

Line 9—Leave out 'three' and substitute 'one'.

Line 11—Leave out '10' and substitute 'five'.

This relates to prosecutions and sets the time frame within which a prosecution for an offence may be commenced. A prosecution for an offence against this Act may be commenced at any time within three years after the date of the alleged commission of the offence or, with the authorisation of the Attorney-General, at any later time within 10 years after the date of the alleged commission of the offence. Ten years is an extraordinarily long period of time within which prosecutions may be initiated. The present Planning Act provides for a one year period and then, with the approval of the Attorney-General, five years. I can recognise that in the context of development it may be that something like five years might be appropriate but I certainly find it difficult to accept that 10 years is an appropriate period of time.

The difficulty always with prosecutions is that it does not encourage efficiency and diligence on the part of those who might have the responsibility for investigating and instituting proceedings. It encourages sloppiness and I do not believe that that ought to be encouraged. I acknowledge that there may be occasions where something might slip but it might be bureaucratically that that occurs; well, I say in those circumstances, too bad. If something cannot be identified as the basis of a prosecution within five years, then I do not believe it ought to occur.

The Hon. ANNE LEVY: The Government opposes these amendments and does so quite seriously. Building work is a different matter from a development plan. Where it comes to illegal work being undertaken it may be quite some time before a council can find out that particular illegal work has occurred.

The Hon. M.J. Elliott: Particularly like carrying out inspections.

The Hon. ANNE LEVY: Particularly if inspections were not being carried out, all sorts of illegal work could be undertaken and not detected, or take quite a while to detect, and it seems reasonable to have a more extended time because of the difficulty of detection.

With regard to the other amendment—leaving out '10' and substituting 'five'—I think it is worth pointing out that with a lot of building work it takes a particular incident before a fault can be detected. What the Hon. Mr Griffin, in effect, is saying is that if the Westgate bridge collapsed six years after it was built the engineer would be totally immune for any liability for its collapse.

The Hon. K.T. Griffin: If it collapsed after 10 years you are saying the same thing.

The Hon. ANNE LEVY: I agree, and one has to draw limits somewhere. It seems to us that for major building work, where a critical fault may not be detected until a particular incident occurs, that a 10-year time frame is a more reasonable one to take than a five-year time frame. I agree it is a question of striking a balance, but we feel that 10 years is more appropriate where we are considering large building works which could involve large public buildings, public structures, and where it can take a particular incident before the critical fault is detected.

The Hon. M.J. ELLIOTT: Just for the sake of the argument, the Minister is absolutely right in this case. I was going to put the same arguments and I agree with her totally.

The Hon. K.T. GRIFFIN: Of course, what we have got in this Bill is a time limit of 10 years not just for building work, but it covers all of the offences and some of those may relate to development issues other than building work. It would seem to me to be quite unreasonable in relation to those that a 10-year period be

applied to those as well. It may be that there can be some accommodation. If this is here specifically for building work, it should be limited to that rather than applied to all of the offences under the legislation. I would have thought in relation to matters other than building work that a 10-year period is quite extraordinarily long and probably unique in Australia.

The Hon. ANNE LEVY: As I understand it, it does require the agreement of the Attorney-General.

Amendments negatived: clause passed.

Remaining clauses (105 to 107), schedule and title passed.

Bill recommitted.

Clause 4—'Definitions'—reconsidered.

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

Page 5, after line 9—Insert new definition as follows:

'ecologically sustainable development' means development which seeks—

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

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

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

The issue of definition of 'ecologically sustainable development' is one that I raised during the consideration of several clauses and the Hon. Ms Laidlaw indicated that she felt that if there was to be a definition she would prefer to see it within clause 4. It is a terminology which is being used fairly commonly but perhaps people have differential interpretations as to what precisely it means. It does not really have a legal meaning at this stage. It is used in the Bill in relation to development plans and I believe that it is appropriate that we make clear what it is that we understand by that term.

The particular wording that I have used I have taken from the planning review document, and it is something that was derived after a fairly extensive consultation process. While not, perhaps, my perfect definition for the terminology, it is one that has been generally agreed to by the planning review process. I hope that it is acceptable to the members of this Chamber.

The Hon. ANNE LEVY: Formally, the Government opposes this. As I indicated, this is the definition of 'ecologically sustainable development' that was considered but not accepted at a national level. There was a clear decision that this would not be accepted as the national definition of what 'ecologically sustainable development' should be. There is still discussion, I understand, about deriving an acceptable nationally acknowledged definition. My preference would be to wait until there has been national agreement as to what the definition will be and for South Australia to adopt that.

However, if we adopt this definition, we know that this will not be the national definition because it has already been rejected as such. But there is not yet an agreed national definition. If we adopt this, we are certain that we will be out of step with the other States. However, there would be no great harm done in accepting this. I am quite happy to agree.

The Hon. K.T. GRIFFIN: I had a brief discussion with my colleague the Hon. Diana Laidlaw on this and she is of the view, as I am, that we will support the amendment. There are many concerns about the drafting of any definition that tries to define 'ecologically sustainable development', and there will be a variety of views as to what that really means. I suppose, by putting in this definition, it may even raise other questions about what 'welfare of future generations' means; how do you achieve equity within and between generations; does that mean in a financial sense or some other sense? How do you, first, define 'biological diversity'?

A whole range of questions can arise, and it may be that ultimately one does get to the point of saying that it is all too difficult and we will need to put it to one side. But to enable it to be kept alive as an issue that can be explored at the conference, rather than developing the arguments for and against in this Committee consideration, we will support the definition at this stage.

The Hon. M.J. ELLIOTT: I thank the Hon. Mr Griffin for his support. The fact that there has not been the capacity to come up with a nationally agreed term really underlines the very thing that I was trying to tackle: that we are using terminology in the legislation which in fact does not have a meaning, essentially. We are trying to get State Governments nationally to get together and agree on what it means, yet we are using the terminology within the Bill. What I am seeking to do is give it some meaning. As I said, it might not be the wording that I would have preferred, but it is the wording that has been derived from the processes we have gone through in South Australia so far.

It is worth noting, as the Hon. Mr Griffin did, that even within the definition there are words that themselves need further interpretation. What this definition does is at least point in the direction. It gives a clearer picture of what ecologically sustainable development is than the absence of those words, even if you feel that they themselves are open to further interpretation. It is absolute nonsense for us even to be using the term 'ecologically sustainable development' in the Bill if we do not know what it means. We might as well pull it out of the Bill. What is the point?

All I am trying to do is say that it means something like this, and if anyone has a better definition I am willing to discuss it. But we need to start from the point that you do not use terms in the Bill if they do not have meaning, and I am attempting to give it meaning.

The Hon. K.T. GRIFFIN: I am not being critical of the Hon. Mr Elliott; I am just saying that there are difficulties in definition. Of course, whether you leave the description 'ecologically sustainable development' in those parts of the Bill where it already applies or whether you remove it or, if you leave it in, you seek to amplify the matter, is a matter of choice. I have no doubt that, if it becomes critical in a particular matter, the courts will need to look at it. That, of course, is what the Minister has been saying that the Government does not want, but the fact of life is that ultimately there must be some arbiter. If there are terms in legislation and in our system, the final arbiter must be the independent courts: even to the High Court of Australia. We might deplore that, but a fact of life is that we cannot avoid it in many instances.

The Hon. Anne Levy: You don't need to keep talking.

The Hon. K.T. GRIFFIN: I was responding to the Hon. Mr Elliott.

The Hon. Anne Levy: But he's agreeing with you.

The Hon. K.T. GRIFFIN: All right, he's agreeing. All I am saying is that there may still be difficulties with it. We have indicated support for it to enable it to be further explored at the conference.

The Hon. PETER DUNN: The Hon. Mike Elliott will understand what I am about to say, but I find the definition very restrictive, to be honest. If it is sustainable it can hardly be improved, I do not think, if you look up the term 'sustainable'. It seems a bit restrictive in that way. I would have thought that if it was just 'ecologically viable development' it would give us more elasticity, but you do not have very far to move within the Bill if you use this definition. To say that it has to be sustainable means that it has to be constant, as long as it stays there and does not get denuded or disappear.

The Hon. M.J. Elliott: The definition doesn't say that.

The Hon. PETER DUNN: You have the part about economic development that safeguards the welfare of future generations. You put an avenue there for some operation, but you talk about maintaining an ecological process and systems. If you maintain things, there is not much room for improvement, and I would have thought we were trying to improve them. So, the term 'sustainable' appears to me to be quite silly. It ought to be 'viable', and then there is room for a bit of movement. It is a buzz word that has developed in our community: someone has thought it up and thought it is a good idea. It may be a good idea where you have a forest or something that you want to keep going, but in this wide range of development, whether it be land, buildings or whatever, to be just sustainable is really not helpful. I can sustain something. I can stand here and sustain a speech for the next quarter of a hour if you like, but for God's sake do not let us get into that. We want to improve it and I think the word sustainable is—

The Hon. Anne Levy interjecting:

The Hon. PETER DUNN: Minister, you have spoken for two days.

The Hon. Anne Levy interjecting:

The Hon. PETER DUNN: Goodness gracious me, Minister! You have had two days on it. Surely, you are not going to restrict someone from having a word. However, I have explained my point of view that the definition ought to be wider than it is. 'Sustainable' in my view is rather restrictive.

Amendment carried; clause as amended passed.

Clause 10—'The Development Assessment Commission—reconsidered.'

The Hon. ANNE LEVY: I move:

That clause 10(3)(f) be deleted from the Bill.

This is because there was concern over a vote on clause 10 (3) (f) when we previously debated an amendment moved by the Hon. Ms Laidlaw. She moved the amendment. I indicated opposition to it and the Hon. Mr Elliott indicated opposition to it yet, on the voices, the Chair gave it to the Ayes. Because there was controversy as to what the call had been, the Chair attempted to put it again. There was opposition to the Chair's putting the question again. So it was agreed to reconsider it, which we are now doing.

The Hon. K.T. GRIFFIN: Quite obviously, the Opposition is of the view, because it is an amendment from the Hon. Diana Laidlaw, that it ought to remain in the Bill. I did not think there was any controversy about the vote. We had passed it by the time the Minister woke up to the fact that the Chair had given the amendment to the Ayes and we had passed on. In those circumstances it was not proper to re-put it and there was no division. I take the view, though, that in the circumstances we will certainly be opposing the removal of paragraph (f).

The CHAIRMAN: By way of explanation, the Chair tries to look at members' mouths if he has not got the verbal content of what they are saying and I call it on that, so I probably missed it.

The Hon. M.J. ELLIOTT: I did not actually support the amendment yesterday. Consequently, I support the amendment which removes that amendment today.

Amendment carried; clause as further amended passed.

Clause 18—'Appointment of authorised officers'—reconsidered.

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

Page 16, lines 2 and 3—Leave out subclause (4) and substitute new subclause as follows:

(4) An authorised officer must produce the identity card for inspection before exercising the powers of an authorised officer under this Act in relation to any person.

This addresses the issue than an authorised officer must in fact produce the identity card for inspection before exercising powers rather than merely giving the citizen a right to request it.

The Hon. ANNE LEVY: I am happy to accept it.

Amendment carried; clause as amended passed.

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

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

Page 17 line 22—Leave out 'and provide such facilities as are' and substitute 'as is'.

The Hon. Anne Levy: I am happy to accept it.

The Hon. K.T. GRIFFIN: I seek to remove the obligation placed on an occupier to give to an authorised officer such facilities as are reasonably required for the effective exercise of powers. That could extend to photocopying machines, telex machines, telephones and a variety of other services and I think that is unreasonable. I am pleased that the Minister has indicated she agrees with the amendment.

Amendment carried.

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

Page 18—Leave out new subclause (8) and substitute the following subclauses—

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

(9) If compliance by a person with a requirement under this section might tend to incriminate the person or make the person liable to a penalty, then—

(a) in the case of a person who is required to produce, or provide a copy of, a document or information—the fact of production, or provision of a copy of, the document

or the information (as distinct from the contents of the document or the information); or

(b) in any other case—the answer given in compliance with the requirement,

is not admissible in evidence against the person in proceedings for an offence or for the imposition of a penalty (other than proceedings in respect of the making of a false or misleading statement).

This relates to self-incrimination. My earlier amendment was accepted by the Hon. Mr Elliott, I think on a tentative basis. I said I would come back with a proposition, which now is more in line with those circumstances where information must be disclosed, even where it may tend to incriminate. But it is now clear that a person does not have to claim that it incriminates before the questions are asked or the documents are produced to avoid the evidence being used in court against that person. That follows automatically. I point out to the Minister that the concept of this amendment follows at least the principle of those provisions in the trade measurements legislation. I think that this now overcomes the difficulty which I flagged when considering the earlier amendments.

The Hon. ANNE LEVY: I am happy to accept the amendment. I think it is certainly an improvement in the manner in which the situation is stated.

Amendment carried; clause as amended passed.

Clause 74—'Advertisements'—reconsidered.

The Hon. K.T. GRIFFIN: I did not ask a question earlier today because I knew that the Minister and the Hon. Diana Laidlaw needed to get through the rest of the amendments. I merely raise this issue relating to advertisements because it would appear to have some impact on electoral advertisements. The Electoral Act does allow placards and advertising, and refers specifically to electoral advertising during the period after which the writs have been issued until election day. What would concern me is that clause 74 would tend to override the provisions of the Electoral Act. I notice in subclause (2) that an order may not be made in relation to certain matters, but that does not appear to address the issue of electoral advertisements. It may be that there is nothing that we can do on the run, but I wanted to flag it and to ask the Minister whether the Government had given any consideration to that issue. If not, does she have a response on that? It may be that if this is to go to a committee that is one of the issues that could be addressed if it is necessary to provide some exceptions for electoral advertisements, which are authorised by the Electoral Act.

The Hon. ANNE LEVY: As I understand it, as the honourable member indicated, the regulations do relate to certain exemptions, things which are not development, and certainly political advertisements are part of that. However, as far as I am aware, consideration has not been given to it in terms of removal of advertisements in a different context, which is the context of clause 74. I certainly agree that it should be looked at. It may be a question of amending clause 74(2)(a) to include not only the Local Government Act but also the Electoral Act.

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

Page 69, line 18—After '1934' insert 'or the Electoral Act 1985;'.

I apologise for not having raised this matter at an earlier stage.

The Hon. ANNE LEVY: In view of the informal discussions which have taken place I am happy to accept that amendment.

Amendment carried; clause as amended passed.

Bill reported with further amendments; Committee's report adopted.

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

That this Bill be now read a third time.

The Hon. M.J. ELLIOTT: I will make this brief. Having completed the Committee stages, I make the observation that this Bill has been a long time coming and, through its various drafts, has improved significantly, but it is my belief that several fundamental issues have caused great difficulty in South Australia over the past decade in relation to development. It is my belief that this legislation, even as amended so far, has failed to address the key issues which have caused the major difficulty. When one realises why this review first came about, and also that the major causes of the difficulties which led to this Bill emerging have not been addressed, what is sad is that we will see over the next couple of years exactly the same problems recurring. I believe this Parliament will, in the fullness of time, be judged to have failed. As I said, time will tell, but it is my belief that the major issues are still largely unaddressed.

The couple of matters that have been addressed still have to survive the other House and the conference, and I suspect that there will be some wobbly knees on a few of the things that are in there so far. We will be left with a Bill which has not done what it originally set out to do. That will be a great shame. This is probably one of the most important pieces of legislation that has been presented in this Parliament over the last decade. It has not been a sexy one as far as the public is concerned. The public get upset on a project by project basis. But as we continue to have the same sorts of problems in the years to come, we will realise just what we have done or not done in the past couple of days.

Bill read a third time and passed.

MUTUAL RECOGNITION (SOUTH AUSTRALIA) BILL

The Legislative Council agreed to a conference as requested by the House of Assembly, to be held in the Legislative Council conference room at 3.30 p.m. this day, at which it would be represented by the Hons J.C. Burdett, M.S. Feleppa I. Gilfillan, K.T. Griffin and C.J. Sumner.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COURT BILL

Adjourned debate on second reading.

(Continued from 21 April. Page 1963.)

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): In closing the second reading

debate, I should like to thank honourable members for the attention that they are giving to this legislation. A number of matters have been raised which will obviously be dealt with during the Committee stage. I point out that the Environment, Resources and Development Court Bill is part of a reform package which includes its companions, the Development Bill, with which we have just dealt, and the Statutes Repeal and Amendment (Development) Bill. This group of Bills signals the Government's determination to establish a planning system that is capable of actively supporting imaginative value-added development. It is also the Government's intention that the Environment, Resources and Development Court created by this Bill should hear matters related to the Heritage Bill and the proposed Environment Protection Bill.

The Planning Review recommended that the Environment, Resources and Development Court be established as a division of the District Court. This proposal was adopted in the June and November 1992 public consultation drafts of the Development Bill, but the vast majority of submissions, including those from the National Environmental Law Association and professionals in the building, environmental protection and planning fields, as well as the submissions of local government, gave overwhelming support for the creation of a separate specialist court. The Environment, Resources and Development Court Bill was drafted in response to these submissions and reflects the Government's desire to take on board constructive suggestions for improvement to the new development legislation.

The Government accepts the arguments put forward in support of a separate Environment, Resources and Development Court, namely, that a separate court will improve the opportunities for flexibility, informality and cost minimisation through having its own separate rules of procedure. A separate court will also benefit from the specialist knowledge of its judges, magistrates and commissioners and allow the main benefits of the existing Planning Appeal Tribunal and building referees system to be preserved whilst allowing a number of matters now heard in different places to be heard by a single court.

While the Government has recognised the benefits of a single specialist court, it has been mindful of the need to minimise any additional administrative costs. Discussions have already commenced on the possibility of bringing the Environment, Resources and Development Court under the new Courts Administration Act 1993.

While the Environment, Resources and Development Court is a separate court, the Bill indicates that staff serving the District Court can service the Environment, Resources and Development Court, thus eliminating the need for separate staff, in the same way as the staff of the District Court are currently serving the Planning Appeal Tribunal.

Judges of the District Court, magistrates holding office under the Magistrates Act and masters holding office under the District Court Act can be designated to be part of the Environment, Resources and Development Court as well as their current position. This will provide flexibility and savings.

It is important to create a new and flexible court ethos which is quick and low cost and can handle a wide range of planning, building, heritage and environmental protection matters simultaneously.

It has been suggested that presently the Planning Appeal Tribunal operates under the umbrella of the District Court and all the features that NELA and others see as features of this new or proposed court are presently features of the Planning Appeal Tribunal. In fact, while the current Planning Appeal Tribunal is a separate tribunal with informal working arrangements with the District Court, it is not a division of the District Court. Furthermore, the Government does not accept that a valid comparison can be made with the Administrative Appeals Court, especially because the assessors in that court do not have the same degree of flexibility as commissioners, and assessors cannot sit alone.

The issue of the Governor seeking the advice of the Chief Judge when appointing the Presiding Member was discussed with the Chief Judge. The Government is firmly of the view that the Government, not the Chief Judge, should select the Presiding Member because the selection of the appropriate people to hear specialist matters is an Executive function and should not be left to a person who is outside a normal system of accountability to the Parliament. The Environment, Resources and Development Court will be a specialist jurisdiction and there will need to be very careful consideration of the appointments made to this jurisdiction.

With regard to the costs of re-hearing a case in a situation where a commissioner dies, this is a problem for any court. However, clause 15(4) of this Bill seeks to provide some assistance by allowing hearings to continue in appropriate cases. This is a worthwhile reform.

The joining of parties in matters before the court is covered by clause 17 of the Bill, which is a similar provision to one already in the Planning Act. This provision has been found to be useful if a determination is likely to affect more than those parties currently before the court. One example of this is where the Development Assessment Commission may need to be joined because the commission may have to concur with a determination.

With regard to appeals to the Supreme Court, it is important that they be limited to questions of law wherever possible, although it is accepted that some exceptions are appropriate. This is important if delays and costs in dispute resolution are to be minimised. If such a limitation is not included, then all matters would be liable to appeal to the Supreme Court and justice would be dispensed on the basis of how much money an individual had to spend. This provision is the same as section 43(3) of the District Court Act in relation to the Administrative Appeals Tribunal.

The provision which allows part-time commissioners to be appointed for up to five years has been proposed in order to provide flexibility. It is important that the number and range of experienced part-time commissioners reflects the demands on the ERD Court. For example, there will be a need to appoint a number of building specialists as part-time commissioners. The final report of the planning review noted that a major cause of concern with the current system is the confusion, delays

and costs associated with the multiplicity of procedures and jurisdictions for dispute resolution and enforcement. For example, one dispute may involve a variety of matters which, under the current Planning Act, are heard by the Planning Appeal Tribunal. I refer, for example, to an appeal by the applicant against a planning application refused by the council and also by the District Court, involving perhaps a request by the council for an order to remove the illegally built structure; and by the Magistrates Court, for example the council seeking fines against the applicant for illegal development.

There is significant merit in providing for specialist judges or magistrates who have appropriate expertise to deal with breaches of the Acts which vest jurisdiction in the court. These judges and magistrates will be dealing with all other facets of the matter. They should have the best appreciation of the planning, heritage, building and environmental issues, and their involvement should lead to greater efficiencies. In particular, it is expected that the new court will demonstrate a greater appreciation of the appropriate penalties that should be imposed for breaches of environmental or planning laws. Greater consistency in sentencing is also expected to occur.

The Bill provides various safeguards to protect the rights and interests of defendants. The criminal burden of proof will still apply in criminal proceedings. The court will be limited as to the penalties that it can impose. Serious offences will still be able to be dealt with by a judge sitting with a jury in the District or Supreme Court.

The combined provisions of the Development Bill and the Environment, Resources and Development Court Bill will have the effect that commissioners will be able to hear proceedings to enforce the provisions of the Act. These are civil proceedings which are available to a person who alleges that another person has breached the Act. Enforcement proceedings often involve technical questions. Such questions can often be appropriately determined by specialist commissioners. The proposed scheme, and especially the use of commissioners in appropriate cases, is intended to enhance greater efficiencies and effectiveness within the system to keep costs and delays to a minimum.

The Bill seeks to ensure that the rights of parties are protected by:

(a) providing complete flexibility in the composition of the court in these matters, so that judges and magistrates can hear more difficult or serious matters;

(b) allowing rules or regulations to be made to regulate the matter in appropriate cases;

(c) providing that commissioners cannot make certain forms of orders; and

(d) providing that questions of law can be referred to a judge for determination.

I look forward to constructive discussion in the Committee stage of this Bill.

Bill read a second time.

HERITAGE BILL

Second reading.

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

That this *Bill be now read a second time.*

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

Leave granted.

The new Heritage Bill is part of a broad initiative to incorporate development and other environmental management into a more flexible and responsive legislative package. The bill should be seen in a subordinate relationship to the much broader draft Development Bill and Environmental Protection Bill. However it is necessary to retain a separate Act to deal with some specific aspects of managing the historic environment.

The Planning Review has been seeking public comment and considering improvements to the planning and development system for the past two years. Within this process, a specialised Review Committee has identified shortcomings in the law and administration relating to built heritage conservation. Their findings and recommendations have led directly to the new bill.

The new legislation is designed to respond to specific criticisms of the existing legislation which have been voiced during the review process. Some of these are:

The existing heritage measures do not adequately reflect community interest in conserving local heritage;

The processes of heritage administration are too centralised and closed; and

Some provisions of the existing Act are unnecessarily controversial and heavy-handed.

In response to these criticisms, the resulting legislative package offers something for everyone. The community at large is given a greater say in conserving the historic environment. This new initiative will operate through the local Council's planning powers and is to be found in the Development Bill. In the Heritage Bill the owners of heritage properties have their interests protected by a reduction in some of the government's powers, better opportunities to make submissions and appeal against decisions, and in greater flexibility for keeping their development options open in specific situations.

Where the existing legislation is working satisfactorily, similar measures will be retained in the new Act. The essential structural relationship of the existing Acts is intended to be retained; a heritage register will be created by the Heritage Act, and development control will be exercised under the Development Act. The principal features of the new legislation are as follows.

State Heritage Authority

A new authority consisting of eight members appointed by the Governor is created to administer State heritage matters. (It will replace the advisory body known as the South Australian Heritage Committee in the existing Act.) The State Heritage Authority will enter places on the State Heritage Register, and will have powers to regulate some activities affecting heritage places, and issue permits and certificates. The Authority will have powers to protect heritage places urgently by action through the courts. It will provide advice on funding, heritage agreements and other heritage powers which the Minister exercises. The Authority will be the Government's chief source of advice on heritage matters generally.

State Heritage Fund

The State Heritage Fund will continue in existence. It will consist of moneys appropriated by Parliament, granted by the Commonwealth, raised by fees for services, given or bequeathed, and interest on loans. The Fund will be expended by the Minister in the form of grants or loans for heritage purposes, on the advice of the Authority.

State Heritage Register

A register of places which are of heritage value to South Australia will be maintained by the Authority. (This will replace the Register of State Heritage Items in the existing Act.) The heritage value of a place will be determined by criteria set out in the Bill. The State Heritage Register will be available for public inspection.

Registration Process

The procedure for entering a place on the Register is generally similar to that set out in the present Act, but gives owners and other interested parties more opportunity to have their views taken into account. When the Authority intends to enter a place on the Register, it must give notice to the owner, setting out the reasons why it considers the place is of heritage value. The Authority must also inform the Minister and the Council if the place is within a Council area, and give public notice in a newspaper. From the time of the notice, the place is provisionally entered on the Register, and must be treated as a heritage place for planning purposes.

Anyone who wishes to make a submission either for or against entering the place on the Register has three months in which to do so. The submission must be in writing, but a person making a submission may also request to be heard in person by the Authority. The Authority must consider all submissions before deciding whether to confirm the entry of the place on the Register. If the Minister considers that the entry of the place on the Register would not be in the public interest, the Minister may direct the Authority not to confirm the entry. A provisional entry that has not been confirmed within twelve months must be removed from the Register.

A new provision in the Bill is that an owner who has made a submission and is not satisfied with the Authority's decision has thirty days after notice of that decision to appeal to the Environment, Resources and Development Court. The Court may either determine the matter itself or return it to the Authority for reconsideration.

Certificate of Exclusion

The new Bill gives a landowner the right to seek a certificate from the Authority guaranteeing that an area of land will not be entered on the Register for a period of five years from the date of issue. The Authority may charge a fee for the certificate, based on the value of the land.

Places of Geological or Archaeological Significance

There are new provisions in the Bill which will enable places of special geological or archaeological significance to be identified by the authority. Excavating or collecting specimens from these places will be controlled by permit. These provisions are intended to be used only for a small number of scientifically valuable and fragile sites, such as the Precambrian fauna deposits at Ediacara.

Emergency Protection

The urgent conservation orders and other emergency measures in the existing Act have rarely been used, and are not in the new Bill. However, some powers are needed, as there may be occasions when a person intends to damage a heritage place, either in ignorance of its significance, or deliberately. In such cases the State Heritage Authority may make an order to protect the place, and apply to the Environment, Resources and Development Court to confirm the order. The order may require a person to stop an activity, or refrain from starting an activity, that would reduce the heritage value of the place. The purpose of the order may be to give the Authority time to investigate the significance of the place.

Heritage Agreements

Heritage agreements for the conservation of places of heritage value will continue essentially as under the present Act. Agreements will be entered into voluntarily between the Minister and the owner of land which is on the Register or within a State Heritage Area. The Minister must consult the Authority before entering into an agreement.

The subject matter of an agreement is unlimited as long as it seeks to conserve and promote heritage places, but it may for example contain: provision for the future conservation of a place by means of a management plan; terms for financial or technical assistance from the State; exemption of a place from specific provisions of the Development Plan; remission of taxes or (with Council agreement) rates on land.

An agreement will be entered on the title and is binding on future owners of the land. If either party fails to comply with the terms of an agreement, the other may apply to the Environment, Resources and Development Court for an order to enforce it.

Miscellaneous Provisions

The Bill has a new provision making it an offence to intentionally damage a place on the Register so as to reduce its heritage value. The Environment, Resources and Development Court may order any person convicted of this or other offences under the Act to make good the damage.

A person acting for the Authority may enter property with the consent of the occupier in order to carry out the purposes of the Act. If consent is not given, the person must obtain a warrant from a magistrate to enter the place.

Transitional Provisions

Places which are on the existing Register or interim list, or within State Heritage Areas, or subject to heritage agreements, will continue under essentially similar provisions in the new legislation. Heritage agreements for the conservation of Aboriginal heritage places or native vegetation will not in future derive their authority from the new Heritage Act. There will be minor amendments to the Aboriginal Heritage Act and the Native Vegetation Act so that agreements for these purposes will in future be entered into under the appropriate legislation.

Relationship with the Development Bill

To achieve better co-ordination of all issues affecting development, some matters which might be thought appropriate to the Heritage Bill will be found in the Development Bill instead. Some of these will differ very little from the present provisions of the Planning Act.

In the case of a heritage place, all demolition, conversion, alteration (including painting) and addition to the place constitute development. When application is made for a development affecting a heritage place, the Council (or other planning authority) must refer the application to the Minister for advice. If Council does not wish to adopt the Minister's advice, then it must refer its proposed approval to the State Planning Authority for concurrence.

The Development Bill also permits the Development Plan to provide for the conservation of places of local heritage value, and provides criteria for recognising these places. Councils wishing to draw up their own local heritage register may do so by amending the Development Plan for their Council area to create a schedule of local heritage places, with development control principles spelled out in the Development Plan. This measure will satisfy much of the public support for local heritage protection.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2. Commencement

The Bill will commence on proclamation.

Clause 3: Interpretation

An interpretation provision is included.

PART 2

ADMINISTRATION

DIVISION 1—STATE HERITAGE AUTHORITY

Clause 4: Authority

The *State Heritage Authority* consists of 8 members, being persons with knowledge of or experience in history, archaeology, architecture, the natural sciences, heritage conservation, public administration, property management or some other relevant field.

Clause 5: Functions of Authority

The Authority has the following functions:

(a) administering the *State Heritage Register;*

(b) investigating areas of heritage value and promoting their establishment, in appropriate cases, as State Heritage Areas;

(c) negotiating, and monitoring the operation of, heritage agreements;

(d) providing advice to the Minister in relation to—

(i) the application of money from the Fund in furtherance of the objects of this Act;

(ii) development which may affect registered places or State Heritage Areas;

(iii) heritage agreements;

(iv) any matter relating to the conservation or public use of registered places or State Heritage Areas;

(v) any other matter relating to heritage conservation;

(e) providing advice and assistance to councils, planning authorities, owners of land and other persons on any matter relating to heritage conservation.

Clause 6: Conditions of membership

A member's term of office is a maximum of 3 years although the member may be reappointed for further terms.

Clause 7: Proceedings of Authority

Five members form a quorum. The person chairing a meeting has a casting vote.

Clause 8: Delegation

The Authority may delegate its powers or functions except those relating to the confirmation or removal of entries in the Register.

Clause 9: Remuneration

Members are entitled to fees and allowances determined by the Governor.

DIVISION 2—STATE HERITAGE FUND

Clause 10: State Heritage Fund

The *State Heritage Fund* consists of—

(a) any money appropriated by Parliament for the purposes of the Fund; and

(b) any money provided by the Government of the Commonwealth for the purposes of this Act; and

(c) any money received by the Authority for the purposes of this Act by way of fees, gift, bequest or in any other way; and

(d) any money received by the Minister for the purposes of this Act by way of gift, bequest or in any other way; and

(e) any income derived from investment of the Fund.

Clause 11: Accounts and audit

Proper accounts of the Fund are to be kept and audited.

Clause 12: Application of money from Fund

The Minister is to seek and consider the advice of the Authority in applying the Fund in furtherance of the objects of the Bill.

PART 3

STATE HERITAGE REGISTER

Clause 13: State Heritage Register

The Authority is to maintain the *State Heritage Register.*

Clause 14: Inventory

Attached to the Register is to be an inventory of—

(a) places designated in any Development Plan as places of local heritage value; and

(b) places within the State entered in any register of places of historical interest kept under the law of the Commonwealth; and

(c) State Heritage Areas; and

(d) heritage agreements and any variations to those agreements.

Clause 15: Register to be available for public inspection

All of the information in the Register and the inventory is to be available for public inspection. Copies of relevant entries may be obtained for a fee.

PART 4

REGISTRATION OF PLACES

DIVISION 1—CRITERIA FOR REGISTRATION

Clause 16: Heritage value

A place will satisfy the criteria for registration if—

(a) it demonstrates important aspects of the evolution or pattern of the State's history; or

(b) it has rare, uncommon or endangered qualities that are of cultural significance; or

(c) it may yield information that will contribute to an understanding of the State's history, including its natural history; or

(d) it is an outstanding representative of a particular class of places of cultural significance; or

(e) it demonstrates a high degree of creative, aesthetic or technical accomplishment or is an outstanding representative of particular construction techniques or design characteristics; or

(f) it has strong cultural or spiritual associations for the community or a group within it; or

(g) it has a special association with the life or work of a person or organisation or an event of historical importance.

DIVISION 2—REGISTRATION PROCESS

Clause 17: Proposal to make entry in Register

The first step in making an entry in the Register is provisional registration.

The Authority may provisionally register a place if the Authority is of the opinion that the place is of heritage value (as set out in clause 16) or should be protected while an assessment of its heritage value is carried out.

Notice must then be given to each owner of the land, to the public by way of newspaper advertisement, to the Minister and to the council of the area.

In provisionally registering a place the Authority may designate it a place of geological or palaeontological significance or of archaeological significance. If a place is so designated certain special protections apply.

Clause 18: Submissions and confirmation or removal of entries

Any person may make representations on the provisional entry of a place within a 3 month period.

The Authority may confirm or remove the provisional entry and must give the relevant persons notice of its decision.

If a provisional entry has not been confirmed within 12 months it must be removed, unless the Minister allows a longer period for consideration.

The Minister is given power to direct that an entry be removed from the Register if confirmation would be contrary to the public interest.

Clause 19: Registration in Lands Titles Registration Office

Entries on the register must be noted in the L.T.O.

Clause 20: Appeals

An owner of land who made representations about the provisional entry of the land in the Register may appeal to the Environment, Resources and Development Court against a decision to confirm or remove the provisional entry.

Clause 21: Correction of errors

The Authority has power to correct inaccuracies in the Register.

DIVISION 3—CERTIFICATE OF EXCLUSION

Clause 22: Certificate of exclusion

The Authority may issue a certificate to an owner of land certifying that the land will not be entered in the Register within 5 years. If the Authority is of the opinion that the matter is likely to be contentious, it may seek representations on the matter through advertisement.

DIVISION 4—REMOVAL FROM REGISTER

Clause 23: Removal from Register if registration not justified

The Authority is given power to remove or alter an entry in the Register if it is of the opinion that the entry is no longer justified. It must first give notice of its intention to the owners of the land, the council of the area and to the public by way of newspaper advertisement and consider any representation received within 3 months.

Clause 24: Removal from Register if place designated is of local heritage value

The Authority is given power to remove or alter any entry so as to exclude from the Register places given protection as places of local heritage value in a Development Plan.

PART 5

SPECIAL PROTECTION

DIVISION 1—PLACES OF GEOLOGICAL, PALAEONTOLOGICAL OR ARCHAEOLOGICAL SIGNIFICANCE

Clause 25: Places of geological or palaeontological significance

Excavation of a registered place of geological or palaeontological significance or removal of specimens from such a place is prohibited without a permit from the Authority.

Clause 26: Places of archaeological significance

Excavation of a registered place of archaeological significance or removal of cultural artefacts from such a place is prohibited without a permit from the Authority.

Clause 27: Excavation of registered place in search of cultural artefacts

Excavation of any registered place for the purpose of searching for or recovering cultural artefacts is prohibited without a permit from the Authority.

Clause 28: Damage to or disposal of specimen or artefact

It is an offence to damage, destroy or dispose of geological or palaeontological specimens from a registered place of geological or palaeontological significance or to remove cultural artefacts from a registered place of archaeological significance without a permit from the Authority.

Clause 29: Permits

The Authority may impose conditions on any permit it issues.

DIVISION 2—EMERGENCY PROTECTION

Clause 30: Stop orders

The Authority may order a person to stop (or not to start) any work or activity that may destroy or reduce the heritage value of a place if the Authority is of the opinion that the place should be preserved or assessed and that an order is necessary to protect the place. Such an order has effect for 4 working days. The Authority is required to take the matter to the Environment, Resources and Development Court. The Court may confirm, revoke or substitute the order.

Clause 31: Contravention of stop order

The maximum penalty for contravention of a stop order is a Division 1 fine ($60 000).

PART 6

HERITAGE AGREEMENTS

Clause 32: Heritage agreements

The Minister may enter into a heritage agreement with the owner of a registered place or land within a State Heritage Area. An agreement binds future owners of the land and may bind occupiers. The Minister must seek the advice of the Authority with respect to heritage agreements.

Clause 33: Effect of heritage agreement

A heritage agreement is aimed at promoting the conservation of registered places and State Heritage Areas and public appreciation of their importance to the State's cultural heritage.

Agreements may—

(a) restrict the use of land to which it applies;

(b) require specified work or work of a specified kind to be carried out in accordance with specified standards on the land;

(c) restrict the nature of work that may be carried out on the land;

(d) provide for the management of the land, or any place, specimens or artefacts on or in the land, in accordance with a particular management plan or in accordance with management plans to be agreed from time to time between the Minister and the owner;

(e) provide for financial, technical or other professional advice or assistance to the owner with respect to the maintenance or conservation of the land or any place, specimens or artefacts on or in the land;

(f) provide for remission of rates or taxes in respect of the land;

(g) provide that specified regulations under section 37 of the *Development Act 1993* do not apply to the land.

The council must be party to the agreement if rates are to be remitted.

Clause 34: Registration of heritage agreements

Heritage agreements are to be entered in the inventory attached to the Register.

They are also to be noted on the LOTS land system.

Clause 35: *Enforcement of heritage agreements*

A party to a heritage agreement may apply to the Environment, Resources and Development Court for an order to secure compliance with the agreement, or to remedy the default, and to deal with any related or incidental matter.

PART 7

MISCELLANEOUS

Clause 36: *Intentional damage of registered place*

The maximum penalty for intentionally damaging a registered place so as to destroy or reduce its heritage value is a Division 1 fine ($60 000).

Clause 37: Restoration orders

The Court is given power to order an offender to make good any damage caused through commission of the offence.

Clause 38: *No development orders*

If the owner of a place is convicted of an offence against clause 31 or 36, the Court is given power to order that no development of the place may be undertaken for a period not exceeding 10 years.

Clause 39: Right of entry

The Authority may authorise a person to enter and inspect a place, or specimens or artefacts in a place, for the purpose of determining or recording the heritage value of the place or determining whether a heritage agreement is being breached. If the occupier of the place does not consent to the authorised person entering the place, a warrant may be obtained permitting entry.

Clause 40: Erection of signs

The Authority may erect signs to draw attention to the fact that a place is registered or that an order has been made under the Bill.

Clause 41: Obstruction

It is an offence to hinder or obstruct a person acting in the administration of the Bill.

Clause 42: General provisions relating to criminal liability

This clause relates to offences committed by bodies corporate and general offences.

Clause 43: Service of notices

The options for service of notices are as follows:

(a) by personal service on the person or an agent of the person;

(b) by leaving it for the person at his or her place of residence or business with someone apparently over the age of 16 years;

(c) by serving it by post on the person or an agent of the person;

(d) if the whereabouts of the person is unknown—by affixing it in a prominent position on the land to which it relates or publishing a copy of it in a newspaper circulating throughout the State.

Clause 44: Evidence

Evidentiary aids are included for the purposes of legal proceedings.

Clause 45: Regulations

The regulations may fix and regulate fees for the provision of information or other services by the Authority or the making of applications to the Authority and may impose a fine, not exceeding a division 7 fine ($2 000), for contravention of a regulation.

SCHEDULE 1

Repeal and Transitional Provisions Clause 1: Repeal

The *South Australian Heritage Act 1978* is repealed. *Clause 2: Transitional provisions*

The transitional provisions cover the following matters:

(a) places registered under the repealed Act remain registered;

(b) places that were on the interim list will be taken to be provisionally registered;

(c) State Heritage Areas remain as such;

(d) heritage agreements remain in force;

(e) heritage agreements entered into by the Minister responsible for the administration of the *Aboriginal Heritage Act* 1988 become aboriginal heritage agreements under that Act;

(f) heritage agreements entered into by the Minister responsible for the administration of the *Native Vegetation Act 1991* become heritage agreements under that Act.

SCHEDULE2

Consequential Amendments

The *Aboriginal Heritage Act 1988* is amended to include provisions relating to aboriginal heritage agreements aimed at the protection or preservation of Aboriginal sites, objects or remains. Before entering into such agreements the Minister must consult the Aboriginal Heritage Committee, traditional owners and interested Aboriginal organisations and persons and traditional owners must be given an opportunity to become parties to the agreement.

The *Native Vegetation Act* 1991 is amended to include provisions relating to heritage agreements aimed at the preservation or enhancement of native vegetation. Such an agreement may provide for the compulsory remission of rates and taxes.

The *Strata Titles Act* 1988 and the *Valuation of Land Act 1971* are amended to update references to registered places, State Heritage Areas and heritage agreements.

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

TOBACCO PRODUCTS CONTROL (MISCELLANEOUS) AMENDMENT BILL

Second reading.

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.

Illness and death attributable to cigarette smoking constitute the largest man-made epidemic of our time. Smoking is recognised as the largest single preventable cause of disease and premature death in Australia. There is no known safe level of consumption of tobacco products.

It has been estimated that approximately 16% of all deaths in Australia are due to smoking (Holman et al, 1988). Translated into 1991 figures, that equates to an estimated 20,000 lives lost in Australia that year.

Doll & Peto (1981) estimated that one in four smokers would die prematurely because of smoking. A follow-up study reported in the press recently indicates that the hazards of long-term smoking are far greater than previously thought - prolonged smoking is now thought to cause the premature death of every second smoker. And smokers are three-times as likely as non-smokers to die in middle age. Those who start to smoke in their teenage years will be at a particularly high risk of death from tobacco in later life.

At last count, there were 13,225 twelve to fifteen year olds who were smoking regularly in SA. By age 14, one in five schoolchildren are regular smokers and by age 16, the percentage equates with the adult prevalence rate (1990 SA Schoolchildren Smoking Survey - Devenish - Meares et al 1991).

According to the US Surgeon General's Report, 1982, a child who begins smoking aged 14 years or younger is 16 times more likely to die of lung cancer than someone who never smokes. Australian research (Hill et al, 1990) shows that early adolescence is the developmental stage at which most experimental smoking and much uptake of the practice takes place.

Thus, as Hill et al relate, it seems clear that by the time children are ready to leave school, the stage is set for the rapid acquisition of adult smoking prevalence and consumption levels. Although it is now well established that tobacco smoking is addictive (US Surgeon General, 1988), children frequently underestimate the likelihood of their continued tobacco use. (Leventhal et a] 1987; Oei, et al 1990). Experimentation with cigarettes often leads to dependency, resulting in many teenagers eventually becoming long-term smokers (Russell, 1990; O'Connor, Daly, 1985).

The message is clear - our children are at risk - at risk of an early death from a cause which is completely preventable.

Strategies to reduce tobacco use must be comprehensive and long-term. The 1988 amendments to the Tobacco Products Control Act and their progressive implementation to ban tobacco advertising and sponsorship, broke the nexus between smoking and images of sophistication, social success, wealth and sporting prowess. Obviously, the full effects of that initiative will not be realised immediately.

The next stage is two-fold - to target access or availability of cigarettes to children; and to ensure that the general principle of "informed choice" which is demanded and accepted for goods and services almost universally in Australia, applies equally to tobacco products.

The sale or supply of tobacco products to children under 16 years of age is illegal. Similarly, it is an offence for an occupier of premises to allow a child to obtain tobacco products from a vending machine situated on the premises.

However, recent research in SA (Wakefield et al, 1992) shows that the legislation in fact rarely prevents children from purchasing cigarettes, either over the counter or from vending machines. For counter sales, a random sample of 98 tobacco retail outlets in metropolitan Adelaide was selected, and for vending machine sales, a random sample of 29 retail outlets was selected. Ten children, aged between 12 and 14 years, visited the premises in January 1991 with the intent to purchase cigarettes. They did so successfully over the counter at 45.6% of the retail outlets and at 100% of the vending machines. Older children had a higher purchase success, with 56.9% of attempts by 14 year olds being successful, compared with 15.4% of 12 year olds.

Clearly, action is necessary to make cigarettes less readily available to children and to make sellers aware of the seriousness of illegal sales.

The Bill therefore proposes a three level approach:

- the minimum age for sale or supply is to be increased to 18 years;
- as from 1 January 1994, vending machines are to be restricted to licensed premises under the Liquor Licensing Act;
- penalties for sale to children are to be increased five-fold, to a maximum of $5,000; in addition, a person who is convicted of a second or subsequent offence within a three year period may be disqualified by the court from applying for or holding a tobacco merchant's licence for up to 6 months.

The message is clear - sale to children is simply not on.

The general principle of "informed choice" is widely accepted in Australia. The consumer's right to know has underpinned much of the legislation found on the Statute Books today. For example, ingredient labelling, nutritional information and coded additive details on packaged food; content information, directions for use and warnings on pharmaceuticals; directions for use, safety precautions and first-aid measures on household poison containers - the consumer is provided with a plethora of information on what is in it; what it does; and what effects it may have.

By contrast, the warnings on cigarette packs merely advise the consumer that "Smoking Causes Lung Cancer"; "Smoking Reduces Your Fitness"; "Smoking Damages your Lungs" and "Smoking Causes Heart Disease" with limited information being provided on tar, nicotine and carbon monoxide levels.

The 1989 US Surgeon General's report states that there are over 4,000 chemicals in tobacco smoke, including 43 carcinogens and numerous other toxins. The link between tobacco smoking, illness, disease and death is well established. The principle of informed choice must be extended to tobacco products.

The Ministerial Council on Drug Strategy established a Task Force in March 1991 to consider health warnings and content labelling. Research was commissioned on current health warnings, which have been in place since 1987. An extensive literature review was carried out and surveys were conducted. Studies concluded that, to be effective, health warnings need to be noticed, persuasive and provide guidance for appropriate action. They need to stand out from the surrounding design, be understood and personally relevant. The Ministerial Council agreed at its April 1992 meeting that all tobacco products must carry stronger health warnings and detailed health risk information to try to reduce the harm caused by smoking.

They agreed that States and Territories would introduce uniform regulations to ensure that from July 1993 all cigarette packs carry:

- health warnings printed on the "flip top" occupying at least 25% of the front of the pack;
- detailed explanations for consumers of each health warning, together with a National QUIT line telephone number, taking up the whole of the back of each pack; and,
- information - on one entire side of the pack - to help consumers more readily understand the tar, nicotine and carbon monoxide content of that brand.

Studies indicate that early adolescence is the stage at which most experimental smoking takes place. A primary target group must therefore be young people. Those contemplating giving up smoking must be the other main target group. However all smokers and potential smokers have the right to know and must be afforded the opportunity to consider, the range of health effects before they decide to smoke a cigarette.

The Bill therefore revises the head of power for labelling of tobacco products and ensures that the regulation-making powers are broad enough to accommodate the enhanced consumer information proposed in the new warnings. Western Australia is the first State to implement the national agreement, having gazetted its Regulations in December 1992. It is proposed that SA follows suit as soon as possible after the passage of this Bill.

Turning to other matters covered by the Bill, Hon. Members will be aware that retailers of cigarettes are currently required to display a notice prominently, setting out tar, nicotine and carbon monoxide content of a range of brands. The proposed labelling regulations will require such information to appear on the side panel of packets, in relation to that particular brand of

cigarettes. In order to make the requirements on small business less onerous, but at the same time, ensure that consumers who wish to compare brands are accommodated, the Bill proposes that retailers be required to produce tar, nicotine and carbon monoxide content information on demand by a customer. This will also enable the information to be more readily updated without the need to produce new display posters.

The other feature of the Bill is that it enables limits to be placed on various forms of point of sale advertising. The principal Act allows for point of sale advertising of tobacco products (i.e. inside a shop or warehouse adjacent to where tobacco products are sold; or outside a shop or warehouse, so long as the advertising relates to tobacco products generally or prices of particular products).

Members of the public have drawn instances to the Health Commission's attention which indicate that this form of advertising has been expanded beyond the spirit of the legislation. A power is inserted which will enable limits to be set on various forms of such advertising.

The Bill before Hon. Members today is part of a comprehensive strategy, consistent with the overall goal of the National Health Strategy on Tobacco "to improve the health of all Australians by eliminating or reducing their exposure to tobacco in all its forms".

The Government is under no illusion that the legislative response, in isolation, is the solution. There has long been recognition amongst those concerned to reduce smoking that the resolution of the problem lies not in a piecemeal approach, but in the adoption of a carefully planned, comprehensive, long-term approach, encompassing education and information, legislation and cessation services.

A number of initiatives have been taken at the State and Federal level. The 1988 amendments to the Tobacco Products Control Act set the framework for a comprehensive approach in SA. The banning of advertising and sponsorship; the establishment of Foundation SA with its charter "to promote and advance sports, culture, good health and health practices and the prevention and early detection of illness and disease related to tobacco consumption"; the setting up of the SA Smoking and Health Project - QUIT - and its encouraging results to date; community involvement; the work across Government agencies, and with industries and organisations, are all important and integral parts of a comprehensive strategy.

The reduction or eradication of the health consequences of smoking in Australia will do more to promote health, prevent disease and prolong life than any other action which governments and communities could take in the foreseeable future.

The impetus must not be lost. The lives of young Australians are too important those lives are at stake.

I commend the Bill to the House.

Explanation of Clauses

The provisions of the Bill are as follows:

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

Clause 2 provides for the commencement of the Bill. Clause 7 (which bans tobacco vending machines except on licensed premises) will come into operation on 1 January 1994.

Clause 3: Amendment of s. 3—Interpretation

Clause 3 amends the definition of child in section 3 of the principal Act by increasing the age from 16 years to 18 years. Paragraph *(b)* amends the definition of "health warning" to recognise that a health warning may be prescribed by direction of the Minister under the regulations. Paragraph *(c)* inserts a definition of "label" that extends the normal meaning of the word to include information that is included in, but not printed on, a package. Paragraph *(d)* makes a technical amendment which accommodates the intention to prescribe health warnings in two parts.

Clause 4: Amendment of s. 4—Sale of tobacco products by retail

Clause 4 amends section 4 of the principal Act to cater more precisely for the promulgation by regulation of the proposed packaging and labelling requirements.

Clause 5: Amendment of s. 5—Importing and packing of tobacco products

Clause 5 makes similar amendments to section 5 of the principal act which deals with the importing of tobacco products.

Clause 6: Amendment of s. 6—Tobacco products in relation to which no health warning has been prescribed

The purpose of this amendment is to recognise in section 6 of the principal Act that a health warning may be prescribed by direction of the Minister.

Clause 7: Substitution of s. 8

Clause 7 replaces section 8 of the principal Act. The new provision requires a retailer of cigarettes to provide information to a customer on request instead of requiring the information to be permanently on display.

Clause 8: Insertion of s. 10a

Clause 8 prohibits the sale of cigarettes or other tobacco products by vending machine except in licensed premises. Section 15 of the principal Act provides a general penalty of $5 000 for contravention of a provision of the Act. This penalty will apply to a contravention of section 10a.

Clause 9: Amendment of s. 11—Sale of tobacco products to children

Clause 9 amends section 11 of the principal Act. Paragraphs *(a)* and *(b)* remove the penalty from subsections (1) and (2). The result of this is that the general penalty of $5 000 prescribed by section 15 will apply to these offences. The expiation fees are also removed. These were inserted by Act No. 71 of 1992 which came into operation on 1 March 1993. In view of a court's discretion to disqualify an offender under new subsections (5) and (6) on a second conviction, the expiation of the offences is no longer appropriate.

Clause 10: Amendment of s. 11a—Certain advertising prohibited

Clause 10 amends section lla of the principal Act. The purpose of the amendment is to enable the distance within which advertisements are allowed and the kind of advertisement allowed under subsection (3)*(c)* and *(d)* to be prescribed by regulation. This will give certainty to the operation of these provisions.

Clause I1: Amendment of s. 16—Regulations

Clause 11 amends section 16 of the principal Act by expanding the regulation making power to cater for the new packaging and labelling requirements.

Clause 12: Insertion of schedule 3

Clause 12 inserts a transitional provision that will give retailers the opportunity to dispose of stock that has ceased to comply with the Act or regulations after amendment.

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

TRADE MEASUREMENT BILL

Adjourned debate on second reading.

(Continued from 28 April. Page 2108.)

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): In closing the debate, I would like to refer to a number of matters which the Hon. Mr Griffin raised in his second reading contribution. I refer, first, to the question of exemptions. The Hon. Mr Griffin sought an explanation of the reasons for exempting several areas of measurement from the legislation. Certainly, clause 6 of the Bill exempts measurements and instruments used for measurement in relation to reticulated electricity, reticulated gas or reticulated water; telephone calls; taxi fares; hire of motor vehicles; tyre pressure gauges; and the expiration time for parking meters.

The definition in clause 4 of the Bill concerning the use of measuring instruments for trade is necessarily broad and extends to the use of measuring instruments for those purposes. Historically, these instruments have been covered not by weights and measures legislation but by other State or Commonwealth legislation. For example, in South Australia electricity meters are tested by the Electricity Trust of South Australia, which has a National Association of Testing Authorities approved laboratory.

The South Australian Gas Company tests all new and repaired gas meters by comparing them with a volumetric measure verified by the Commissioner for Standards under the existing trade measurement legislation.

Timed telephone calls have been the subject of a national inquiry, and currently telephone meters are undergoing testing at the National Standards Commission for accuracy and reliability. It is a condition of holding a telecommunications licence that call charge recording equipment is accurate and auditable.

The devices used in taxi meters are approved and tested by the Metropolitan Taxi Cab Board and are subject to periodic inspection and testing, including random checks. In 1990 Ministers at SCOCAM agreed to monitor the regulation of these classes of instruments by other agencies and their testing procedures. It is likely, at some time in the future, that the exemptions relating to some or all of these classes of instrument will be removed. However, consistent with the uniformity objective, that should occur after all jurisdictions have agreed to any variations of the exemptions.

On the question of radar speed detection devices, the advice of Parliamentary Counsel is that these devices, and the purpose for which they are used, fall outside the definition of use for trade as set out in clause 4.

The Hon. Mr Griffin also raised the question of the sale of meat and certainly the sale of meat is regulated under existing trade measurement legislation in South Australia, as indicated by the honourable member. South Australia certainly supported the inclusion of similar provisions in the uniform legislation in order to maintain existing consumer protections. These provisions enable consumers to make meaningful comparisons between the price of different varieties in different cuts of meat, and informed choices are based upon relative value. This would otherwise be difficult as meat is not sold in standard sizes.

In previous discussions the Meat and Allied Trades Federation has sought to exclude value enhanced meat, for example, stuffed chicken breasts and prepared kebabs, because the true value, in particular the higher price per kilogram, may deter consumers from buying such items, but this has not been accepted as a reasonable justification for excluding such items from these provisions.

It was not considered necessary to extend these provisions to other goods such as cabbage, cauliflower and oranges, as they have not previously been subject to special provisions and there has been no evidence of any significant consumer detriment in relation to the sale of these items. Cauliflower and cabbage traditionally have been sold on a unit basis and their value is easily assessed. Less than nine oranges sold in transparent bags may be sold without a quantity statement; otherwise pre-packed oranges are required to have a quantity statement.

Clause 26 enables goods to be prescribed by regulation as goods which must be sold by specific measurement if a consumer detriment is identified. The concern with allowing a price per 500, 250 or 100 grams is that it would make it unreasonably difficult for a consumer to compare prices. The price per kilogram is the most appropriate base unit and enables the consumer to determine the likely cost of an item without making it appear cheaper or more expensive than it actually is.

With regard to the question of the marking of imported articles with the name and address of the packer, certainly clause 29 creates a defence to the offence of failing to make a pack with the packer's name and address where the product was packed outside Australia. In the absence of such a provision, an importer would be liable to prosecution for the failure of an overseas packer to label a pre-packed article with a name and address of the packer. This was considered an unreasonable burden to place on an importer who may have had no opportunity to specify this requirement to the packer. However, concern about any effect on local producers is misplaced so far as it relates to foodstuffs such as the products of Wintulichs Pty Ltd, which raised the issue. Health regulations requires the name and a Commonwealth address of the vendor or importer of imported packaged food or drink to be attached to the package before it is distributed.

With regard to the question of the defence for products which lose weight after packing, it is considered that clause 34 provides an adequate defence for those circumstances where a product is of the type that loses weight after it has been packed and weighed. It is for the court to decide in any particular case whether the packer ought to be able to rely on this defence. To add to the clause in the way proposed by the firm that approached the honourable member on this point may unnecessarily restrict the operation of this defence clause. It is substantially the same defence as currently exists under section 20(4) of the Packages Act 1967 which has operated for 25 years without any problem.

In relation to the question of seizure and return of instruments, the Hon. Mr Griffin sought clarification of the provision relating to the return of instruments which may be seized by inspectors. Clause 61 authorises an

inspector to seize an instrument if he or she has reason to believe an offence has been committed. This would be in a case where the instrument was not stamped or approved as required by the Act or had been tampered with to give short measure Under clause 64(1) a person from whom an instrument is seized is entitled to the return of the instrument upon application if proceedings are not instigated within six months or where no conviction is obtained.

The Commissioner has advised that a formal application would not be insisted upon from the owner of an instrument in the circumstances described in clause 64(1). However, the clause provides a statutory procedure for the return of an instrument and in this respect is a safeguard for the property rights of the owner. Clause 64(2) enables the administering authority to dispose of the instrument three months after the entitlement to its return arises if the owner has not applied for its return. This clause is directed at the situation where a person cannot be located or there is no longer a person to whom the instrument may be returned or where the owner of the instrument does not seek its return. The Commissioner for Consumer Affairs has advised that action to dispose of an instrument would not be undertaken unless all reasonable steps had been taken to trace the owner of the instrument and to seek instructions on its return.

With regard to the question of beverage and spirit measures, the honourable member raised the question of phasing out of non-approved beverage measures and spirit measuring instruments. The South Australian branch of the Hotels and Hospitality Industry Association has accepted the intent of the legislation but has sought a two-year phasing out period for existing beverage measures and for spirit measuring instruments in hotels and restaurants. In the past there has been a difficulty in securing adequate supplies of approved spirit measuring instruments. Suppliers of measuring instruments have advised that they are now able to supply approved spirit measuring instruments to the industry in the quantities required. The Commissioner has indicated that she would be prepared to agree to a phase-out period for existing non approved measures of 12 months from the date of commencement of the legislation. The Commissioner's advice is that most liquor licensees would completely turn over existing glass stocks well within this period. This period would also allow liquor licensees an adequate opportunity to purchase and install the approved spirit dispensers.

If I can turn to the question of the sale of wood, the South Australian Trade Measurements Act 1971 currently prohibits the sale of fire wood other than by net mass. Regulations under the Act require that sellers provide a suitable weighing instrument and, when firewood is carried on a vehicle for delivery to a purchaser, the seller must provide a ticket containing specified information including the quantity of firewood delivered. Historically, the States and territories have had very differing provisions relating to the sale of firewood. The uniform Bill discontinued the requirement to sell only by mass and to provide a suitable weighing instrument. In its place the Bill requires that an article, which includes firewood, when sold by reference to measurement shall be the true measurement and that it shall either be measured, including weighed, in the presence of the purchaser or delivered with a written statement as to quantity.

As to the question of inspectors, the honourable member sought advice as to what sort of people will be appointed as inspectors. Inspectors appointed by the Minister under clause 6 will be employees of the Department of Public and Consumer Affairs who have successfully completed a comprehensive training course in weights and measurement administration. The current course for weights and measures inspectors is conducted over a period of seven months incorporating full time and part time on the job training.

Inspectors will be classified at the ASO3 and ASO4 levels. With regard to the question of fees charged by hourly rate, on clause 9(2) there was a request for examples of where a charge may be imposed on a time basis. For the majority of instruments verification and reverification fees will be a fixed amount prescribed by regulation. In determining the fee for each class of instrument regard will be had to the average time required to test the instrument and the actual cost incurred in this process. Some instruments, such as bulk metres, fuel tanks and hopper weighers may take different time periods to test, dependent on, for example, the shape of the measure, size, flow rate or accessibility. In these cases, fees for verification or reverification of the instruments will be calculated on the basis of an hourly rate. The current hourly rate is $90 per hour or part thereof and it is not anticipated that the hourly rate will be significantly increased.

The honourable member also sought examples of licence or permit fees. The legislation provides for the issue of service licences (clause 42) and weighbridge licences (clause 43). It is proposed that licence fees be a fixed amount payable annually on renewal of licences. The annual fee for a service licence will be of the order of $200 and for a weighbridge licence $150, with once-only application fees of $50.

Clause 38 of the Trade Measurement Bill authorises the administering authority to issue permits enabling persons to sell prepacked articles where the sale would otherwise be an offence. The fees for such permits would be of the order of $20. Finally, on the question of level of fees relative to other States, the honourable member questioned the appropriateness of fixing fees in South Australia by reference to fees in other States, referring particularly to his observations of fees under the former national companies and securities legislation.

I can assure the honourable member that his comments will be taken into account when the regulations are drafted and fees determined. My undertaking that fees will be comparable with those in other States allows for an appropriate differential if that appears justified. I thank members and trust that this long second reading reply will expedite a rapid Committee stage for the legislation.

Bill read a second time.

[Sitting suspended from 1.3 to 2.15 p.m.]

QUESTION TIME

MULTIFUNCTION POLIS

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Attorney-General, as Leader of the Government in the Council, a question about the multifunction polis.

Leave granted.

The Hon. R.I. LUCAS: Like many members in this Chamber, I read with interest in today's newspaper the first detailed interview with the new head of the multifunction polis, Mr Ross Kennan. I was delighted to read that Mr Kennan has set himself a deadline of 12 months in which, to use his words, there have 'got to be some deliverables'. Mr Kennan also said:

> If nothing happens in 12 months, we'll really be investigating why not.

Mr Kennan, as MFP chief, will receive remuneration of $300 000 a year with a potential incentive bonus of $70 000. While it is encouraging to see the new chief set such deadlines so promptly, it also poses the question of what targets for success the Government has sought from Mr Kennan and the MFP project in general, given that it is the Government (through taxpayers' funds) that will be paying.

During yesterday's interview with the media—which only occurred after media complaints and pressure—Mr Kennan also said he wanted to develop a 'partnership' with the media in order to raise the profile of the MFP and better promote the concept. The *Advertiser* has also reported comments from the new MFP Board Chairman (Mr Alex Morokoff) critical of the marketing of the MFP. Members might recall that in January 1992 Mr Neil Travers was appointed Communications Director with MFP Australia. According to a newspaper report on 23 January 1992, the position was not advertised.

Mr Travers previously worked as public relations manager with an equally ambitious national project, the Very Fast Train Joint Venture. I understand that other employees of the MFP were also employed in the communications and marketing areas. Members will also be aware that in October 1990 Michels Warren and SSB Advertising were selected ahead of 48 other contenders for the lucrative public relations and advertising contracts for the MFP.

Members, however, might be unaware that more than $500 000 has been paid to these firms during the past two fiscal years: 'Michels Warren has been paid more than $328 000 for its public relations consultancy work on the MFP, and SSB Advertising more than $200 000 for its advertising work on the project. MFP insiders have indicated that a major reason for the problems with marketing the MFP have been that first Mr Bannon and now Mr Arnold have had no clear idea of what the MFP is and what it is meant to achieve.

Concern has also been expressed to me about spending considerable amounts of money on in-house communications and marketing staff whilst, at the same time, employing outside consultants to do similar work. My questions to the Attorney-General are:

1. Will the Attorney-General provide details of the terms of the Government's appointment of Mr Kennan as chief of the MFP and, in particular, outline what targets the Government has set for the MFP within the 12 month deadline referred to by Mr Kennan?

2. Will the Attorney-General provide details of the criteria set by the Government under which Mr Kennan would be entitled to or to not qualify for the $70 000 incentive bonus?

3. Will the Attorney-General provide details of the total amount of money spent by the MFP on marketing, public relations, advertising and communications in each financial year since the project commenced, and will he indicate the specific responsibilities of in-house staff and outside consultants?

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

RETIREMENT VILLAGES

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

Leave granted.

The Hon. K.T. GRIFFIN: In November 1992 I asked questions about the Government's inaction on resolving difficulties between occupiers in retirement villages on the one hand and managers and proprietors on the other. The questions then arose from concern expressed by occupiers that they were not given sufficient say in the affairs of a retirement village and they were concerned about delays in repayment of licence fees when a unit is vacated. The Minister replied on 9 February 1993 that the Commissioner for Consumer Affairs was considering the outcomes outlined in the report of the retirement villages consulting group. The Minister said:

> The Commissioner is currently awaiting further submissions from the industry and resident representatives on certain matters.

I understand that those representations have now been made. Residents' groups have again contacted me saying that they remain anxious to have outstanding issues resolved. Some delays in repayment of licence fees are still being experienced, in some cases from 17 to 22 months. They say there is difficulty in getting information about outgoings and also in ensuring proper accountability of owners and managers. It is now nearly three months since the Minister provided the answers and over five months since I raised the issue last year. My questions to the Minister are:

1. Can she identify when the issues will be resolved?

2. Can she indicate how they will be resolved?

3. What continuing difficulties is the Government experiencing in achieving resolution of outstanding issues?

4. Has any decision yet been made on the need for or desirability of further legislation?

The Hon. ANNE LEVY: I will certainly get a detailed report for the honourable member. However, as I understand it, a resolution and compromise has been reached by negotiation between the parties concerned. While neither side may be exactly satisfied, as I understand it there is a compromise position that both sides are prepared to wear, shall we say. It will require legislation and drafted instructions are currently being

prepared on this matter. In dealing specifically with getting money back when someone leaves a unit in a retirement village, certainly there is agreement on periods or conditions which must apply. I cannot recall the exact details of the compromise situation which has been reached, but I will get a report for the honourable member on this. I am certainly delighted that sensible negotiation and discussion between the parties has resulted in this position. I will be more than happy to implement the legislation that is necessary to give effect to it. Unfortunately, of course, that will not be able to be done until the budget session.

NICHOLLS CASE

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

Leave granted.

The Hon. L.H. DAVIS: As the Attorney-General is aware, Chris Nicholls was gaoled for four months for contempt and is spending at least the initial part of his sentence in Yatala E Division. This morning I rang Yatala and spoke to the person in charge of the visitors' reception office. I asked whether it was possible to make contact with Mr Chris Nicholls or to leave a message for him. I was told that it was not possible to speak to Mr Nicholls, nor was it possible to have a message left for him to contact me. I asked under what circumstances could a message be left that I had called. The answer was adamant: the only time at which a message will be passed on to a prisoner is if there is a death in the family.

I then inquired as to the options available for making contact with Mr Nicholls. I was advised that I could write a letter, drop a note off at the prison or telegraph a message. Perhaps someone in authority at Yatala should be told that telegrams were abandoned as a form of communication in 1989 and that telegrams have been replaced by lettergrams, which cost $16 for same day delivery. As I mentioned, Chris Nicholls is in E Division, which houses fine defaulters and minor criminal offenders. While I appreciate the administrative burden of running a prison, I was stunned to learn that the only way in which a telephone message could get through to a minor offender in Yatala is if there has been a death in the family. Members of Parliament cannot leave a message, and even the prisoner's legal representative cannot ring in advance to say that they are coming and ask for a phone call back to see if any particular information is required. My questions to the Attorney-General are:

1. Does he believe that it is unreasonable that a member of Parliament cannot even leave a telephone message for Mr Chris Nicholls, who is serving time in Yatala E Division?

2. Does he believe it is not unreasonable that minor offenders serving gaol sentences should be entitled to receive telephone messages from accredited legal representatives, members of Parliament and immediate family, and receive these messages once a day at the same time as the daily mail?

3. Does he believe that a review of the current restrictive access to prisoners serving time for minor offences is warranted?

The Hon. C.J. SUMNER: It is problematical whether Mr Nicholls is in there for a minor offence, Mr President, but that is a matter about which people can have different views in the community, I suppose. There is a curious thing about this Opposition. One really cannot work them out. Normally they are in this place carrying on, stomping their feet about the fact that prisons are too open, that too many people can get access into the prisons, that too many people can get access out of the prisons and that it is all too free and easy. We usually end up having condemnatory statements from members opposite about prison security and who has access to prisoners, and the like—except apparently from the Hon. Mr Davis, from the Left Liberal faction of the Liberal Party, or what there is left of it. I think he is the only member at the moment and he is not being very successful at increasing the numbers in the group.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Certainly, he does not seem to be able to move from his customary spot on the back bench to the front bench, although I understand, if my memory serves me correctly, at one stage he did have a fleeting period sitting where the Hon. Mr Griffin sits.

An honourable member interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: It is relevant in this sense, Mr President: that the Liberal Party does not seem to be able to make up its mind about prisoners' rights. The Hon. Mr Gilfillan, of course, is quite consistent: he would let them have whatever they like. But that is not usually the view expressed by the Liberal Party, except, it seems, by the Hon. Mr Davis today, because he had a problem getting in touch with Mr Nicholls. I cannot comment on the procedures. I assume that the procedures that were applied to the honourable member are those that are applied to other persons from outside the prison when they try to contact prisoners. However, I will refer the question to the appropriate Minister and bring back a reply.

SPEED CAMERAS

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Emergency Services, a question about speed cameras.

Leave granted.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.F. STEFANI: Mr President, I have been approached by a constituent who has received two expiation notices through the speed camera system for two speeding offences which the Police Department allege occurred on 26 March 1993. The peculiarity of these two infringement notices is the fact that the notices were issued on the same day, at the same location, for the same vehicle travelling in the same south-westerly direction on the Lower North East Road, Dernancourt,

within nine minutes of each other. On the first occasion, at 10.28 a.m., the vehicle was booked at 71 km/h and nine minutes later, at 10.37 a.m., the vehicle was booked at 77 km/h. The owner of the vehicle has received two fines for $89 and $150 respectively. Naturally, and to no avail, the owner wrote to the Police Department making strong representations about the double fine and pleading guilty only to the first offence which occurred at 10.28 a.m. The owner of the vehicle has advised me that the vehicle was being driven from Dernancourt to the city; he did not notice the speed camera, nor did he return to travel back over the same section of road. My questions are:

1. Will the Minister advise how many expiation notices were issued by the speed camera unit operating at the described location between the hours of 10.28 a.m. and 10.37 a.m. on 26 March 1993?

2. Will the Minister investigate the circumstances which led to the issue of two expiation notices for the same vehicle, at the same location, on the same day and only nine minutes apart, in order to ensure that the fines are valid?

3. Finally, will the Minister investigate the possibility of a fault in the camera or the possibility of incorrect readings being recorded, as it would appear from the photograph that the speed camera had been located directly opposite an electric light pole?

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

HOME AND COMMUNITY CARE

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health, Family and Community Services a question about HACC funding redistribution.

Leave granted.

The Hon. M.J. ELLIOTT: From 1 July this year new guidelines come into force for the home and community care program. They are the result of a review which looked at which councils were and which were not providing frail aged and disability services. The effort to ensure that all councils provide HACC funded services is admirable, but the way this is being achieved is not. Instead of providing new money to the councils which were not providing services, a formula was devised to redistribute the existing funds. No social justice element, that is, the ability to pay for services, or consideration of any individual council's past contributions to services was built into the formula.

The result is that several South Australian areas are being seriously disadvantaged. Noarlunga Council is facing a cut of $55 000, meaning that some of the services it provides to the frail aged and people with disabilities will be axed, while others will be cut back. The inequity of the situation is that, while in the past Noarlunga has been providing services to its residents on very low incomes and pension only incomes, those services will now be cut to provide money to councils in more affluent areas which have in the past not provided any services to residents who, on the whole, can afford to pay for them. I understand that Salisbury Council, too, is being badly affected. Among the services to go at Noarlunga are respite services for families caring for frail aged relatives at home and evening sitter services for families caring for disabled relatives at home. My questions to the Minister are:

1. Is the Minister aware of the effect of the new guidelines on Noarlunga Council?

2. Does the Minister agree that a social justice factor should be included in the formula used for funding distribution?

3. Will the Minister approach the Federal Minister on this issue?

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

MAREEBA CLINIC

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health, Family and Community Services a question about Mareeba.

Leave granted.

The Hon. BERNICE PFITZNER: As we know, Mareeba is a stand-alone clinic for abortion, as well as for other related counselling activities. I am informed that there is now a waiting list of three weeks for the mid-trimester (that is, 12 to 24 weeks), or late, abortions. This is intolerable and unacceptable, as these 'late abortions' need to be attended to immediately, for obvious reasons. One of the initiatives in setting up Mareeba separate from the general hospital was to attend to these 'late abortions', which procedure I understand some of the Queen Elizabeth nursing staff had difficulty in accepting and thus the move to the Mareeba stand-alone clinic. Recently, I have identified serious concerns with the handling of emergency cases and, if these emergency procedures do not improve, death will be almost inevitable. We now have waiting times which, in a dynamic situation of pregnancy, is unacceptable. The community has justification in asking what is happening at Mareeba. My questions to the Minister are:

1. Is this length of waiting time correct?

2. If some of these cases have been transferred, to where have they been transferred?

3. In view of all these serious concerns, will the Minister look at relocating these procedures back to the Queen Elizabeth Hospital?

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

LAKE EYRE BASIN

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Environment and Land Management a question about the Lake Eyre Basin heritage listing.

Leave granted.

The Hon. PETER DUNN: About two weeks ago the pastoralists on the Birdsville Track and other areas held a meeting in Marree. I would like to quote from an article written about that meeting:

An estimated crowd of 80 pastoralists from as far as Oodnadatta, Innamincka and Hawker attended the meeting which was convened by the Marree branch of the South Australian Farmers Federation to discuss proposed World Heritage listing of the Lake Eyre Basin. Spokesman Grant Oldfield said strong support from the pastoral community led to the establishment at the meeting of the Lake Eyre Catchment Protection Group and an associated fighting fund.

He went on to say:

We object to the concept of World Heritage listing becoming a political football... Mr Oldfield said the group wanted to be represented on the study groups and research teams which would be visiting the area prior to consideration for World Heritage listing.

I understand that the banks have already lowered the value of the properties in the area and are lending less money because of the pending heritage listing for the Lake Eyre Basin. That concerns a number of people in the area. My questions are:

1. What is the Government's position with regard to support for the Lake Eyre basin becoming a world heritage listing?

2. Will the Government assist the pastoralists to state their case when the Lake Eyre basin is under study for world heritage listing?

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

WORKCOVER

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Labour Relations and Occupational Health and Safety, a question about WorkCover.

Leave granted.

The Hon. J.C. BURDETT: I refer to an advertisement in the *Leader Messenger* on Wednesday of this week. In bold type and boxed in a very prominent manner, it reads:

Work injury? Act now or miss out. Six weeks to go before the right to sue for negligence at common law under the WorkCover system, in most cases, is gone completely. For a free appointment and further information phone our compensation hotline on ... A service provided by Duncan and Hannon solicitors.

My questions to the Minister are:

1. Does the Minister agree that the advertisement accurately sets out the position?

2. Does the Minister have any other comment on the advertisement?

3. Is there any estimate of the number of outstanding common law claims and the amount of money which may be involved?

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

POLITICAL ADVERTISING

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister representing the Minister of Education a question about political advertising on school properties.

Leave granted.

The Hon. R.I. LUCAS: During the recent Federal election campaign the Labor Party was allowed to place Party political advertising material on a number of school fences in Adelaide. For example, the Labor candidate for the Federal seat of Sturt was allowed to have his election posters placed on the fences of a number of schools and school properties in the Federal electorate of Sturt. In particular, I instance the front fence of Marden secondary college which fronts onto Lower Portrush Road. That sign was there for at least 10 days, perhaps longer, during the Federal election campaign. A second sign, about which I have received complaints, was on the front fence of the Trinity Gardens Primary School, which fronts onto Portrush Roads in Trinity Gardens. I am advised that there were a number of other examples as well.

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: I want to know, as the shadow Minister of Education, Employment and Training, what the guidelines are for the State election campaign. If we are to be allowed to plaster the front fences of school properties with the Liberal Party advertising, then let it be even handed. My questions are:

1. Why did the Minister and the Education Department during the recent Federal election campaign allow some South Australian schools to place Labor Party advertising material on Education Department school properties?

2. Does the Minister intend to allow similar advertising during the forthcoming State election campaign?

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

KENSINGTON PARK TAFE

In reply to **Hon. J.F. STEFANI** (9 February).

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

1. The total cost associated with the asbestos removal was $1800000, none of which was paid by the Department of Environment and Planning.

2. The Department of Environment and Land Management share of the cost of demolition of the asbestos-contaminated buildings will be $100 000.

3. At the time the property was offered for sale it was declared that the building was clear of asbestos; a subsequent investigation revealed that there was some previously undetected material present in the property. The current asbestos removal payment is a consequence of remedying this unplanned cost to the purchaser.

4. Settlement occurred on 4 March 1993.

WOOL INDUSTRY

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Primary Industries a question about wool.

Leave granted.

The Hon. PETER DUNN: Most people will be aware of the rapid fall that has occurred in the price of wool and what a disaster it is becoming for the nation with the huge stocks still remaining and the value a quarter of what it was three to four years ago. The clean scoured price of wool today is about 350 to 360 cents a kilo, whereas it was getting on towards 1200 cents four years ago. The problem appears to be that wool has dropped in quantity. During the 1950s we had 20 per cent of the world's fibre content; today we have 4 per cent. A lot of that can be put down to synthetics, but much of it has been taken over by cotton. It was interesting to note an article the other day saying that woollen jumpers were nearly impossible to purchase in Scotland; they were cotton.

This is a plea to the Minister to advertise the fact that perhaps we should be wearing jumpers, as winter is approaching—

Members interjecting:

The Hon. PETER DUNN: It will be a very cold winter, I am reliably informed by my arthritis. We have been told that if we get every Chinese person to wear a pair of socks it would cure our problems with the stocks around Australia. They are very good articles. If each member were to buy a suit made of wool, that would also help. Will the Minister promote South Australians to purchase a pair of socks, a jumper and perhaps a suit, if they can run to that, to assist the wool growers of this State, because they are in a very dangerous financial position?

The Hon. BARBARA WIESE: I will refer this question to my colleague in another place for his consideration and I am sure that in the fullness of time I shall be able to bring back a reply. I know that he is very keen that we should sell more wool, and I am sure that that extends to woollen products. Personally, I only ever buy woollen jumpers and woollen suits wherever possible. I am sure that many other people take that view as well, because we know it is in the national interest.

CREDIT LEGISLATION

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

Leave granted.

The Hon. K.T. GRIFFIN: I have raised this issue on several occasions in the last year by way of questions relating to the current status of uniform credit legislation, as well as raising the issue of credit cards. My colleague the Hon. John Burdett has been equally diligent in raising questions about credit card interest rates and up-front fees. On the last occasion that the question of credit card fees was raised, which was on 30 March, the Minister indicated that she did not wish to comment officially on what may or may not be Commonwealth proposals. She said, 'I would rather wait until I know what the Commonwealth proposals are before commenting on them.' On that occasion it was in reply to a question relating to upfront fees and a reduction in interest rates.

I understand that the Consumer Affairs Ministers are now meeting in about mid-May, which is in approximately two weeks time, and from all reports the Commonwealth is going to make some proposals, if it has not already done so, in relation to upfront fees on credit cards in return for a reduction in interest. I understood also that the whole issue of uniform credit, legislation will be on the agenda.

Has the Minister yet received the Commonwealth proposals and, if so, can she indicate what they may be and what her attitude will be towards those proposals in relation to credit cards? If the Commonwealth proposals have not yet been received can the Minister indicate whether she has given further consideration to the mechanisms by which upfront fees might be permitted to be charged on credit cards in return for interest rate reductions, and how the relationship between the two is to be enforced, if at all? Also, what proposals are there for taking further the issue of uniform credit legislation proposals?

The Hon. ANNE LEVY: The honourable member has asked a whole series of questions, and I hope I can recall them all. It is certainly true that the Consumer Affairs Ministers are meeting in Sydney a fortnight from today. That meeting will address not specifically the issue of credit cards but the issue of credit legislation, which of course includes credit cards. However, it is by no means limited to the question of credit cards.

There have been discussions between some Ministers, and there have also been meetings of officers from a number of States—I cannot be sure if the officers were from all States. Those officers met in Adelaide last week to discuss points where there is still formally a disagreement between the States. I am not party to all conversations which are occurring, of course. I have discussed the matter with a couple of Ministers, but not with all of them, and I have certainly urged that, while every Minister coming to the conference has a preferred position and hopefully Cabinet endorsement on the degree of compromise which they can undertake, if there is too much beating of drums before the meeting actually takes place it will make it that much harder to achieve any compromise, if compromise is achievable.

I hope that all Ministers are coming with a willingness to seek compromise so that agreement can be reached amongst all the States. This does not mean that South Australia has in any way altered its position that upfront fees should be permissible only if there is a concomitant fall in interest rates for credit cards.

In terms of how this is to be achieved, obviously this is a matter that must be discussed by the Ministers. However, I point out that the report from the Prices Surveillance Authority on credit cards, which was issued in November last year, did refer to monitoring and reporting being undertaken by the Prices Surveillance Authority, and that is certainly one of the options which is being floated amongst the Ministers. There are two lots of Commonwealth proposals. The Commonwealth Minister of Consumer Affairs has circulated to all Ministers some suggestions on resolving some of the points on which agreement had not yet been achieved.

The Hon. K.T. Griffin: That is in relation to uniform credit.

The Hon. ANNE LEVY: Yes, this is in relation to uniform credit. It is some time since I received the Minister's letter and I may be wrong, but I do not recall

specific mention of credit cards in that letter. Her letter mainly addressed the matter of automatic civil penalties.

In regard to the matter of credit cards, there was discussion from the Federal Treasurer, Mr Dawkins, last November when he intimated that he would be prepared to legislate if the States could not agree a uniform agreement. I think that he, or the new Finance Minister, reiterated that comment about a month ago. However, as far as I am aware neither of them has indicated what forms that legislation would take. If it has been drafted I certainly have not seen it, and do not know what its contents would be. It is rather difficult to comment on legislation which one has not seen and about which one only has media reports, knowing the accuracy of media reports on some occasions. Have I covered everything?

The Hon. K.T. GRIFFIN: Yes.

PORT CHARGES

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

Leave granted.

The Hon. L.H. DAVIS: One of the important matters of which the Government of the day is aware is South Australia's competitive advantage. The A.D. Little—

The Hon. C.J. Sumner: Are you asking me about ports?

The Hon. L.H. DAVIS: I am asking you, as the economic guru for the Government in the Legislative Council. I think it is legitimate to ask you.

The Hon. Anne Levy: Pass the port.

The Hon. L.H. DAVIS: I do not think you would be wanting to pass this one.

The Hon. Anne Levy interjecting:

The Hon. L.H. DAVIS: The A.D. Little report emphasised the importance of developing a business culture in Government and a competitive advantage in South Australia. Yesterday the Bureau of Industry Economics released a major report on the subject of Australian port authorities and, whilst it conceded that some significant microeconomic reforms had been achieved and some gains in efficiency on the Australian waterfront, the point was made very strongly that, comparing Australian ports with overseas ports, we still have a long way to go. An example mentioned was that Australian port authorities' charges on average are twice as high for those comparable overseas charges, and for some cargoes as much as 20 times higher.

It said that excess capacity was still a problem facing Australian waterfronts. Also, there was scope for further rationalisation of employment and capital within many Australian ports. Amongst the very detailed findings was perhaps the most important of all: the port charges which were made for various commodities such as coal and wheat, which are major exports for Australia.

Of course, South Australia is not a significant exporter of coal, but it certainly is a significant exporter of wheat. I was alarmed to read in the report that in relation to wheat the world's best port charge was 16c a tonne, but in Australia the range was from $1.11 at Fremantle through to the highest charge of all of $2.63, which was at Wallaroo in South Australia. That meant that the Wallaroo charge was 16 times higher than the world's best in Vancouver.

It is a matter of major concern. I am wondering whether the Government, with its recent economic statement of meeting the challenge, would make an analysis of the Bureau of Industry Economics and report back to the Legislative Council on what steps it takes to make South Australian ports more competitive for exporters.

The Hon. C.J. SUMNER: I understand that my colleague, the Minister of Transport Development, has something to say on the topic and I will ask her to comment.

The Hon. BARBARA WIESE: Speaking as the Minister responsible for South Australian ports, I can indicate to members that the matter of the reform of South Australian ports, particularly in the port charges area, is one of the top priorities that we have at the moment. Very significant changes have already been undertaken in this area by the South Australian Government over the last two or three years. There has been a significant reduction in port charges during that time. There is a new regime of charges that have come into effect during the past 12 months. This now means that, overall, South Australian port charges are amongst the lowest in Australia and that is a very significant achievement for a State which has a relatively large number of ports but a relatively low volume of cargo. We recognise that if we are to improve our position even further, we must be able to bring about further efficiencies within the ports in our State and work is currently under way to achieve that. One of the keys to this will be to reach an enterprise bargaining agreement with the port work force which, it is hoped, can be achieved some time during the next few months. This will have an impact on port costs.

In addition to that, there are extensive efforts taking place to increase the volume of cargo through our ports and, as members would be aware, as a step in the direction of achieving that there was recently a change in the operator for the Port of Adelaide container terminal. It is hoped that through the efforts of that new operator, working hand in hand with the Department of Marine and Harbors, we will be able to market the port of Adelaide in particular, much more effectively than we have been able to do previously. Through the efforts of Sealand, the new operator, we are hoping that there will be increased volumes of cargo through the port of Adelaide. If we can achieve those increased volumes, as we very much believe we can, then that, in turn, will allow a further reduction in port charges.

So, the South Australian Government, through the Department of Marine and Harbors, is very well aware of the needs of ports in our State to be competitive, in the first place against our competition in other parts of Australia, and we are working very hard to achieve that. As I have indicated already our overall port charges in this State are now at the lower end of the range; they are amongst the cheapest in Australia. Overall, of course, the work that is going on in the area of waterfront reform in Australia is designed to make our ports more competitive in the international marketplace. Of course, in some respects it is will to be very difficult to achieve

parity with many ports around the world because they are operating in a very different climate with respect to costs. The standards for shipping, workers' wages and other things in some parts of the world are extraordinarily low. I do not think that Australia should be aiming to compete with the world's worst practice in some of those respects but where we can be more competitive and maintain a reasonable standard of living for our work force and also a reasonable standard of safety, and other matters in the area of shipping, that is certainly what we will be aiming to achieve.

ENFIELD MEDICAL SERVICES

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health a question about shortage of doctors in the Enfield area.

Leave granted.

The Hon. BERNICE PFITZNER: A recent article in the *Standard Messenger* says that Enfield has three times more people per doctor than neighbouring Prospect, a South Australian commission report reveals. The Social Health Atlas of Australia released last year says that the Enfield council area has 1 393 people per GP; Prospect has only 445 people per GP; and the average for Adelaide is 826. The report author, Mr John Glover, said, 'Many Enfield residents would have to travel further to find a GP, relying on cars, if they have them, or public transport.' Despite the apparent shortage of GPs at Enfield, South Australia is thought to have an over-supply of doctors. The Eastern Community Health Director, Mr Broderick, says that the community health service at Enfield has been inundated by people with basic health inquiries since its opening in June last year. My question to the Minister is: what strategy has the South Australian Health Commission in place to address this situation in the Enfield area?

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

PUBLIC SECTOR CUTS

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister of Public Sector Reform a question on the subject of statutory authorities.

Leave granted.

The Hon. R.I. LUCAS: There was a report in the *Australian* newspaper earlier this week, or on the weekend, which indicated that the Attorney-General, when he released his ministerial statement some time this week or, I presume now, next week was going to target up to 100 statutory authorities to be axed as part of that ministerial statement. The sourced or leaked story to the *Australian* newspaper reporter indicated that 100 came from an estimated 400 statutory authorities and boards here in South Australia. As we previously discussed, if

that estimate of 400 is being used, then that is the smallest, or tightest, definition that the Minister might be using on the number of statutory authorities that exist in South Australia. My questions to the Minister are:

1. When will the Minister's statements on public sector reform, as part of the Economic Statement Package, be made in this Chamber?

2. Can he confirm the accuracy of the media report, that his statement will be targeting 100 statutory authorities to be axed?

3. Will any statement that the Minister of Public Sector Reform makes to this Parliament in the next week indicate, in detail, how many staff will be targeted in each of the departments as part of the overall target of 3 000 public sector staff to be cut over the next 14 or 15 months?

The Hon. C.J. SUMNER: The answer to the last question is 'No'. The figure that has been given, via the Premier in his Economic Statement, is the target which the Government has to be met by 30 June next year and the other changes which are being put in place are designed to facilitate that process. The major planks of the public sector reform statement have been outlined by the Premier already. My job is to fill in the gaps with more detail, and deal with the issues that arose out of the draft vision document that was prepared in December last year. We will also be dealing, as the honourable member indicated, with statutory authorities but more in terms of processes to deal with them. Certainly, I cannot confirm the report that the honourable member referred to in the *Australian.* I am afraid that, on that, he will just have to wait and see.

The Hon. R.I. Lucas: Is it wrong?

The Hon. C.J. SUMNER: You can make up your mind as to whether or not it is wrong once you hear the statement. There will be a statement that covers statutory authorities, but I am not prepared to comment beyond that at this stage. My expectation is that I will be able to make the statement on Tuesday. However, I point out that any major planks or macro-aspects of public sector reform have already been outlined in the Premier's statement: the wages policy, enterprise bargaining, reduction in the number of Government departments, details of customer service, etc., have all been dealt with. So, my job will be to give some flesh to some of those proposals that were outlined by the Premier and, in particular, to deal with the draft vision statement for the public sector, which was prepared last year by the Office of Public Sector Reform and released for public comment, and which has been the subject of considerable comment and discussion in the community. My anticipation is Tuesday.

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister of Public Sector Reform a further question about public sector reform.

Leave granted.

The Hon. R.I. LUCAS: In response to one of those questions the Minister of Public Sector Reform indicated that his statement next Tuesday would not specify targets for reductions in public sector staff in each of the new departments as a component part of the total 3 000 public sector staff to be reduced over the next 14 months. Does that mean that no-one is setting those targets and that the discussions that have been had with departmental chief executive officers have basically said 'Men and women

of the Public Service, go for it and whoever can get to 3 000 first it does not really matter where they come from. If the Education Department can rip out 3 000 teachers and educators first then we have our target and so be it"?

Some might suggest that it is a ludicrous proposition that the Minister of Public Sector Reform or someone is not stipulating what the targets ought to be within the overall target of 3 000; otherwise what the Liberal Party sees as an important departmental service, that is, the education sector, may well, if the chief executive officers and others and the Minister go ahead, rip out a large percentage of the 3 000 from the Education Department itself, if a target is not set by somebody.

So, my question to the Minister is: if the Minister of Public Sector Reform, the person who is responsible for the whole oversight of public sector reform in South Australia, is not going to set the targets, who is, or is he confirming that no-one will set a target and it is up to the Public Service mandarins to go their hardest to see who can get to the 3 000 first in their own departments?

The Hon. C.J. SUMNER: I suggest that the honourable member await details of the statement, as I said, hopefully, on Tuesday.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Well, we have not made a bad start in the Economic Statement, where some pretty significant aspects of public sector reform were dealt with. There are more, but the major points of public sector changes were outlined and they were—

The Hon. R.I. Lucas: What about details?

The Hon. C.J. SUMNER: They were significant. I thought the reduction in departments to 12 was fairly important as, indeed, are the targeted separation packages, as are the enterprise bargaining proposals for wage negotiations, etc. I would have thought they were all fairly important aspects of the Government's policy as, indeed, is the target to reduce the public sector by some 3 000 by 30 June next year. If the honourable member wants me to go into the reasons for it, I will, but I am sure he does not need to be lectured yet again about the State debt or the recurrent deficit. However, the 3 000 is a target and it does—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: They are targeted separation packages, not compulsory retrenchments and they are not something that will be applied to everyone. Not everyone will be entitled to take a retrenchment package. It will depend on the priorities of the department and of the Government.

The Hon. R.I. Lucas: Who will set the priorities?

The Hon. C.J. SUMNER: The targets will be set by Ministers in their departments, depending on policies and priorities that are set within those departments and, of course, subject to the overall oversight of Cabinet. It does not—

The Hon. R.I. Lucas: Who's setting the overall priorities? Are you setting the overall priorities?

The Hon. C.J. SUMNER: I wish I could. I do not think my colleagues would be too keen on that. If the Premier wants me to assume those sorts of dictatorial powers I would be very happy to do it.

The Hon. L.H. Davis: Well, what do you do as Minister of Public Sector Reform?

The Hon. C.J. SUMNER: I formulate policies relating to a whole range of issues, some of which have surfaced in the Economic Statement. I would have thought that even members opposite would concede that some pretty significant aspects of public sector reform were announced in the Economic Statement. It is my job to deal with those issues. The principles of public sector reform and the implementation of those principles must be carried out by the individual Ministers and their CEOs in the respective departments. And it is not—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: They set their priorities.

The Hon. R.I. Lucas: How many teachers are you going to get rid of? Who makes that decision?

The Hon. C.J. SUMNER: We have given an overall target.

The Hon. R.I. Lucas: Who makes the decision about how many teachers you're going to get rid of? You? Cabinet?

The Hon. C.J. SUMNER: If you want me to go through the philosophy, I have already done it but I will go through it again if you like. The fact is that what we have tried to do with the restructuring is to get the savings in the public sector without affecting the delivery of services on the front line. The proposal to do that has been to try to get greater efficiencies within the administrative support sections of the public sector rather than dealing with cuts at the front line. But that is the challenge, the aim and, within that context, the target we have for 30 June of next year was 3 000 positions.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: I have already answered that.

The PRESIDENT: Order!

The Hon. R.I. Lucas: Who sets the targets?

The Hon. C.J. SUMNER: I have already answered it. The overall position is 3 000. Within each Government department and agency it is a matter for the Minister.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Of course; that's why you have targeted separation packages, which have been outlined. The position is that the priorities will be set by the Ministers within their own departments. A whole lot of other activities are going on within the general area of public sector reform: the overall Government target is 3 000. Within that, individual Ministers will have to set their own priorities. The general priority is to get those numbers down without affecting the delivery of services, that is, the people on the front line. That part of the strategy is reflected in the reduction of the number of Government departments and agencies. They are targets; we have to set—

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The situation has to be dealt with by individual Ministers within the overall target set by Government—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: I am not confirming anything—without affecting the delivery of services. That is a challenge that has to be met by individual Ministers and departments.

EVIDENCE (MISCELLANEOUS) AMENDMENT BILL

Returned from the House of Assembly with amendments.

MURRAY-DARLING BASIN 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.

On 24 June 1992 the Prime Minister and Premiers of South Australia, Victoria and New South Wales signed a new agreement as the basis for cooperative and coordinated planning and management of the water, land and other environmental resources of the Murray-Darling Basin. This agreement consolidates and replaces the River Murray Waters Agreement of 1982 and its subsequent amendments as well as adding some further provisions.

This new agreement, the Murray-Darling Basin Agreement 1992, is still to be ratified by the Federal Parliament, the Parliament of Victoria and this Parliament. A Bill ratifying the agreement has been passed by the New South Wales Parliament. The Bill now before the House approves and provides for the carrying out of the new agreement, and repeals the Murray-Darling Basin Act 1983.

The new agreement is an extension of the current agreement. Although it retains most of the existing provisions as they are, it modifies the current agreement in six important areas:

- it broadens the role of the Murray-Darling Basin Ministerial Council and Commission in the measurement, monitoring and investigation of water, land and environment resources
- it provides for other States, such as Queensland, to become parties to the agreement
- it provides for the implementation of specific strategies such as the Natural Resources Management Strategy and the Salinity and Drainage Strategy to become schedules to the new agreement
- it provides for a more business like approach to the management of the financial resources of the Murray-Darling Basin Commission, including flexibility for the Ministerial Council to determine alternative cost sharing formulae if that is thought to be appropriate in any particular instance
- it overhauls the water distribution clauses so that water used by NSW and Victoria is accounted for on a continuous basis
- it provides for the appointment of an independent President of the Murray-Darling Basin Commission, in lieu of the current arrangement whereby a Commonwealth Commissioner automatically becomes President.

I commend the Bill to the House. The provisions of the Bill are as follows:

Clauses 1 and 2 are formal.

Clause 3 sets out the purpose of the Bill.

Clause 4 defines terms used in the Bill. Words used in the Bill have the same meaning as in the new agreement (see subclause (2)).

Clause 5 provides for Parliament's approval of the agreement.

Clause 6 sets out the basis on which Commissioners and Deputy Commissioners are appointed by South Australia.

Clause 7 provides that a State member holds office on the terms and conditions determined by the Governor.

Clause 8 ensures that the appointment of a State member is not invalidated by a defect or irregularity in the member's appointment.

Clause 9 provides for remuneration and allowances for State members.

Clause 10 enables a State member to resign in accordance with clause 29 of the Agreement.

Clause 11 provides for removal of a State Member by the Governor.

Clause 12 provides the Commission with its powers, functions and duties.

Clause 13 enables the Commission to authorise a person to enter and occupy land for the purposes of the Act and the agreement. The Commission must provide the authorised person with a certificate that complies with subclause (3).

Clause 14 provides for notice before entry onto land. Subclause (4) places restrictions on the exercise of this power.

Clause 15 makes it an offence to obstruct or hinder an authorised person or Commissioner.

Clause 16 authorises the construction, maintenance, operation and control of works and the other acts and activities set out in paragraphs (b) and (c).

Clause 17 gives the Minister power to acquire land.

Clause 18 gives the Minister power to construct works and undertake other acts and activities set out in the clause on behalf of the Commission.

Clause 19 authorises the Minister to pay compensation.

Clause 20 gives the Minister power to sell or lease land acquired under clause 17.

Clause 21 provides that land dedicated under the Crown Lands Act 1929 for the purposes of the agreement may be used and occupied by a contracting Government.

Clause 22 provides for the resumption of land that is subject to a Crown lease for the purposes of the agreement.

Clause 23 provides for the imposition of tolls at locks.

Clause 24 gives the Supreme Court jurisdiction in relation to the Commission and the Commissioners.

Clause 25 provides that money to be contributed by the State under the agreement must be paid out of money appropriated by Parliament for that purpose.

Clause 26 exempts the Commission and its operations from State taxes.

Clause 27 is an evidentiary provision.

Clause 28 requires the Minister to lay the documents referred to in this clause before Parliament.

Clause 29 provides for other States to become parties to the agreement.

Clause 30 provides an offence in relation to the destruction of, or damage to, any works.

Clause 31 provides for the making of regulations.

Clause 32 repeals the Murray-Darling Basin Act 1983 and enacts transitional provisions.

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

MUTUAL RECOGNITION (SOUTH AUSTRALIA) BILL

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

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

Motion carried.

SUPERANNUATION (VOLUNTARY SEPARATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 April. Page 2204.)

The Hon. L.H. DAVIS: The Liberal Party supports this Bill. We have consulted with employer groups and we have had the advantage of a briefing from Treasury on the Bill. This Bill has been introduced in association with the Premier's Economic Statement and it is related, as the title implies, to the voluntary separation packages that are to be offered to public servants over the next 14 months. The Government, in the *Meeting the Challenge* Economic Statement, announced that it was seeking to reduce public sector employment by 3 000 by the end of the 1993-94 financial year. The Government claims that it will not be sacking public servants but, rather, offering attractive voluntary separation packages to achieve this target. There has been some confusion in the Government—and, of course, we have grown quite used to that—about the exact timing of the voluntary separation packages.

The Minister of Labour Relations and Occupational Health and Safety, Mr Bob Gregory, was quoted as saying there would be no voluntary separations before 1 July 1993, but within hours that suggestion was countermanded by the Premier, who announced that in fact 1 500 voluntary separation packages would be offered within a matter of weeks. Indeed, my colleague the Hon. Robert Lucas has just questioned the Attorney-General about the nature of the strategy that forms the basis of the reduction in the public sector of some 3 000 jobs. It is one thing for Ministers to set targets, or to be asked to set targets, to achieve this figure of 3 000, but it is quite another thing to prioritise those various lists coming in from 13 Ministers.

As the Attorney-General has properly argued, the emphasis is going to be on a reduction in jobs that do not directly impinge on service to the community. That is a commendable objective, if it can be achieved. However, we have yet to hear, in this Chamber at least, exactly what jobs will go and who makes the final decision. It alarmed me that the Attorney-General, who is also styled the Minister of Public Sector Reform, was quite unable to provide a coherent answer to that question asked by my colleague the Hon. Robert Lucas today. Perhaps that should come as no surprise because, of course, he was the bearer of a 38-word answer only last week on the subject of ministerial staff—an answer which took six months to wring out of the Premier's office and which said nothing.

This Bill seeks to provide that an employee under the age of 55 years who is a contributor to a State pension scheme or the lump sum superannuation scheme—remembering that there are now two State superannuation schemes following the closure of the extraordinarily generous original scheme some years ago—will be eligible for an employer benefit, that is, a benefit from the Government of South Australia, of 12 per cent of final salary for each year that person has been a member of the scheme to 30 June 1992, together with a refund of contributions including interest, plus the superannuation guarantee.

An employee who is 55 years and over, who is a contributor to a pension scheme, can take the commuted value of his or her pension, plus the superannuation guarantee. That is a benefit, obviously, for those people accepting the voluntary separation package. The Opposition accepts that it is also of benefit to the Government, because the calculation suggests that there will be net savings to the Government of 37 per cent for pension scheme contributors. The bulk of them would be in the pension scheme or, if they had transferred to the lump sum scheme, they would be a minority, in any event. The lump sum superannuation scheme, of course, has been operating only since 1988.

The voluntary separation package currently offers eight weeks salary, plus two weeks for every year of service to a limit of two years salary, plus a refund of contributions, together with interest, for anyone retiring before 55. In other words, someone who has been in the public sector from the age of 20 and was retiring, say, at the age of 54, and has been in the public sector for 34 years, would receive eight weeks salary, plus two weeks for each year of those years of service, which would be 68 weeks, making a total of 76 weeks. So, that person would be receiving an amount equivalent to salary for a year and a half. Of course, the maximum could be higher—it could be up to two years salary. Someone on $50 000 would be receiving a package of $100 000, which I think would certainly be regarded as attractive: that is, for people retiring before 55.

Obviously, people retiring before 55 have to make a judgment about the taxation implications of what are now very complex provisions set down by the Commonwealth Government in relation to retirees. A differential comes into play for those under 55 as against those over 55, and of course it is different again for people over 65.

So, the proposal has a certain generosity for many people, particularly those who may have skills which are readily transferable to the private sector, but with unemployment of some 11.5 per cent in South Australia and, with both people of younger age and middle age scrambling to get jobs, public servants who are seduced by the initial attraction of the separation package will obviously need to seek counselling, have a good look at their options and do some projections on their financial position before accepting the voluntary separation package.

The Hon. T. Crothers: Is that advice available?

The Hon. L.H. DAVIS: Certainly, I think in 1993 we are in a much better position to receive financial advice as intending retirees than we ever have been. Back in 1978 I, as manager of a national sharebroking firm in Adelaide, initiated the first public seminars on preparing for retirement. We were holding seminars every six weeks for 150 people. We were providing advice from a

psychologist, a taxation expert, an accounting expert and also investment suggestions. That was in a very simple, uncomplicated era of superannuation. Now superannuation is a monster, it is a maze, even for professional people who are providing advice in this area. I am sure that the South Australian Superannuation Fund and its very professional officer, Mr Dean Prior, are in a position to point people in the right direction for investment advice.

Certainly, the voluntary separation package has an appeal for someone who would like to move to another job, has the ability to move on to another job, or someone who may be able to receive a pension or someone who would be able to use the lump sum to pay off commitments and then still be eligible for the social security benefits which can be triggered for people over 55, provided, of course, they meet asset and income tests.

So, the Government will save in the longer term as a result of the savings effected through the Government Superannuation Scheme which, as I have said, are estimated to be 37 per cent for the pension scheme contributors—of course, the bulk of the people who will be affected—but it is regarded as cost neutral for lump sum contributors, given that that lump sum scheme has only been operating for a short time.

So, the voluntary separation package proposal will cost the Government significant sums in the short term. If I can draw a figure out of the air, just to give some estimate of the costs, and say there are 3 000 people involved at an average of $70 000 per annum per person—and I really have not had a chance to check whether that is an accurate figure or not—that will be a cost of $210 million over a 13 month period. It is a considerable cost, although the benefits will flow through in savings on salaries and also, as I have said, in savings in the longer term to the superannuation scheme.

There has been some union pressure about this proposal, which is understandable. The Government's assurance, of course, is based on the fact that there will be sufficient public servants who are interested in taking advantage of the generous nature of this voluntary separation package, and 3 000 jobs is about 3 per cent of public sector employment in South Australia, defining it in its broadest terms. It is roughly of that order. But the Liberal Party has consistently advocated a more disciplined approach by the Government to public sector reform.

It is now over a decade since this Government first came to power and, like so many of the other measures we have seen introduced, they have been introduced after the horse has bolted. We saw the Government finally react to the problems of the State Bank only when no number of fingers in the dam could have held the gushing debts back. We saw the SGIC balloon go up only as a result of the enormous pressure put on the Government by the Opposition, and the revelation that, had it not been for the transfer of 333 Collins Street out of SGIC into the bowels of Treasury last financial year, SGIC would have been (as a private company) bankrupted. Let us not make any mistake about that fact. Similarly with Scrimber, we saw no reaction by the Government until the balloon went up. There was no money left to spend and $60 million of taxpayers' money was shed.

Whilst the Attorney-General, with his thin knowledge of economics, can trumpet to this Chamber today that the Government has taken dramatic steps in public sector reform, this Chamber needs to be reminded yet again that this State trails all other States in public sector reform and it trails all other States and all other countries, including Russia, in terms of the privatisation of Government enterprises which can be better managed by the private sector. It is too little too late in the sense that more taxes and higher charges have been necessary to prop up the public sector in South Australia.

The Hon. T.G. Roberts: What about Westpac's record? That is not too good, either.

The Hon. L.H. DAVIS: The Hon. Terry Roberts unwisely interjects that it is not too good to look at Westpac's record, either. Westpac certainly lost heavily in the area of its investments principally in Central Business District properties.

The Hon. T. G. Roberts interjecting:

The Hon. L.H. DAVIS: Let us just stay with Australia; I think the comparisons are better.

The Hon. T.G. Roberts: Look at the private sector.

The Hon. L.H. DAVIS: Westpac has addressed its problems in a much more savage and direct fashion than has the Government of South Australia, and we should make no mistake about that. I will take on the Hon. Terry Roberts at any time in looking at the speed and savagery with which Westpac reacted to its admittedly large financial problems compared—

The ACTING PRESIDENT (Hon. T. Crothers): Order! I ask the Hon. Mr Davis to address the subject on the Notice Paper and to ignore interjections.

The Hon. L.H. DAVIS: I am staggered, Mr Acting President, but I respect the Chair. I was drawn into what I thought was a winning political point that had been unwisely introduced into the debate by your colleague the Hon. Terry Roberts. I will leave it with a win and move on.

The Liberal Party supports this proposal, but remains bemused about the strategy involved in these voluntary separation packages and waits with breathless anticipation to see what the Premier and the Minister of Public Sector Reform announce next week when they bring down the major statement in this area.

The Hon. T.G. Roberts: Why not foreshadow a solution yourself?

The ACTING PRESIDENT: Order!

The Hon. L.H. DAVIS: The Hon. Terry Roberts again unwisely interjects. If one can voluntarily separate the Hon. Terry Roberts from the illogicality of his argument, we can look at yet another example which has bored members opposite witless but which I have raised in this Chamber every year for the past seven years: that, in terms of the effectiveness and efficiency of Government operations, we need to establish a register of statutory authorities, board members and reporting times so that the community and the Parliament know exactly what is happening. The Attorney-General has failed to respond in any way to that constructive proposal that I first made seven or eight years ago. Let us hope that it is not again something too little too late that will be in the major statement that Parliament will hear next Tuesday.

The Hon. R.I. LUCAS (Leader of the Opposition): I support the comments made by my colleague the Hon. Legh Davis in relation to this legislation. I want to address only one aspect of the legislation, and that is the matter that I pursued with the Minister of Public Sector Reform during Question Time this afternoon. It was appalling that the supposed head of public sector reform in South Australia, the Minister, was unable to indicate clearly to this Chamber how the process of voluntary separation was going to operate in the public sector over the coming 14 months. It was clear from his answers to the series of questions that I put to him that he had no idea whatsoever, as the Minister supposedly in charge of the program, how the program and the process was going to operate.

The questions that I put to the Minister of Public Sector Reform today were quite simple and specific. We acknowledge that there is an overall target of 3 000 voluntary separations to reduce the size of the public sector over the coming 14 months. The simple question is: how many public servants from which departments will be separated as part of the overall target of 3 000? As shadow Minister of Education, Employment and Training I have a particular interest, because I do not want the education sector and teachers in particular to bear the bulk of the separations as part of that total package of 3 000.

The President of the Institute of Teachers, Clare McCarty—and I am sure that the Hon. Terry Roberts would support her public comments on this matter—has expressed concern that there may be between 1 000 and 1 500 people from the education sector removed as part of the total of 3 000. 1 have publicly, and again this afternoon, expressed my strong opposition to the possibility that up to 1 500 teachers and other educators might be removed by the Arnold Government as part of this total package of 3 000.

We have had no response at all from the Minister of Education, Employment and Training or the Minister of Public Sector Reform in relation to this issue. All he could airily say today, as he lurched from response to response, was that it was up to individual Ministers and Chief Executive Officers. If we explore that ludicrous proposition, each Minister and Chief Executive Officer is to go off and willy-nilly set about targeting voluntary separations within their own agencies without any overall target and without any guideline as to a minimum, maximum or optimum figure for their departments.

Let us look at both extremes. If the President of the Institute of Teachers is right, the Minister of Education, Employment and Training (Hon. Susan Lenehan) and the Chief Executive Officer (Mr McPhail) will target 1 500 teachers and educators from the 28 000 persons in the education sector, so I understand from a recent statement made by the Minister; and that will be acceptable to the Minister of Public Sector Reform and the Premier as long as—again, he put in this airy caveat—there is no reduction in service.

The Minister of Public Sector Reform knows full well that there will need to be some diminution in the effectiveness and the delivery of public services when 3 000 public servants are separated from the Public Service. If we are talking about a smaller number, perhaps we can talk about not reducing the level of service being provided by the Public Service in South Australia. However, it is nonsense to suggest that with a target of 3 000 that can be achieved 100 per cent.

The notion that these officers and Ministers can go off without any guideline frankly does not make sense at all. Clearly, if it is not the Minister of Public Sector Reform there has to be someone somewhere, whether it be Treasury, in the Premier's Department or in finance, who establishes the targeted guidelines. Whether they be minimums, maximums or optimums does not matter, as long as there is some sort of guideline to Ministers and to the departments as to what would be an appropriate level of reduction.

The other end of the extreme is, as I indicated, in the education area. Perhaps the Minister might come back with the Chief Executive Officer and say, 'We can get rid of 25 teachers and educators out of 28 000 before we start reducing the level of education service in South Australia.' It is nonsense for the Minister of Public Sector Reform to say that he would accept what the Minister of Education says: that she can offer only 25 heads for the chopping block, and the rest of the Ministers have to supply 2 975 heads for the chopping block from their respective Government departments.

I suspect that when the Minister of Public Sector Reform reflects upon the answers he gave today even he will realise the stupidity of those particular responses and the fact that he quite clearly does not know what is going on in relation to public sector reform or in relation to this issue of the targeting of voluntary separation packages as part of the overall target of 3 000 in the public sector.

The Liberal Party rejects the view that up to 1 500 teachers—and that is 50 per cent of the total target—can be removed just from the education sector alone. We believe that any process such as the one that the Minister of Public Sector Reform has outlined this afternoon, which allows for that possibility, really ought to be exposed not just to the few members in this Chamber but also to the education community at large.

There is clearly no commitment at all from the Minister of Public Sector Reform to education and to schools here in South Australia and, sadly, we are seeing similarly no commitment to those issues from the new Minister of Education.

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

DRIED FRUITS BILL

Adjourned debate on second reading.

(Continued from 23 April. Page 2085.)

The Hon. PETER DUNN: The Opposition supports this Bill, and we would have to do so, in the light that it has had a gestation period longer than an elephant. This legislation started off with a white paper, then a green paper and then somebody else's paper. As a result we now have legislation which, having been thoroughly tested and tried, comes into this Parliament for authorisation. I must say that it looks fairly reasonable to me, and it looks even more reasonable when we think that there has been no negative comment from the

industry itself. So, I estimate that the legislation is fairly accurate and correct.

The history of the dried fruit industry is interesting in that it started after World War I, when a number of soldiers returned and there was obviously a lot of work around. In the late teens and the early 1920s things were moving along quite smoothly after the war and there was a necessity to employ those people. A huge number of people were employed in primary industry in those days, and the irrigation projects that were, at that stage, in full flight along the River Murray provided the necessary fruit and products to be dried. Obviously, shipping had improved and we could sell dried fruits overseas. Fruit was a product that was, in its raw state, fragile and deteriorated quickly, but when dried could be sent away and would keep for a long time. It could then be reconstituted and used again. There has always been a use for dried fruit.

Having had these irrigation areas producing large tonnages of fruit, there was a lot more than Australia could consume. As I said, the shipping industry had improved, so we could send the dried fruit overseas. We developed good markets for our dried fruit very quickly. To the credit of the Australian States, they did have high quality standards for these products, and we soon developed a very good name in the production of dried fruits, particularly dried apricots and sultanas.

I served my apprenticeship mainly in the field of drying apricots. In those days, instead of dipping them in a sulphur solution, they were cut and put on flat trays and then into a sulphur oven: that is, you had a small fire on the bottom of it and poured raw sulphur on it. The sulphur impregnated the then freshly cut apricot; that made the juices run out of it; those juices ethen evaporated; and the finished product was a very pleasant dried fruit. Today the process is somewhat more sophisticated in that the apricots tend to be dipped and a lot more can be processed in one day. They are then put out on racks to dry.

This is a very significant industry in South Australia because we have a truly Mediterranean type climate, which means that we have wet winters and dry summers. It is during those dry summers, when the fruit is ripe, that we need to dry these fruit. So, particularly the River Murray, Renmark, Berri, Barmera and Waikerie areas are ideally suited for the drying of fruit.

I note that South Australia grows only about 10 per cent of dried fruits produced in Australia. I suspect that is because we are now including in the figures a number of tropical fruits that do not grow in South Australia and because the areas around Griffith, on the Darling and on the River Murray have increased their production. However, we certainly have a very high quality product in South Australia.

After the World War I the first of the regulations came into Australia, and this began in one or two States, namely, South Australia and New South Wales. It gradually went around the Commonwealth. Then, in about 1980, we started to regulate the packers of dried fruit, and that was important because we had, by that time, not so much cooperatives but individual companies which were then packing and selling fruit. I suspect that at about that time we were also starting to import cheaper dried fruits, a lot of which were coming from areas such as Turkey, America and South America. They began to be imported not because of their quality but because they were cheaper.

I recall seeing some fruit, sultanas and prunes, from Turkey which was, to say the least, ordinary. The quality was certainly substandard compared with what we are used to. I do not think we need that sort of fruit. If we can grow it and produce it here we ought to consume the best fruit that is available.

So, there was change in that period of the 1980s and that was from the regulation of producing a quality fruit to the marketing of fruit because we were getting imports and we were trying to export. Our exports fell off very dramatically in the 1980s. Interestingly enough, when they fell off the wine industry seemed to take over, particularly in the grape industry, and then we saw a lot of the fruit going into winemaking rather than drying. So, in the latter part of the 1980s we saw the change from quality regulation to marketing, and this Bill is about putting an emphasis on marketing.

The standards that we have will allow us to sell our products very easily overseas, provided the price is right. I think now that Australia is in such a poor state that surely our costs of production—we seem to be selling everything from wool to beef to mutton to wine to dried fruits overseas—are low. We have very efficient rural industry. We have very few people left in the industry. The industries are much bigger. When I started farming in about 1956 there were well over 22 000 farmers in South Australia; there are now fewer than 14 000. So we have far fewer, much bigger farms and much higher production than we had even in the 1950s, and if there is any other industry that can match the primary industry in efficiency and improved production then they are few and far between in this State.

Certainly, secondary industry has not improved its game and if you look at the exports of secondary industry you will see how powerless it is in this State and really it is mining that has taken over. We need to put this emphasis back into primary industry to sell more product, get a better price for it, and make sure that we have the right people selling it.

The fact that we are going to sell it also means that we will loosen up—and this is part of the trade deal. If we are going to sell more fruit we often have to trade with other countries and let them bring products in. We might trade in secondary industry products with some of the countries, and we might have to take some of their primary product. In the past we have had very little control over the quality of that fruit. It is interesting to note that since February all of the imported foods can be subject to inspection by he Australian Quarantine Services to meet the Australian standards. I agree with that.

I am a bit perturbed about the Mutual Recognition Bill that is in the Parliament which means that the lowest common denominator may become the standard and it appears—and I made this point when speaking to the Mutual Recognition Bill—that if one State does allow a product in of a lower and cheaper standard than our own product, or that of another State, that will be the one that will, because each State can use the other's product, be used. I am not sure that that is a good idea, but I am pleased to see that the Australian Quarantine Services

will be able to inspect the incoming products and make sure that they come up to an Australian standard.

Several weeks ago we had a rather long and heated debate about the re-establishment of a the Barley Board. There was debate about election versus selection when it came to establishing the board. It is interesting to note that this board is all selected, and I guess there is an argument for that, in that the dried fruit industry is a relatively confined industry along the river and perhaps a little in the Barossa Valley. Certainly, it is a River Murray area and everybody knows everybody and at least they can get in their car and in a couple of hours be at the other place. The barley industry, however, is a State-wide industry, virtually from Naracoorte to Fowlers Bay, and because of that it was much harder to sell the proposition that the representatives on those committees ought to be selected.

In this Bill they are all selected. There are committees set up that form a panel to allow a number of people to be presented to the Minister so that he can have some choice in the membership of this committee. I think it will work because the selection panels—the panels that select the people to go to the Minister—will come from that one small area. Everybody will know everybody and I think that will work very well. There is some merit in selection panels. I am not sure it is terribly democratic to have somebody selecting somebody else. If people have a right to vote—and we defend that right to the very end in this Parliament—that is the most democratic way of selecting people but often you do not get the right people and that can be easily seen by looking around here; we do not always get the right people in here. We certainly have not got them in the other House, that is for sure. I will defend that right because I think it is democratic that people have their choice. That is the way to go. I am sure that if a Liberal Government put this Bill to the Parliament it would not be all selection and that there would be an election component in it.

The Bill has been around for a long long time but the Government is always under pressure. They cannot seem to get it right, and the Minister himself introduced a number of amendments in the other House even though the debate and the argument in the community has been around for a long time and the method by which this Bill has been set up has been understood by a lot of people, particularly in the dried fruits industry, for a long time. It was interesting to note that the Minister introduced about four quite substantial amendments to this Bill. That indicates that the Government is just running on hype at the moment without a lot of thinking. When you have no money—and I know farmers are in this position—you do not make good decisions. The Government is obviously financially strapped because of its decisions over the past

10 years and I suspect it is not thinking all that well, and that is reflected in a Bill like this which has had a long gestation period and which ought to have been right when it came here.

I notice that the Government introduced the Graham Gunn amendment into the Bill to make sure that officers, when they are inspecting properties, packing sheds and so on, cannot become little Hitters, as Graham Gunn would explain, but should use reasonable care and be courteous when they are making their inspections. I hope that the industry grows, prospers and helps South Australia financially. I would very much like to see that happen. If we had a good return for the people in the industry the State would be better off. We would employ more people and, all in all, we would be better off. It will be easier for the people who have to run the committee if there is a good return on the product that they produce.

This committee has been set up to make that flow through easily and in the right direction, that is, for home consumption use and definitely for overseas use. If we need anything it is money from overseas to offset our debt. I think the Bill is quite reasonable. I think it will facilitate that and, for those reasons, I support it.

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

EDUCATION (TRUANCY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 April. Page 2080.)

The Hon. R.I. LUCAS (Leader of the Opposition): This Bill incorporates two major changes: first, removal of truancy as an offence for children in South Australia and, secondly, the extension of powers available to authorised officers to remove truanting children from public places and return them either to the school or to their parents or guardians. Members would be aware that this is one of a package of three Bills. Because of the pressures of other parliamentary business, perhaps inappropriately, this is being discussed in the Legislative Council before the other two, the Young Offenders Bill and the Youth Court Bill.

The package of three Bills is the result of the Juvenile Justice Select Committee, which was conducted by another place over the past 12 to 18 months and which looked at the whole question of problems in relation to juvenile offenders. There are these three Bills and, I believe, a fourth Bill that we do not have before us at the moment (which I think is the Children's Protection and Young Offenders Act which is to be amended). This Bill looks at only one aspect of the juvenile offenders question, and most of the other major problems in relation to juvenile offenders are covered in the other pieces of legislation.

The extent of the problem in relation to truanting has been hard to quantify. The select committee gathered a lot of evidence in relation to this issue but, because of problems with the Education Department processes for determining, first, the number of students away from school and, secondly, the reasons for those students being away from school, the Education Department advised that it was impossible to estimate the number of children who regularly truanted from school. I quote from the select committee's report as follows:

> According to the Education Department...1990 attendance data showed that non-attendance levels represented 6.8 per cent of total enrolments in primary schools and 9.8 per cent of total enrolments in secondary schools. He noted that students would be absent at any one time for a range of reasons, many of which could be considered legitimate, 'such as sickness, medical treatment or family holidays.' The percentage of students

truanting would, therefore, be a sub-set of these figures. It was also noted that the levels of student absenteeism have remained relatively stable over a decade, with minimal variation in the percentages.

That is the overall figure. Whether there has been any change in the level of students truanting from school and those officially with some good cause being away from school is impossible to tell. The only official measure of truancy levels available in the data is the number of children charged with the offence. The Department of Family and Community Services submitted statistics on the number of children who have appeared before children's aid panels or the Children's Court for truancy offences since 1985, and I seek leave to have a table incorporated in *Hansard*.

Leave granted.

	Children's Aid Panel Appearances	Children's Court Appearances
1985-86	18	5
1986-87	14	4
1987-88	24	3
1988-89	6	2
1989-90	8	4
1990-91	18	5

The Hon. R.I. LUCAS: Without going over all the detail of that table, it indicates that on average over the past six years there have been only four Children's Court cases and 14 children's aid panel appearances each year. Clearly, that in no way is an accurate representation of the extent of the truancy problem in South Australia. It is really only an indication of the grossest examples of truancy in South Australia: those that reach the children's aid panel stage and finally those that reach the Children's Court stage. The select committee notes:

> However, both the Education Department and the Department for Family and Community Services indicate that these statistics do not provide a good indicator of the size of the truancy problem. Both agencies agreed that, because panels and courts may not be seen as a useful or effective approach to the problem of truancy, there may be a reluctance to deal with such behaviour by recourse to the justice system.

The select committee further went on to indicate that the Department of Family and Community Services had estimated in May of 1992 that approximately 1.5 per cent of all students were truanting from school. That therefore means that about 3 000 students in South Australia could be regarded as truants. The select committee also noted that in some northern area high schools daily absenteeism rates average 15 to 20 per cent, rising to 25 per cent in some schools on Mondays and Fridays. I can understand how students feel, having the Parliament sit as we do here today on a Friday when normally we do not! But that estimate of 15 to 20 per cent of daily absenteeism rates in some northern area high schools rising to 25 per cent gives a fair indication of the extent of the problem in some areas of Adelaide such as the north and, in particular, I presume also the southern areas. In Murray Bridge, for example, it was claimed that the Murray Bridge High School, one of the largest schools in the State, had a truancy problem at that school alone of between 50 and 90 children a day.

Finally, in relation to trying to measure the extent of the problem, I seek leave to have incorporated in *Hansard a* purely statistical table on the percentage of Aboriginal students attending for fewer than four days a week.

Leave granted.

Percentage of Aboriginal Students attending fewer than four days per week

	Eastern Area (1987)	Northern Area (1988)
R-12 years	30%	40%
R-2 years	33%	46%
3-7 years	28%	58%

The Hon. R.I. LUCAS: This is an estimate in two areas of South Australia, the eastern area, which is a country region, and the northern area, which is the metropolitan region. The estimates were done back in 1987 and 1988 but they indicate that at the highest level the estimate is that 58 per cent of Aboriginal students in years 3 to 7 in the northern area of Adelaide attended on fewer than four days per week of schooling. Estimates varied from the low point of 28 per cent through to the high point of 58 per cent of Aboriginal students attending on fewer than four days a week on average.

So, whilst there is no comprehensive overall Statewide data on truancy, at least from those particular examples that have been highlighted by the Department of Family and Community Services and the Education Department we can see that we have quite an extensive problem in relation to truancy from schools here in South Australia. Of course, that is why the Government and the select committee have addressed the issue. A fair assessment, I suppose, of the view of the select committee was that the current systems in relation to the handling of truancy were not working and therefore there needed to be change in those processes.

I must say that the first change, which is the removal of truancy as an offence for children, is a change with which I am not entirely comfortable. However, the Liberal Party has decided that, given the evidence presented to the select committee, the fact that clearly the current processes and systems were not working and the fact that the proposed programs at least ought to be given some opportunity to work, we are at least prepared at this stage to indicate our support for that part of the legislation before us today.

However, we do want to place on the public record that in Government not only this part of the legislation but the other aspects to which I will refer in a moment will be placed under review to see whether or not the new programs are any more effective than the old programs in relation to the truancy problem. So, we give fair notice that, whilst we are prepared to support this particular aspect of the legislation now, we do have some doubts about how effective it will be. Nevertheless, we are prepared give it a go, as it was a bipartisan select committee in another place that recommended these changes. We will keep it under review when in Government after the next election.

The second aspect that has been raised is a rather more contentious problem; that is, the aspects of extending the powers available to authorised officers to remove truanting children from public places and return them either to the school or to their parents or guardians. In considering this aspect, it is important at least to explore the current provisions in the Education Act. The Act provides:

A child of compulsory school age who habitually or frequently absents himself without lawful excuse from school when the school is open for instruction shall be guilty of the offence of truancy and liable to be dealt with under the Children's Protection and Young Offenders Act.

The first part of this Bill removes that particular offence of truancy. I will not go into it, but there is debate about the definition of what is or is not a truant, about how often does a student have to be away from school to be designated a truant, and there are some definitional problems in relation to truancy. I think that the best estimate is that someone who absents themselves for more than 10 days a term might be defined to be a truant, whereas I suspect that many teachers, principals or departmental people may well have different interpretations of how they believe a truant might be better defined. Section 80 of the Education Act, under 'Authorised officers' provides:

(1) The following persons shall be authorised officers for the purposes of this part—

(a) any member of the Police Force;

(b) any person authorised in writing by the Director-General of Family and Community Services; and

(c) any person authorised in writing by the Director-General of Education to exercise the powers of an authorised officer under this Act.

(2) Where an authorised officer observes any child who appears to him to be a child of compulsory school age in any public place at a time when a child should normally be attending school he may accost the child—

which is an unusual use of the word, I would have thought—

and seek to obtain from the child the following information:

(a) the name and address of the child;

(b) the age of the child; and

(c) the reason for his non-attendance at school.

There is obviously a legal definition or understanding of the word 'accost' with which I am not familiar. As my learned legal colleague the Hon. Trevor Griffin is not here I cannot seek that from him. However, it certainly seems an unusual use of the word in relation to this question of truancy, particularly when I move on to raise some further concerns about the Government's proposition in this area. I indicate at this stage that I will at least have some discussion with my colleagues and Parliamentary Counsel as to whether that is the most appropriate word to use here or whether or not a more everyday use of words, such as 'approach the child', might be more sensibly used in this part of the legislation.

The current Act basically provides that all the authorised officers can do is accost the child and ask for his or her name, address, age and reason for non-attendance. The authorised officer or police officer cannot do anything more than that: they cannot return them to school or to their parents or guardians in any way at all. I understand, though, that there is another provision that provides that if there is some question about the safety of the child then the police do have some ability to take the child back to school or to the child's home. This is provided for under section 19 of the Children's Protection and Young Offenders Act, which allows the police or any officer of FACS authorised by the Minister to:

...remove from any place any child suspected on reasonable grounds as being a child in need of care or protection or in immediate danger of suffering physical or mental injury.

However, the select committee notes that the consequence of taking this action is that the child must then be brought to court for the hearing of a care and protection application. So I would presume that that provision would not often be used by police officers.

The Government proposes in the Bill to strike out paragraph (c) of section 80(1). This section deals with authorised officers. Paragraph (c) provides:

any person authorised in writing by the Director-General to exercise the powers of an authorised officer under this Act...

That is to be replaced by 'any member of the teaching service'. There are some 20 000 people on the Education Department payroll, and I presume that a vast number of those are members of the teaching service, although obviously not all of them. If the legislation passes, many thousands of teachers will now be authorised officers under the Education Act. The next section then gives authorised officers much more power in relation to suspected truants. Subsection (2b) as proposed in the Bill provides:

If it appears to an authorised officer, after inquiring into the child's reasons for not being at school, the child does not have a proper reason for being absent from school, the authorised person may take the child into his or her custody and return the child—

(a) to someone in authority at the school; or

(b) to a parent or guardian of the child.

That is a significant change in relation to suspected truants, because what it is saying to police officers and 15 000 or 20 000 teachers in South Australia is that if they see a child suspected of being absent from school without a proper reason then they can take the child into their custody and return the child either to the school or to a parent or guardian. It is important for members to note that this is different from the current Act, which only allows authorised officers of the Education Department to approach a child and those authorised officers cannot do anything more than seek information from suspected truants.

This issue now raises a whole series of further questions and concerns that I, on behalf of the Liberal Party, want to place on the record. Frankly, I do not think the Minister of Education has considered this legislation closely enough, has thought about some of the potential effects of the legislation and certainly has not consulted widely about the ramifications of the legislation.

When this Bill was introduced in another place, I immediately contacted the South Australian Institute of Teachers and spoke to the Acting General-Secretary at that time, Jack Major, about this issue and a number of other Bills that were before the Parliament. He was not

personally aware of too much of the detail of the proposition. He did not believe that the Institute had been formally consulted by the Government about the issue, although, as the Acting General Secretary, he was not in a position to give a definitive answer on that. The President and the General-Secretary were away on leave. He did, however, think that one of the newer officers in the Institute of Teachers, with both a teaching and legal background and someone well-known to the Hon. Terry Roberts, might have been aware of some aspects of the legislation and may well have been considering some aspects. I therefore sent to the Institute of Teachers a copy of the Bill and the second reading explanation and sought its response to the legislation.

A day or two later I received a copy of a letter that was sent to the Minister of Education, after the Bill had already passed the Minister's Chamber, I might note, expressing the extreme concern from the Institute of Teachers about a number of aspects of the legislation. The Institute of Teachers sent a copy of that letter to me and a copy also to Ian Gilfillan as the parliamentary leader of the Australian Democrats. I want to place on the record the position of the Institute of Teachers and I shall read the letter from the institute into *Hansard:*

We have recently became aware of the proposed changes to the Education Act 1972 and wish to express our concerns regarding amendments to section 80 subsection (1) paragraph (c) of the Act.

We have taken into account the reasonings given by the Hon. M.J. Evans for the proposed amendments but do not believe that the extended powers afforded to the authorised officers are appropriate when the 'authorised officers' are defined to include , any members of the teaching service'.

As members of the teaching service would be obliged to approach all children of apparent school age not in attendance at school during school hours we believe that the insertion of such a paragraph would not be in the best interests of our members for the following reasons:

Dangerous:
- No formal identification is required to be carried by authorised officers.
- How will a child and/or adult be able to distinguish between an authorised officer and an imposter who may be making an approach for another reason?
- Members of the teaching service are placed in a potential 'at risk' situation by the requirement that they may take the child into his or her custody.
- This creates a potential situation where children could be detained by complete strangers; a situation completely contrary to the 'Stranger Danger' program.
- The proposed amendments to the Act are applicable to children under the age of 15 years exposing them to potential 'at risk' situations.

Burdensome:
- As members of the teaching service, an onus is placed on them that does not apply to teachers from non-government schools.
- If teachers are obliged to approach all children apparently truanting what happens when they fail to do so? Is this a dereliction of duty?
- When teachers are off duty; sick, special leave, long service leave, etc., do they have an obligation?
- Potentially part-time teachers will carry more of the burden imposed by the onus as, arguably, they are in a better position to discover truanting children.
- How will the authorised officer return children to their school? Use own vehicle? What if parent or guardian is unable to be contacted?
- How far does the obligation extend?

Unworkable:
- Teachers will not enforce it therefore why introduce it in the first place?
- Taking on the role of a truant officer is not in the best interest of teachers who are attempting to foster relationships of mutual trust and understanding between themselves and the community.

We wish to bring to the Minister's attention that it is our firm belief that the proposed amendment to section 80 subsection (1) paragraph (c) of the Education Act by the introduction of the Education (Truancy) Amendment Act 1993, affects our members in a manner which is dangerous, burdensome and unworkable and as such we strongly oppose its introduction.

Yours sincerely,
Janet Giles
Vice President

Those views of the Institute of Teachers are clear and unequivocal. It is a shame that the Minister of Education and the Government did not take the trouble to consult with the Institute of Teachers and other groups in education before introducing this legislation in this particular form. Clearly, there is a concern with the legislation. During the Committee stages I believe we are going to have to consider a number of options for amending or perhaps even removing this particular provision.

I only want to quote one other comment that I received from the Director of the Independent Schools Board, Bob Leane—another one of the groups that we consulted in relation to the legislation, which had not seen it before. The Independent Schools Board indicated that it had some concerns, and it states:

Firstly, it is not really clear why the changes have been made to include teachers as 'authorised persons'. There could be a difficulty in how a teacher would comply with the Act—identification that a student is a truant could be a problem—and then the powers available to the teacher, 'to remove truanting children from public places and return them to the school or to the parents or guardians' need clarification. This is especially so if the child concerned is unwilling to be 'removed'.

That raises a very important point. If a teacher does identify a truant and seeks to remove them to either the school or the home and the student refuses, what powers, if any, does the teacher have to drag, persuade or whatever that particular student back to school or to the student's home? That particular issue will need to be explored in the Committee stages of this debate.

In summarising the objections and the concerns about this aspect of the legislation, we really need to consider the options. One of the options, of course, is to remove this particular provision and leave it as being 'any person

authorised in writing by the Director-General of Education', and then in some way a limited number of either attendance officers in the department or teachers even from a school would have to have some clear, visible means of identification, which they would need to carry with them as authorised officers, before they could approach a student and before they could take that student in perhaps their car back to a school or back to the student's home. That is one way of attacking the problem. There is always the problem—and this would exist, I guess, where someone may, perhaps, want to abduct a young child—of either forging or preparing an authorisation which looks authentic enough and approaching a young child truanting from school at a shopping centre and dragging them off to wherever that particular adult might want to take that child and, of course, leave that child in considerable danger.

Even that option that I flag does have some particular problems. It might well be that an option will be that all teachers can approach and seek to persuade truants to go back to school, but to have no authority to do anything about it, and the only group that should have authority will be members of the Police Force. Certainly, I personally do not have a problem with members of the Police Force having the power to remove truants back to school or to home. Indeed, evidence was given to the select committee in the Murray Bridge area that the local police officer had already instituted a program with the Murray Bridge High School of contacting truants and taking them back to school, in what has been described as a very successful program. I have no problem with that aspect of it, and perhaps that might be a more preferable option in relation to this suggestion for handling truancy.

At this stage I do not intend to place on file any particular form of amendment. I am interested to hear the response by the Minister in charge of the Bill in this Chamber to see whether the Government, having heard the criticism of the Liberal Party, the Institute of Teachers, the Independent Schools Board and, I assume, a number of other interested groups, is prepared to have another look at this matter and to flag its own amendment. If not, in Committee I shall move, or at least consider, some form of amendment along the lines that I have already flagged. I support the second reading.

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

CONSENT TO MEDICAL TREATMENT AND PALLIATIVE CARE BILL

Adjourned debate on second reading.

(Continued from 23 April. Page 2071.)

The Hon. R.I. LUCAS (Leader of the Opposition): I support the second reading of this Bill. However, at the outset I indicate that I have some major concerns about aspects of the legislation and will be supporting some amendments to significant sections of the Bill.

This is an extraordinarily important piece of legislation that we are considering in the dying days of this session. I acknowledge that the legislation has been considered in another place for a long time. It was before a select committee for a year or so and then before the House of Assembly for some period. Nevertheless, it arrived in this Chamber only seven or eight weeks ago, at the end of the parliamentary session. However, it is an important piece of legislation.

I have made these comments because I have been disappointed so far at the lack of public input or debate in the media generally about this important matter. I compare it with the extent of the lobbying that members in this Chamber received about other legislation such as the Racing Act, when lobbyists from both sides were lining up to put their views. That has also happened in relation to other less important pieces of legislation, and to have an important piece of legislation such as this going through the Parliament with so little public and media debate is a tragedy.

I know that members in another place will say, 'We have consulted widely, we have had public meetings and we have prepared our reports,' and so on, and I acknowledge that. It is no criticism of members in another place; it is an expression of disappointment that with such important legislation there seems to be so little interest from the media and, therefore, from the community at large. In the end, I think that is to the detriment of the quality of legislation that may pass this Chamber. I welcome public input in relation to important measures such as this.

As I indicated in relation to the poker machines legislation, I do not always agree with what might be the prevailing majority view in the community. Nevertheless, I like to feel that there has been some input by the community generally in relation to such important issues. On this matter, however, I have had only one or two contacts from people expressing a point of view in relation to it. The only other contacts have come from members in another place who have a very strong view in support of the legislation and who are anxious to see its passage through this place. I can understand their point of view, given the time that they have invested in this legislation.

I have indicated to the Attorney-General, as Leader of the Government and manager of the business in this place, that the Liberal Party does not intend to filibuster, as some have suggested, or to delay the debate on this Bill. I have also indicated to the Attorney-General that it is extraordinarily complex legislation. At least seven members in this place have tabled separate sets of amendments on it, many of them conflicting with each other. I understand that at least one other member has more amendments to come as well, so the Committee stage will take some time. I suspect that it will be similar to the poker machines debate. Members had to stay in the Chamber in order to try to keep track of individual amendments, and it was unclear as to which amendments would be successful.

The prospect of a conference on this issue is a foreboding one, given the extent of the difference of views within this Chamber and the other place as well. Nevertheless, that is a bridge to be crossed later.

I have indicated to the Attorney-General, and say so publicly now, that the Government is in control of the business in this Chamber this week, and next week in particular. We will have discussions with the

Government in relation to its priorities. If the Government decides next Monday at Cabinet, when I understand it might be discussed, that this is the number one priority issue and we start it on Tuesday and finish it on Tuesday or Wednesday night, that will be the case. However, if the Government judges that other pieces of legislation such as the youth offenders package, the three or four taxation Bills, WorkCover, the two development Bills, the tobacco products legislation, the Heritage Bill, the resolution of the mutual recognition conference and another 13 or 14 pieces of legislation are more important, the Government will decide the priority order for next week.

So, the responsibility rests squarely with the Government, and eventually with the Attorney-General in this place, as to the order of priority for next week. We will be ready on Tuesday to commence the debate on this issue. Therefore, we await from the Government an indication as to where this issue ranks in order of precedence with the other 27 items on the Notice Paper.

I congratulate other members on their contributions to this issue. As someone who knows little about the area directly and has not been following it closely, I found the contributions on the one side of the argument of the Hon. Martyn Evans and the Hon. Jennifer Cashmore and on the other side of the argument of the member for Spence (Mr Atkinson) and the Hon. Dr Ritson most useful and informative.

There is, of course, a whole range of shades of opinion in between: Cashmore and Evans on one side of the debate and Atkinson and Ritson on the other. It is interesting that I refer to those four members in particular, because we see as strong opponents of aspects of this Bill both Labor and Liberal members. Michael Atkinson, as a prominent member of the Labor Party in another place, has led the charge against provisions in this legislation in a spirited, passionate and emotional way. Equally, in another place, we have had both Liberal and Labor members, including Jennifer Cashmore and Martyn Evans, passionately defending and supporting the legislation.

I want to acknowledge the contributions of Mr Atkinson and the Hon. Dr Ritson, because I believe that, as a result of their contributions to this debate, we at last have managed to generate two sides of the issue, and the prevailing view that seemed to be sweeping all before it from the select committee members has at least been checked. It is no small credit to Mr Atkinson and the Hon. Dr Ritson that that has occurred and that at last we have reached a stage where we can look at arguments on both sides and at least back that up with legislative amendments to the Bill. So, irrespective of the final decision that we in this Chamber might reach on the Bill, I think only good can come from the fact that we have had this debate generated and we can eventually settle it as we always do.

As an example of the changed nature of the debate, I was advised earlier that all the heads of churches were strongly supporting the Bill that was originally put to the Chamber by the Hon. Mr Evans and the Hon. Jennifer Cashmore. I have now been contacted by some church representatives indicating their concern about the legislation that was introduced in another place, and I note from the contribution of the Hon. Dr Ritson that the Catholic Archbishop of Adelaide and the Chair of the Lutheran Church Committee on Ethics have both expressed some concerns about aspects of this legislation. That was contrary to my original understanding, and it may well be that church representatives had one understanding of the legislation when it was being debated in another place, but that, as a result of the work that was done by people such as Mr Atkinson and the Hon. Dr Ritson, they now see that there are issues of concern in relation to the legislation and believe that there ought to be some amendment to it. Again, that is a tribute to those members, both Labor and Liberal, and it is an example of how this parliamentary process can and should work on important pieces of legislation such as this. I always believe it to be wrong if significant issues like this can be swept through both Houses of Parliament with little debate and with little consideration of important issues. As I said, I am pleased to see that at last some debate has commenced.

When I was first elected to this Council in late 1982 one of the first Bills that I had to consider in early 1983 was the Natural Death Bill, which I think was a private member's Bill introduced by the Hon. Frank Blevins, who was then in this Chamber and is now, of course, in the Lower House and Minister of Finance. There was some controversy at the time. It was described to me by its opponents as a Bill that might bring about euthanasia. There was strong argument both for and against it. I return to the Hon. Frank Blevins' contribution at that time, where he explained the legislation, stating:

> The principal purpose of the Bill is to provide for and give legal effect to directions against the artificial prolongation of the dying process. This will ensure that a terminally ill patient will be able, if he wishes, to issue a direction that extraordinary measures are not to be taken when death is inevitable and imminent.

There was much heartache, discussion and to-ing and fro-ing in relation to the Bill. I listened again to the contribution of the Hon. Dr Ritson, and I was influenced in the attitude that I expressed on that occasion. I was indebted to the honourable member for his contribution on that occasion, and ultimately I supported it, even though I know there were divided views amongst Liberal members in this Chamber on that occasion. Although the matter did not formally go to a vote, some members supported the Natural Death Bill, and at least one or two members spoke against it in 1983.

My basic position in relation to this general area is that I strongly oppose any notion of euthanasia, whether it be passive or active. Perhaps I am a product of my upbringing, my Catholic faith or perhaps a combination of all, but I also believe it is a judgment that I make as an individual standing in this Chamber. I believe it is a mature judgment—

The Hon. Carolyn Pickles: You are trying to make my decision—

The Hon. R.I. LUCAS: The Hon. Carolyn Pickles is getting upset over this by indicating that I am trying to make a decision for somebody else. The Hon. Carolyn Pickles can speak on this Bill if she so chooses. If she does not want to speak I can understand that, and I make no criticism of her for not speaking. However, I am entitled, as one member of 22 in this Chamber, to express a personal view based on my own conscience

and my own upbringing in relation to this legislation, and in the end the democratic process will decide what the form of the legislation will be.

So, that is my basic position. It can be fairly described as a conservative position in relation to this area, but I certainly would need to be convinced to move from that conservative position, as I describe it, and from the position that I was prepared to accept in relation to the Natural Death bill.

I understand from the contribution of the Hon. Dr Ritson on this occasion that those elements of the Natural Death Bill that I supported in 1983 are not included in this legislation, as the Natural Death Bill will be repealed as part of this legislation. In particular, I refer to those aspects of the legislation which talk about a prior declaration. The Hon. Dr Ritson said:

> ...but having repealed the Natural Death Act, if it is successful there will not be any provision for a prior declaration. Amendments to achieve this are on file to enable those people who would like to make a specific declaration if they are incurably ill that they will not be treated with treatments; it is futile, intrusive and burdensome. That is what people would want generally. Those people have had the statutory right to do that taken away from them by the repeal of the Natural Death Act.

So, I express some concern about that, as does the Hon. Dr Ritson. I would therefore sympathetically consider amendments to amend the Bill in relation to that area.

The major change in the legislation is this new concept of a medical power of attorney which is covered by clause 7. This section allows a person over the age of 16 by medical power of attorney to appoint an agent with power to consent or refuse to consent on his or her behalf to medical treatment. The appointment of medical power of attorney must be in the form prescribed in the schedule. It must be witnessed by an authorised witness who must be over 18 years of age. There are certain restrictions on who can or cannot be an authorised witness and then there are some restrictions on the powers of the medical attorney, but not many. The Bill provides:

> (6) A medical power of attorney—
>
> (a) authorises the agent, subject to the conditions (if any) stated in the power of attorney, to consent or refuse to consent to medical treatment if the person who grants the power is incapable of making the decision on his or her own behalf; but
>
> (b) does not authorise the agent to refuse—
>
> (i) the natural provision or natural administration of food and water; or
>
> (ii) the administration of drugs to relieve pain or distress

That is a fair summary of clause 6 of the legislation before us. Again, I must say that I am concerned about the whole concept of the medical power of attorney. I also indicate I am concerned about the views of some of the select committee members as expressed in another place in support of this particular part of the legislation. I refer to some comments made by the Hon. Jennifer Cashmore in another place, where she stated:

> The whole purpose of this Bill is to give effect to that conclusion reached by the select committee after considering not only expert evidence but conducting community surveys in order to ensure that we were indeed giving expression to representative opinion. The notion of autonomy is central to the purpose of this Bill and is expressed in the appointment of an agent who shall be able to act unfettered in accordance with the wishes, directions and conditions placed by the patient. The only fetter is that the agent shall not have the right to refuse natural food and water. To extend those fetters is to destroy the concept of autonomy that is central to this Bill.

Then she opposed an amendment that was moved in another place by Mr Atkinson.

As I indicated, I have some concerns about this whole notion of medical power of attorney. Personally, I am concerned about it. I do not rule out definitely the possibility that I might, in Committee, support it, but equally there is a possibility that I might oppose the whole notion. Certainly, at the very least, I believe that this unfettered power that is referred to on a number of occasions by members in another place in support of this part of the legislation must be restricted. I know that a number of members in this Chamber, from the Labor Party, the Democrats and from the Liberal Party, have already canvassed amendments on file in this place to restrict this unfettered right. I do not accept the purist position of the select committee and those members strongly endorsing this legislation that in no way should we restrict the right or fetter the powers of the medical power of attorney or the agent in relation to this issue.

I want to refer to the survey that was done, evidently as part of the select committee process. It was evidently undertaken by the epidemiology branch of the Health Commission and covered 462 people. It is described in another place as saying that:

> Eighty Seven per cent of those surveyed thought it should be legal for patients to appoint a relative or friend, in advance, to take medical decisions for them should they no longer be able to do so for themselves, for example, because of a coma.

Before the Committee stage I intend to try to get a copy of the detail of that survey because certainly on the surface it indicates a comprehensive view in one direction. I will be seeking a copy of the survey and the survey question to see the exact nature of the question. I believe that it may well be that the people who have been asked the question do not appreciate the exact nature of the legislation before us, and certainly I believe that if they were exposed to some aspects of the legislation—to some of the potential ramifications of the legislation—a lot of those people would not support the legislation as we see it before us at the moment. For example, if I can refer to the contribution of Mr Atkinson in another place:

> One feature of the Bill, which I do not think is widely understood, is that it does not apply only in circumstances of terminal illness. It is a Bill that applies more generally. It applies to situations in which the patient is in no danger of death in the ordinary course of events. Under the Bill, as I read it, and I stand to be corrected by the Minister if I am wrong—

The Hon. Carolyn Pickles: He was corrected.

The Hon. R.I. LUCAS: No he was not. He continues:

> —the power of the medical agent is absolute. For example, in the case of a young woman who was admitted to hospital after an accident, the medical agent could refuse or veto vital kidney dialysis on behalf of that women, refuse the supply of insulin were she a diabetic or refuse the occasional use of a ventilator. It seems to me that this feature of the Bill is not widely understood. It does not only apply in the case of a terminal illness and so the medical agent could be called upon at any time

and would have the unreviewable power to veto these quite conventional and ordinary treatments.

The Hon. Mr Evans then responded:

It is the case that the committee intended the agent to exercise the autonomy of the patient, on the patient's behalf. Of course, sometimes that may lead to agents making decisions which you, Sir, or I or the member for Spence may not find totally in accordance with our own beliefs or wishes, were it us who were the patient and the person concerned with the decision. But that is not the point. The point is that it is the individual who makes these choices; it is the patient who makes these choices. It is the intention of the Bill to create a situation where people may delegate that right to a person they appoint and trust, an agent to act on their behalf.

It is not correct, as the Hon. Ms Pickles interjected, that those views of Mr Atkinson were corrected by the Hon. Martyn Evans. He conceded that that indeed is the situation, and there are members in the Hon. Ms Pickles' Party in this Chamber and there are members on my side as well who also take that view of the legislation before us. Frankly, I cannot support that aspect of the legislation that will allow a situation like that where a person is not in the circumstances of a terminal illness and in the ordinary course of events is in no danger of death. In effect, the plug could be pulled on that individual, and that person's death is caused as a result of a decision taken by the medical power of attorney.

The Hon. Dr Ritson talked about the situation of loved ones turning into hated ones. There are, as he indicated, 30 per cent of marriages breaking up. I am sure it is probably more than that if one goes into the area of relationships as well. Many of these people are given medical power of attorney which cannot be reviewed in any way. We have a situation where even in the circumstances of terminal illness, where death does not threaten in any way at all, a person could take a judgment that can end the life of some other person. Perhaps they make a judgment that the quality of life in their judgment is not what they would like or the individual would like.

In, I am sure, a rare number of circumstances, there may well be some other benefit for that person who has been given the medical power of attorney. I acknowledge that that could be a rare circumstance, but our courts are full of rare and unusual circumstances where people go to extraordinary lengths to achieve personal advantage for themselves through the misery and to the detriment of others in society. At this stage I would like to seek leave to conclude my remarks.

Leave granted; debate adjourned.

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

A quorum having been formed:

MUTUAL RECOGNITION (SOUTH AUSTRALIA) BILL

The Hon. C.J. SUMNER (Attorney-General): I have to report that the managers for the two Houses conferred together at the conference, but no agreement was reached.

The PRESIDENT: As no recommendation from the conference has been made, the Council, pursuant to Standing Order 338, must either resolve not to further insist on its requirements or lay the Bill aside.

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

That the Council do not further insist on its amendments.

This conference has broken down. The fact that this Bill is going to be lost unless members opposite change their mind is one of the most disappointing things that I have seen happen in this Parliament since I have been here. I do not know what members opposite, including the Australian Democrats, are on about. Their opposition to this Bill is astonishing. It is narrow minded in the extreme. How some members opposite can go along with the proposition of seeing a Bill like this defeated in this Parliament is absolutely beyond me.

This is significant legislation, as everyone would and should acknowledge. It was agreed to by all the heads of Governments of this country, and why? Because it was considered by the heads of all the Governments of this country (Liberal, Labour and National Party, National Liberal in the Northern Territory) that this proposal was in the interests of Australia: not of Tasmania or Western Australia on their own but in the interests of Australia as a nation. And the attitudes that we are now seeing put forward in this Chamber by members opposite represent the worst of South Australian parochialism.

For members to come into this Council and defeat this Bill would be an absolute tragedy for South Australia and a tragedy for this nation. Every other State except Western Australia (which has not dealt with it yet) will agree to this Bill in some form or another. The major States of Australia, our major competitors (New South Wales and Victoria), have agreed to this legislation. They passed it in an acceptable form but no, that is not good enough for South Australia. We are too good for the rest of Australia. We are too special for the rest of Australia. What poppycock! You narrow minded parochial people really do not know what you are on about.

This proposal originated from New South Wales, not from a Labor Government but from Mr Greiner. At least he was a modern Liberal. At least he knew what the imperatives were for Australia as a nation, and he got together with the Hawke Labor Government and decided that the individual parochialisms of the States had gone on for long enough. He decided that we needed a system of freeing up the markets in Australia. They decided, with the support of the other Governments, that we needed a system that saw Australia as an economic unit, as one market, not as a set of six or seven parochial little markets and Governments with their own sets of regulations.

We have often talked about uniformity of regulation around Australia, but try getting it. Try consumer credit, for instance. We have been trying to get consumer credit uniformity in this country since 1972 or thereabouts, but we still have not achieved it. So, this proposal comes along. It is inspired by Mr Greiner with the Liberal Government and now agreed to by the most populous States in Australia: New South Wales and Victoria. But we say 'Oh no, South Australia, we are too good for

that. We want to stay on our own. 1.5 million people in 17 million people: we are going to go it alone.' That is the mentality that has riddled the Opposition and the Democrats in relation to this Bill and they deserve to be condemned for it by South Australians and by Australians, and they will be condemned. We have heard a lot about microeconomic reform. Members opposite bleat about it incessantly: we have to get more efficient ports; we have to have productivity bargaining and so on. However, when it comes to microeconomic reform in Government they do not want to know about it. They say, 'No, we are South Australians, we are too good for this.' Microeconomic reform in Government is just as important and that is the inspiration for this Mutual Recognition Bill.

We have to get a better distribution of constitutional powers between the States and the Commonwealth in Australia if we are going to overcome economic problems and trade more effectively with the rest of the world. We have to become more efficient in our Government; we have to refer powers to the Commonwealth where that is appropriate; and I believe we have to support mutual recognition through this Bill.

This Bill sees Australia as a nation. What will it mean if South Australia is out of the scheme? What members are about to agree to is a situation where a lawyer in South Australia will not be able to get automatic recognition to practise in the other States of Australia. Why? Because South Australia is not part of the scheme. But we will be able to say to the other lawyers in Queensland and New South Wales, 'You can't come here, either, we're a bit special. We are South Australians, we don't want you people coming here and polluting our pure non-convict blood.' What a lot of nonsense.

Let us not look at it from the point of view of the other States: let us look at it from the point of view of South Australians. If the Bill is defeated, South Australian lawyers, South Australian doctors and South Australians in any occupation will not be able to go and get automatic recognition in the other States where there is occupational licensing. South Australian goods will not be able to be sold in the other States of Australia—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Just a minute—if they do not comply with the regulations imposed in those States. That is the fact of the matter. If you defeat this Bill you can have a South Australian manufacturer producing goods according to South Australian law, but which do not in every respect comply with the laws of another State, and what happens? They cannot sell those goods in those other States unless they comply with their laws. This is an astonishing result for this Parliament to apparently end up with. The Liberals and the Democrats want to see South Australia remain an island—a little place between the Simpson Desert and the South Pole—all on its own.

We do not want to have anything to do with convicts in New South Wales, Queensland or Victoria. We are a better class of person; we did not have a convict background; we are free citizens and we want South Australians to remain the same. That sort of mentality will destroy this State and this country. Members opposite who are pushing this point of view live in a dream world. There are some 300 million people in the European Community and the countries that are part of the European Community are going through a process of harmonising their regulations. Those people do not even speak the same language and they have incredible differences in regulations, but they are able to agree about the harmonisation of their market; they are able to agree about the freedom of movement of people and about uniformity in a range of occupations and goods and services.

However, what is good enough for Europe—with 300 million people and their diversity—is not good enough for South Australia, with 1.5 million people amongst 17 million. This reflects narrow mindedness and parochialism. It is something that is for some reason embedded in the psychology of many South Australians. Unless we break the psychology that somehow or other South Australia is better than New South Wales or Victoria or whatever, then we have no chance of competing in this nation.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: You can think you are better; that's fine. But what you—

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Just a minute. What I do not think you are entitled to think is that we can stand as an island and tell the rest of Australia to go jump on its mutual recognition. That is exactly what will happen if this Bill is defeated. The rest of Australia will be a market for these things. There will be mutual recognition of occupations and of goods sold and traded around Australia—everywhere except South Australia.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: You, I am afraid, do not understand the issue in the least. The Bill that came in from the Government was subject to some criticism. But I want to make it quite clear that the Government offered a compromise. I made that clear when this matter was debated in this Council earlier. We said, 'Okay, if you don't want the original scheme as proposed by New South Wales and adopted by New South Wales, the Commonwealth and Queensland, then we will agree to the Victorian proposal.' That was a significant compromise. The Victorian proposal was agreed to by a Liberal State Government. That provided that we were prepared to accept the proposal to adopt the Commonwealth law in South Australia.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: That has nothing to do with it. We were prepared to go along with the adoption of the Commonwealth law in South Australia. That meant that if South Australia was not happy with the scheme at any stage it could repeal the legislation. We were also prepared to go along with the other part of the compromise in the Victorian legislation; namely that the legislation be sunsetted after five years, and therefore to continue it the Bill would have to be reintroduced. But, no, that compromise was not good enough. Yet, that is what has now been agreed virtually in the rest of Australia—but not in our State of South Australia.

I have said before—and it is something on which I have spoken on a number of occasions during my time in Parliament and I will continue to speak on it—that Australia needs to be an effective economic market and to see itself as a unit in economic terms. This Bill was a very significant step towards achieving that aim. It was agreed to on a bipartisan basis. There were no politics in it in the other States—except, of course, in South Australia. I think that the defeat of this Bill, if it is defeated—and one can only make a final appeal to members opposite not to defeat the Bill—will, I believe, be a disaster for our State and for our image. It astonishes me—and I set the Democrats apart—that the Liberal Party, which talks about the need for more productivity, microeconomic reform, markets within Australia, and the need for us to be able to project ourselves into Asia, is not prepared to take this simple and innovative step to achieve a better economic arrangement in Australia. I ask members to reconsider the situation and to approve my motion.

The Hon. K.T. GRIFFIN: The Liberal Party wants to put South Australians first. It does not want to become part of an amorphous mass of lowest common denominator standards across Australia. That is what this Bill will do.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: It will. It has been acknowledged across Australia as a Bill that will lower standards. So, if there is a low standard in Queensland for teacher education that will flow through to South Australia, because Queensland teachers will be able to register here, notwithstanding that South Australian teacher qualifications are higher.

That is the point, Mr President. The Government woke up to this too late, almost. We can take South Australia's water, for example, which is more corrosive than in other States, and we have regulations which set higher standards for plumbing products to address that particular issue. Mutual recognition wiped it away. But what did the Government do? It immediately moved to re-regulate in another way. So, what have we achieved? Nothing. The barriers are in place.

In relation to conveyancing, for example, South Australia has a very high standard for land brokers. Western Australia has conveyancing clerks. In another State they do conveyancing for domestic properties only. But once a registration scheme is in place in other States, it means that the lower standards in other States can flow through to South Australia, that those lower standards will be practised here by those from interstate being able to come into South Australia, even before they are accepted by the registration authority, and practise after they make application for registration. So, they can practise here without even being registered.

The Hon. C.J. Sumner: As long as they are registered in the other States.

The Hon. K.T. GRIFFIN: Yes, that is right, but they may well be under investigation for defalcation; they may be under investigation for a whole range of disciplinary matters and they may want to escape the system, so they come across to South Australia and they can practise here. The same with electricians and others. This is what it means: lower standards.

The Attorney-General has overplayed this particular issue. We asked during the debate in this House and we made the point again at the conference: what benefits are there for South Australia? The Government cannot quantify the benefits. We suspect that there will be disadvantages rather than benefits. There are companies in South Australia, like Clipsal, who are manufacturing to a standard which is acceptable in other States. The motor vehicle manufacturers have uniform standards; there is nothing unfamiliar about that. Those standards of products are recognised in other States. With washing machines and a whole range of other products there are uniform standards across Australia, largely because they have been negotiated over a period of time. We have in this House now the trade measurement legislation—uniform legislation to deal with packaging and trade measurements.

The Hon. C.J. Sumner: It took 10 years to get that.

The Hon. K.T. GRIFFIN: Well, that is not my fault. But there is uniform legislation, where you look at a particular area of the law or products or occupation or licensing and you worry away at the issues, and you resolve the issues on a uniform basis. The Attorney-General makes the point about the legal practitioners. Legal practitioners, without mutual recognition, have almost completed a scheme which will allow reciprocal registration in the various States of practitioners from one State to another. They did not need mutual recognition. Doctors do not need mutual recognition; architects do not need mutual recognition; accountants do not need mutual recognition. It is a furphy. It is not the most significant piece of legislation that we have had for a long time; nor will this decision be one of the significant decisions taken in South Australia. It does not reflect the worst of South Australian parochialism, as the Attorney-General said. What it does is to recognise that we are putting South Australia first.

The Hon. C.J. Sumner: You are out of touch.

The Hon. K.T. GRIFFIN: I am not out of touch. You are overplaying your hand.

The Hon. C.J. Sumner: You are out of touch.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: Off the back of a truck, not from Parliamentary Counsel. I got access to a document which was drafted by the South Australian Parliamentary Counsel and which was highly critical of the legislation which came into the Federal Parliament. The concluding paragraph in that document reads as follows:

> The Bill in its present form—

and that is the form that was enacted in the Commonwealth—

> simply cannot be regarded as a satisfactory basis for Commonwealth legislation on the important subjects with which it deals. It would in my opinion be an act of gross political irresponsibility to refer to the Commonwealth power to enact legislation in the form of the present Bill.

The Attorney-General says we do not have to refer power. All he says is, 'We will adopt it.' That means virtually the same thing, because you cannot change the legislation unless you get the concurrence of the Commonwealth to do it. So, where do you go? We put up a scheme, by way of the amendments, which would

have allowed mutual recognition to continue. It would have meant, though, that there would have to be some further discussions with Canberra and with the other States. I would have thought that in the other States, where there are now predominantly Liberal Governments, they would have been prepared to recognise that.

The Hon. C.J. Sumner: Nonsense. You are out of touch.

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: I am not out of touch. What nonsense. We accepted the basic concept of mutual recognition, but we said it was not done in the way which protects South Australia's interests. If you look at the amendments we proposed, amendments which we say are quite reasonable, they would have ensured that there was a greater measure of control of the recognition of standards in South Australia so that we were not undermined. Let me just give a few examples of where the problems might arise. The first is in relation to pit bull terriers. South Australia bans pit bull terriers; other States have not banned pit bull terriers; they allow pit bull terriers to be registered. That means that people in New South Wales, if pit bull terriers are allowed in that State, can sell them into South Australia, overriding South Australia's law.

An honourable member interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: What sense is there in that? Let us look at marijuana: highly controversial. If Queensland took the decision to legalise marijuana it would then become available in South Australia, overriding South Australia's legislation. Take quarantine laws, for example. There is an exemption for quarantine in the Commonwealth Act; but everyone knows how much South Australia depends on its fruit industry, whether it is dried fruits or for other purposes, and its other agricultural products, as well as its vineyards. But let us look at the exemption which was provided in the schedule to the Commonwealth Act—not just a law relating to quarantine, which would have been quite acceptable, but it is modified. It can only be exempted to the extent that:

> ...the law or a direction or instrument given or made under that law or some other action taken under that law regulates or prohibits the bringing of specified goods into the State, or into a defined area of the State; and a State or area is substantially free of a particular disease, organism, variety, genetic disorder or any other similar thing; and it is reasonably likely that the goods would introduce or substantially assist the introduction of the disease, organism, variety, disorder or other thing into the State or area; and it is reasonably likely that that introduction would have a long-term and substantially detrimental effect on the whole or any part of the State.

If our experts in South Australia say that we should keep this particular product (grapes) out of South Australia because it will create a major problem for South Australia, we are going to be subject to challenge under the quarantine provisions of the exceptions in schedule 2. What good is that to South Australia? You run through a court case to determine whether all or none of the criteria are going to be satisfied to enable your regulation banning the introduction of those products into South Australia to stand up in law. That is a nonsense.

There are other issues like poisons and pesticides. Certain poisons and pesticides may be permitted in one State; they may be regulated as available. In South Australia we may have taken the decision to prevent them being used because perhaps the Australian Democrats or the Liberal Party or the Conservation Council has said these have dangers, but in that case that law will be overridden by the fact that they are still available in one other State and then can be marketed into South Australia. The same with dried fruits. I made the point in the second reading debate and in the Committee stage that the Riverland Horticultural Council is concerned that goods of a lower standard with less suitable characteristics can come into Queensland from overseas, be repacked and distributed throughout Australia at lower standards than those applicable in South Australia and undermining the Australian dried fruits market.

There is a whole range of issues about which, when we looked at this legislation, we said, 'That is not good enough for South Australia.' The Liberal Party supports uniformity wherever it is possible to achieve it, but we do not support it at any cost. We do not want to sell South Australia down the drain.

Members interjecting:

The Hon. K.T. GRIFFIN: We are not selling this State down the drain.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: The Government has not been able to identify one disadvantage; it has not been able to identify one benefit. The Employer's Federation, to which I referred in the debate, states:

> It is the view of the South Australian Employers Federation that the mutual recognition draft legislation is lacking in protective mechanisms in the public health and safety area, is inadequate in ensuring that products marketed Australia-wide would meet Australia-wide requirements and relies too strongly on cooperation between the States to ensure that product standards are uniform and administered at the level required.

As I said on second reading, the Engineering Employers Association raised some concerns. It stated:

> I would therefore suggest that, in respect of goods, there needs to be some quantified benefit in the acceptance of uniformity, or some quantified disbenefit which would lead us not to participate in the proposed arrangements. At this stage I am concerned that there appears to be more a 'band waggon' appeal than any real evidence of gain.

Other organisations have indicated support, such as the Architects Board, the Royal Institute of Architects, accountants, and so on, which largely have uniform standards across Australia, and they have done it without mutual recognition legislation. I suggest that the Attorney-General in this instance is over-dramatising the consequences of this legislation not passing.

We are certainly supportive of uniformity where it is achievable, but we are also concerned to ensure that in South Australia the highest reasonable standards are applied and that the legislation that the Government seeks to adopt does not remove the mechanisms by which we can ensure that those standards are achieved.

I pointed out during second reading and in Committee that there are many flaws in this legislation. I suggest that there was no consultation before the Heads of Government—predominantly Labor, but certainly Mr Greiner was one of them—when they made their agreement in 1991.

The Hon. C.J. Sumner: It was passed by Victoria.

The Hon. K.T. GRIFFIN: Yes, but they had concerns about it. Western Australia has had concerns.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. Sumner: We accept Victoria.

The Hon. K.T. GRIFFIN: I know you will accept Victoria, but we are not accepting it. There are difficulties even in the way that Victoria went in terms of adoption of the legislation. They cannot modify it in any way unless everybody agrees and the Commonwealth is prepared to legislate. We have not been persuaded by the Attorney-General's rhetoric to change our view.

Members interjecting:

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

The Hon. K.T. GRIFFIN: I know that the Attorney-General will seek to make some political capital out of it, but the fact is that he is not prepared to put South Australia first. For the past 10 years we have suffered under Labor; and the mess in South Australia is Labor's fault.

The Hon. I. GILFILLAN: It is very difficult to take the noisy rhetoric of the Attorney-General seriously. To argue that the failure of this legislation is a sign of impending destitution or isolation for South Australia is patently nonsense.

The Hon. C.J. Sumner: I'm sorry, but it is.

The Hon. I. GILFILLAN: I believe that, as was made clear in the Committee stage, the Attorney-General does not give a fig whether or not South Australia's sovereign independence continues. Deep in his soul the Attorney-General—and I will not make a moral judgment about this—cherishes the belief that Australia would be better off without State Parliaments, controlled benignly obviously by a Labor-led Federal Government.

However, I leave that to one side. I believe it is hypocritical, when that is his cherished belief, that he argues that we who oppose this legislation are against South Australia's best interests.

Members interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: Some emphasis has been put on the Heads of Government conferences. I should like to quote one paragraph from the recitals of the agreement made on 11 May 1992, to which all the Heads of Government were signatories. Recital C reads:

> The Heads of Government have agreed that the mutual recognition principles should apply in all areas where achievement of national uniformity of regulations is not essential [I repeat 'not essential'] to the efficient working of the Australian economy and that national uniformity will apply where such is necessary to facilitate international trade.

That puts the lie to the claim that by not passing this legislation the Australian economy is put in jeopardy. It is nonsense. The measure was aimed to a certain extent to make it easier for goods and people to go interstate to be sold and to practise their particular professions.

But, who has been complaining? Where are the letters to the papers about let and hindrance of interstate trade or the professionals who have not been able to work from one State to the other? The inference is that South Australia will be a victim State. Do members think that there will be bloodthirsty seeking of revenge by other States which will intimidate and victimise poor little South Australia? It is so much rubbish.

What is most unfortunate is that, although there was some play about efforts at consultation, there was virtually none, except with a very elite group, and that would be very few more than the Heads of Government and their advisers. Very few people know what is in the legislation. When I read sections 10 and 20 of the Commonwealth Act during the second reading debate, Government members looked on with amazement, and I do not blame them. I do not think that many people in this place have read the Commonwealth Act to know what is in it.

The public and the media, who should have been taking more interest, do not have the faintest idea. Therefore, it is important that I remind honourable members of what is in section 10 as regards mutual recognition. I repeat that these are requirements which do not need to be complied with when other States' goods are being pumped into South Australia for sale. Section 10(a) provides:

> a requirement that the goods satisfy standards of the second State [South Australia] relating to the goods themselves, including for example requirements relating to their production, composition, quality or performance.

They do not have to comply with that. It continues:

> (b) a requirement that the goods satisfy standards of the second State [South Australia] relating to the way the goods are presented, including for example requirements relating to their packaging, labelling, date stamping or age.

I made that point on second reading; they do not have to comply with date stamping or age. There is a similar requirement in section 20: this identification of virtually no holds barred for people who are registered in another State in any of the professions. It is a pretty extensive list of people and occupations who would be embraced by this: drivers, mining and quarry managers, blasters and people who handle explosives. They are all activities for which a responsible State will attempt to put in place minimum required standards for registration, regulation and training.

With the Mutual Recognition Act, any State which has registered these people at a level lower than ours will be able to see their trained people come into South Australia and automatically be registered here. I do not intend to go over the whole of my second reading speech again. I made that point as emphatically as I could. Where there is complaint on that matter, it is only on a short time limit before automatic registration takes place.

The same applies to the argument about safety of goods. I will read a couple of paragraphs, which I think are relevant to this debate in regard to this matter, from the report of the Committee on Regulatory Reform to the Heads of Government, Conference of Premiers and Chief Ministers, Adelaide, November 1991. This is regarding

the intended way that mutual recognition would work. The report states:

> Interstate goods which do not comply with the standards of the State in which they are being sold will be required to identify their State of origin or importation.

So, the implication of this is that goods which do not comply with the standards of South Australia will be able to come into this State from overseas and other States and the only requirement is that they put their State or country of origin on the container. There will be no identification of where they fall short of standards. The report further states:

> This additional labelling requirement is not expected to generate significantly higher costs. It is a minimum requirement to give consumers an opportunity to seek further information as a basis for making more informed trade offs between quality and price.

I pause here to indicate that the Hon. John Burdett was saying that Brazilian orange juice was being served at a function that he attended last night. That is the sort of thing which we are already trying to oppose. It becomes more prolific under mutual recognition. The second quote from this is related to the health and safety—

The Hon. T. Crothers interjecting:

The PRESIDENT: Order!

The Hon. I. GILFILLAN: To show how short-lived health and safety is, I further quote:

> The goods model provides for State and Territory Governments to enact temporary laws where there is a genuine risk to the health or safety of their citizens, or a real threat of pollution. During the life of that legislation, up to 12 months, State and Territories will have time to negotiate an agreed standard to deal with the problem if considered necessary. If agreement is not reached mutual recognition will apply when the relevant law expires and the sale of goods will be permitted.

I repeat, '12 months' after that. It does not matter what the complaint was: those goods under this Act which we are being bludgeoned by this Government to pass would automatically, without any further let or hindrance, be available for sale in South Australia. I think the goal of uniformity in Australia is a desirable one, and the ways and means of doing that are by consensus and reasonable discussion, and it should not be the imposition of the lowest common denominator through the mutual recognition legislation. I think that it is a question of State rights. What point is there in having a State Parliament? That is a rhetorical question. The Attorney may have a different answer to me. What is the point of having a State Parliament?

At this stage we have a State Parliament with a responsibility to make laws and enforce them for the better quality of life for South Australians and for the protection of the enterprises and economy of South Australia, the products that are produced in South Australia. This Federal Act puts at risk quite significant areas of this Parliament's responsibility for goods and services and the people who provide them in South Australia. So, I indicate that it is with no regret that the Democrats see this Bill fail because of the conference.

The Hon. T. CROTHERS: I open my remarks by saying that I am absolutely appalled, as an Australian by choice, at the narrow-minded attitudes of both the Hon. Mr Gilfillan and the Hon. Mr Griffin. In spite of the fact that Mr Griffin has a fairly erudite and trained legal mind, he has tunnel vision in respect of the statements made by the Hon. the Attorney-General, who has been quite correct and who, in one of the best speeches I have heard in this Chamber, has properly noted the reasons why this Parliament ought to be supporting the Mutual Recognition Bill.

Let me cast honourable members' minds back to Federation in 1901 and the tortuous paths that were trod by the politicians of the day who were far seeing in respect of bringing all of the Australian colonies together as the one Federation. In spite of the fact that they got there, they conferred limited powers on the Commonwealth Government of the day.

In order to reach the point of Federation the people who formed the various committees determinedly embarked upon basing the Australian Federation on the Canadian model, because in my view what that did was save a number of State politicians their very comfortable jobs back in 1901. It was not, in my view, done for the wellbeing of Australia as a nation or a people. It was done to ensure that the various Acts that had to go through the various State Parliaments would pass.

Here we are, ninety two years later, and it is not even to be argued that this Parliament and some of the members in it have a vested interest in arguing against the Mutual Recognition Bill, because it takes us that one step closer to becoming a proper nation. If you think that the argument that 'in unity is strength' has diminished from 1901, then I ask this Chamber to turn its attention to the formation over the past 20 years of the European Economic Community, which well understands the principle of the phrase 'in unity there is strength.' We are a nation set apart. We are the only nation in the world that occupies an island continent. We are a nation which diminishes our capacity to act unilaterally if we continue to oppose Bills of this nature.

It is not historical sense: it is not logical sense. I draw the attention of the Council to the fact that in Canada, which has the same brand of Federation as we, they are starting to fall apart over the issue of the French speaking Quebec—the seven million of them out of a Canadian population of 25 500 000. They are starting to fall apart. The Soviet Union—

The Hon. Peter Dunn interjecting:

The Hon. T. CROTHERS: Mr Dunn, if you would listen you would learn not only a little bit more about mathematics but also a little bit more about logic. The Soviet Union fell apart because of a cobbling together of different republics which still retained in their political memory that independence of action that Mr Griffin and the Hon. Mr Gilfillan would endeavour to keep in continuity on the Australian nation. Organised crime can play one State's laws off against another. That was the reason why, in the First World War, we had to form the Commonwealth Police. That was because of the different laws that attached State by State, and thus it is so still today.

We had a debate in this Chamber fairly recently about the legal profession, of which Mr Griffin is a member, in respect of trying to get some uniformity of operation as an Australian nation.

This makes a mockery of the Anzacs to say on the one hand that we are South Australians and, on the other, on

Anzac Day, that the landing at Gallipoli was the absolute place where Australia became a nation. It is a mockery. I again remind the Chair that this Parliament and the other State Parliament that would oppose mutual recognition have got vested interests.

This nation of ours, in my view, is over governed, and if a referendum was held and was successful in respect of the abolition of State Parliaments I would be the first to vote for it. We are over governed. Ask any member of the general public if that is so, and the majority of them will tell you that it is. The nation from which we derive our tradition, England, determined under Alfred the Great in 800 AD or thereabouts that the best path forward for it was unification of the seven Saxon kingdoms: Wessex, Mercia, Northumbria and four others. England truly did become great, not because it was a Federation but because it was a total and absolute entity, and still we refuse to learn the lessons that our own history teaches. Ninety-two years on from the point in time of federation—

The Hon. M.J. Elliott: You have left something out.

The Hon. T. CROTHERS: I have left nothing out. I would like to leave you out but that is not possible at this time. Maybe in a referendum we will be able to do that. Ninety-two years on from federation we are still arguing over things where there will be mutuality between all of the component parts of the Australian federation.

Federations are difficult. Perhaps the only area they have worked with some success is in Switzerland, but then the Swiss are the world's bank and, as a result of people understanding that, they will understand that the Swiss are a pragmatic, practical race. You have the Commonwealth Bank, of course you have.

The Hon. M.J. Elliott: You have the State Bank, too.

The Hon. T. CROTHERS: Have you? Well, I am pleased to hear you say that, Mr Elliott; I shall not remember that. If one looks again at the other constituent members of the old eastern bloc that was brought together by the Soviet Union one will see that Czechoslovakia has broken up because it is a federation, and look at the problem in the Balkans, in Yugoslavia. Look at the problem you have there because of federation. Still we get those people of narrowminded vested interests who would support those laws that were carried in 1901 forgetting, on the one hand, they will do that and, on the other hand, they will vote for changes in the law to reflect the opinion of people today. Ninety-two years on from federation because of their vested interest they still want to cling to the powers that were hammered out. In order to get the federation rule through the State Parliament (they still want to cling to those) they put themselves up as patriots and martyrs.

Let me conclude by reminding the Council of the immortal words of Dr Samuel Johnson. He said, 'Patriotism is the last refuge of a scoundrel.' I hope that we have no scoundrels in this Council but I will tell you something: I am tried sorely to imagine that we have not, in the light of several contributions that I have heard from the other side of the Council. I commend the Bill to the Council because of its long sightedness and because of the fact that it really is trying to care for Australian people. We are Australians first—and I am one by choice—and South Australian second.

Twenty years ago people would not have thought that a republic in Australia was possible. I would not have thought it and I was a monarchist up until five or six years ago when I woke up to the truth after seeing what the two princesses have done in respect of their scurrilous, greedy behaviour. Let me say, just as the time has come for Australia to be—

Members interjecting:

The Hon. T. CROTHERS: The truth is a great defence.

The Hon. R.I. Lucas: Tell us what they have done. Tell us what their scurrilous behaviour was.

The PRESIDENT: Order!

The Hon. T. CROTHERS: Just as the time for the debate about republicanism has come so will the time come very quickly thereafter for the debate for us to have a uniform nation, not one where investors can prey on the States, State by State, organised crime can pray on the States, State by State, and greedy lawyers can pray on the different laws in respect of the prices they charge State by State. I commend the Attorney-General's remarks to the Council. I think they were remarks of great foresight and trust and hope that the Bill will be supported. I can count, too, just as the fathers and mothers of federation can count. I can count as well. Maybe we will not get it through but at least the Attorney-General and myself are both on record and that record will commend itself to thinking people within the next decade. But the sooner we act on it the better it will be for all Australians.

The Hon. C.J. SUMNER (Attorney-General): I wish to make a couple of remarks of a general nature. There is little doubt that if the Liberals and the Democrats knock off this Bill now it will be passed within 12 months. So, I am not quite sure—

The Hon. R.I. Lucas: In the form in which we sought to amend it.

The Hon. C.J. SUMNER: No, it will not be passed in that form, because that will not be acceptable to the other States of Australia, and the honourable member knows that. South Australia cannot participate in the scheme if the Bill is amended as proposed by the Hon. Mr Griffin—that is clear. However, there is little doubt that in the long run South Australia cannot stay out of this scheme. No matter who is in Government in 12 or 15 months time the fact of the matter is that a similar Bill will be introduced to the Council by whoever is in Government, and it will be passed; that is a fact. South Australia cannot live without this scheme—that is clear to anyone who has thought about it for more than two seconds. Next year, at some stage it will be fixed up; I have absolutely no doubt about that.

The second point I would like to make is that I do not know who runs the Liberal Party in this State. The Liberal Party has lost election after election. It has just lost a Federal election—

The Hon. Anne Levy: The fifth in a row.

The Hon. C.J. SUMNER: Yes, the fifth election—because it is not in touch with the people of South Australia. Now it is doing it again. I cannot believe that the Leader of the Opposition in another place does not support this legislation. It is astonishing—the Hon. Mr Griffin seems to be able to lead the Liberal Party by the nose on issues such as this. I cannot believe

that the Hon. Mr Lucas does not support this legislation unless it is because he does not think very much about issues, but anyone who thinks about this for two seconds will know that we cannot be an island and sit out on our own, and we will not. This indicates to me that the Liberal Party is trying to curry some politics out of old rhetoric about States rights, which has largely lost its effect.

I do not believe that South Australians will fall for States rights rhetoric on an issue such as this. What I can say and what I genuinely believe is that this Bill is clearly in the best interests of South Australia and of Australia. South Australia cannot stand alone, the only State not prepared to participate in this scheme. The question of lower standards is basically a furphy in the long run because mutual recognition has forced people all around the nation into consultative mechanisms regarding occupations, goods, etc. to try to get agreed standards—and that process will continue.

The Hon. Mr Griffin mentioned legal practitioners. Legal practitioners only got their act together because of mutual recognition.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: I am sorry, but I happen to know a little bit more about this area than members opposite; indeed, I know a little more about it than the Hon. Mr Griffin. The fact is that there has been an impetus from mutual recognition for the legal profession to get their act together. Of course, South Australians now need not bother, because, unless some special arrangements are made for the legal profession and the other professions, they will not be part of the scheme. Mutual recognition gave an impetus, a push to this matter being—

The Hon. R.I. Lucas: You've had one go.

The Hon. C.J. SUMNER: If you would stop interjecting I would finish.

Members interjecting:

The PRESIDENT: Order! The Attorney-General.

The Hon. C.J. SUMNER: It was an impetus to legal practitioners to reach agreement, and they ended up doing it. The Hon. Mr Griffin then raised a number of furphies. Marijuana is a total furphy. Obviously, if that was going to happen, under the scheme the Government was prepared to agree to the legislation could be repealed immediately. Furthermore, it is highly unlikely that the other States of Australia would accept a situation like that in the very remote possibility that that happened.

That is a furphy, a nonsense. There is protection for South Australia's regulation relating to the introduction of diseases to plants, crops and animals. That is clearly spelt out. It does not affect South Australia's fruit-fly legislation; it does not affect South Australia's controls on phylloxera and the like. Of course, the reference to pit bull terriers was another one of the honourable member's attempts to beat up a few special cases. Basically that, too, has little effect.

Members have criticised the lack of consultation. This issue has been in the public arena (obviously they do not read the national papers—any of them) for a couple of years—a couple of years, for goodness sake! In any event, the Bill was introduced two months ago in the House of Assembly—two months! I know they are slow learners, they do not learn very quickly, but two months, I would have thought, was probably long enough for most members of the Council to get on top of the issues in the Bill.

I believe that the Liberal Party is committing a fraud on the people of South Australia by their attitude to this Bill. The fact that they say that, if the Bill is passed, South Australia's industries will not be protected any longer and our standards will not be protected is a furphy. The fact is South Australia cannot live outside Australia. This is part of the process of becoming part of the Australian market, the Australian economy. That is in the interests of South Australia—not the sorts of attitudes that are being expressed by members opposite.

The Council divided on the motion:

Ayes (5)—The Hons T. Crothers, M.S. Feleppa, Anne Levy, Carolyn Pickles, C.J. Sumner (teller).

Noes (8)—The Hons J.C. Burdett, Peter Dunn, M.J. Elliott, I. Gilfillan, K.T. Griffin (teller), R.I. Lucas, Bernice Pfitzner, J.F. Stefani.

Pairs—Ayes—The Hons R.R. Roberts, T.G. Roberts, G. Weatherill, Barbara Wiese. Noes—The Hons L.H. Davis, J.C. Irwin, Diana Laidlaw, R.J. Ritson

Majority of 3 for the Noes.

Motion thus negatived.

Bill laid aside.

NATIONAL PARKS AND WILDLIFE (MISCELLANEOUS) 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.

The National Parks and Wildlife Act is the principal piece of legislation for nature conservation in South Australia.

In October 1992 the National Parks and Wildlife (Miscellaneous) Amendment Bill 1992 was introduced into Parliament. That Bill contained amongst the proposed changes, provisions for the taking of animals for commercial purposes and for increased penalties for the taking or harming of marine mammals.

The Government decided not to proceed with that Bill on the basis of concerns raised that insufficient consultation had taken place. The provisions of that Bill are now being re-examined in conjunction with the current review of the National Parks and Wildlife component of the Department of Environment and Land Management.

There are however two components of the 1992 Bill which the Government believes should be proceeded with. These are provisions to facilitate emu farming and to provide penalties for offences relating to marine mammals.

A new Bill, the National Parks and Wildlife (Miscellaneous) Amendment Bill 1993 has been prepared to address these issues.

Firstly it is intended to make provision for the farming of protected animals. Emus are at this stage the only protected animals which are being considered for farming by the Government. Emu farming is a fledgling industry in Western

Australia, Queensland and Tasmania. It is appropriate that South Australia should be given the legislative infrastructure to develop a local industry.

In South Australia potential emu farmers have been keeping and trading emus under the general permit provisions of the National Parks and Wildlife Act. The existing provisions of the Act do not provide a suitable legislative infrastructure for farming of native animals to ensure that the best interests of the species, the environment and the community are appropriately protected and managed.

The Bill makes provision for a definition of the business of farming animals and for the issue of permits to farm protected animals. Provision is made for a code of management to be prepared in consultation with the Department of Primary Industries and the community. The code is required to deal with matters such as the impact of removal of individual animals or eggs from the wild on the species or ecosystem, the welfare of the animals in captivity, need for research into the species, identification of animals and animal products and any other matters that should in the opinion of the Minister be addressed.

Royalty is payable upon any animals taken from the wild or slaughtered in captivity and the Bill provides for permit and royalty fees to be paid through the Wildlife Conservation Fund for administration of the farming provisions, for the benefit of the industry and for research into conservation of the species.

The Bill provides a transitional period of 12 months to existing permit holders who keep emus under Section 58 of the Act and to provide for preparation and adoption of a code of management. Following adoption of the code of management only those persons who keep emus within the definition of carrying on the business of farming animals and belong to an organisation which has as its sole objective the promotion of the interests of persons who carry on the business of farming animals to which the permit relates and are approved by the Minister will be eligible for an Emu Farming permit.

Secondly, the Bill makes provision for adequate protection and financial penalties to deter people from taking and harming marine mammals. Marine mammals are defined to include seals or sea lions and dolphins or whales.

The Bill contains amendments which will provide for penalties to be consistent with the fisheries legislation whereby a common penalty between the two pieces of legislation will be $30 000 for the taking, harming or possession of any species of marine mammal.

These provisions will also support proposals to prescribe the Australian Whale Watching guidelines as enforceable standards of behaviour under the Wildlife Regulations.

The amendments contained in this Bill facilitate the responsible management of our wildlife resources being farmed.

Emu farming is to be managed within a framework which protects environmental, conservation and animal welfare considerations but which allows the industry to develop itself commercially for the potential economic benefit of the State.

Clause 1 and 2: These clauses are formal.

Clause 3: Amendment of s. 5—Interpretation

This clause inserts a definition of "marine mammal" into section 5 of the principal Act.

Clause 4: Amendment of s. 51—Taking of protected animals, etc.

This clause amends the penalty provision for taking protected animals (section 51 of the principal Act). At the moment different penalties are provided for endangered species, vulnerable species, rare species and common species. The amendment takes marine mammals out of these categories and imposes a penalty of $30 000 or imprisonment for 2 years for taking a marine mammal. The penalties for the other categories are unchanged.

Clause 5: Amendment of s. 60—Illegal possession of animals, etc.

This clause makes a similar amendment to section 60 of the principal Act.

Clause 6: Insertion of Division IVA into Part V

This clause inserts a new Division IVA into Part V of the principal Act. The new Division provides for the farming of protected animals. The business of farming protected animals is given a limited definition (section 60b) and section 60c(2) provides that, after a transitional period, farming of an animal to which the Division applies cannot take place under permits granted under the other provisions of the principal Act. Section 60c(1) sets out the activities that are authorised by the permit which would otherwise be prohibited by other provisions of the principal Act. Subsections (3), (4) and (5) of section 60c place limitations on the granting of permits. Subsections (6), (7) and (8) impose conditions and restrictions on permits. Subsection (7) prevents the harvesting of wild animals for slaughter. Subsection (9) allows permit holders to sell eggs where the sale would not fall within the definition of carrying on the business of farming. Section 60d provides for the preparation of a code of management. Section 60e provides for royalty. Section 60f provides that all money paid for permit fees and royalty must be used for the purposes listed in subsection (1).

Clause 7: Substitution of s. 68

This clause replaces section 68 of the principal Act.

Clause 8: Insertion of schedule 11

This clause inserts schedule 11 into the principal Act. The only species contemplated for farming at the moment is the Emu. Further species may be added in the future by amending the schedule.

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

ADJOURNMENT

At 6.17 p.m. the Council adjourned until Tuesday 4 May at 2.15 p.m.