LEGISLATIVE COUNCIL

Wednesday 8 September 1993

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

AUDITOR-GENERAL'S REPORT AND TREASURER'S FINANCIAL STATEMENTS

The PRESIDENT laid on the table the report of the Auditor-General together with the Treasurer's Financial Statements for the year ended 30 June 1993.

LEGISLATIVE REVIEW COMMITTEE

The Hon. M.S. FELEPPA brought up the 13th and 14th reports of the committee and moved:

That the 14th report be read.

Motion carried.

MABO

The Hon. C.J. SUMNER (Attorney-General): I seek leave to table a ministerial statement that is being given by the Premier in another place today on the subject of Mabo, together with a document titled 'Mabo in Queensland: Likely Impact in South Australia', dated December 1992; and another document titled 'Mabo in Queensland: Supplement to Working Party Report', dated March 1993.

Leave granted.

QUESTION TIME

PRISONERS

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister for Crime Prevention a question about prison sentences.

Leave granted.

The Hon. R.I. LUCAS: My office has been contacted by a number of constituents who are concerned about what they believe is the Government's soft attitude to prisoners—in particular those convicted of violent crimes—and their being released early from prison.

The Hon. T.G. Roberts: Did you watch *Lateline* last night?

The Hon. R.I. LUCAS: No, I was here working. What were you doing? They are particularly annoyed in view of what they describe as misinformation that is coming from some Government Ministers about the Government's supposed 'get tough' policies.

One northern suburbs couple has drawn my attention to an example of this fiction being perpetrated by Ministers in a recent letter posted to electors by the member for Briggs, Mr Rann. The letter is dated 16 August 1993, and says in part—

The Hon. L.H. Davis: The fabricator.

The Hon. R.I. LUCAS: Some members might call him the fabricator. The letter says in part, and I quote:

> My views are quite straightforward. Our family homes and communities must be secure. Those who threaten our security must be made accountable for their actions. For repeat offenders there must be no soft options. . . The State Government has increased penalties for a wide range of crimes and has appealed against lenient sentences handed down by the courts. Those guilty of major crimes are now spending much longer in gaol.

Five days after receiving this letter from the member for Briggs the couple opened their Saturday edition of the *Advertiser* to read:

> More than 100 South Australian prisoners convicted of violent crimes, including murderers, rapists and armed robbers, have been released early under the controversial home detention scheme during the past five years.

The article went on to say that during the past 18 months three murderers have been released into the program. Today's *Advertiser* gives another example of community concern about another murderer being released into the program. The 21 August article highlighted that, in 1991-92, 296 prisoners were released on the home detention scheme and, of those, 54 broke the conditions of the scheme and were put back into prison. One prisoner released under the scheme had murdered his wife just three days after release.

Whilst all this is going on, the member for Briggs continues his chest thumping in his correspondence to constituents, with statements like 'I have been criticised for my tough line on law and order' and 'None of us wants persistent offenders to be let off by the courts with just a warning. Repeat offenders must get the message that the law is not a soft touch.' My constituents are very angry at what they state as Mr Rann's hypocrisy and the Government's lack of action on this issue, when they point out that this Labor Government has been in government for most of the past 20 years and that he, Mr Rann, has been there for almost a decade. My questions to the Minister for Crime Prevention are:

1. Does the Government have any concerns about the operations of the home detention scheme and, if so, what actions have been taken in relation to those concerns?

2. Does the Minister for Crime Prevention concede that Mr Rann's letter about the need to get tough on law and order issues is a clear admission of the failure of the Labor Government to tackle this issue during the past 20 years?

The Hon. C.J. SUMNER: I certainly do not concede that. The fact of the matter is that this Government has given an extraordinarily high priority to law and order and community safety issues over the past decade, covering a number of areas, in particular, increased police powers and increased sentences in a number of areas, but combining that with the most comprehensive crime prevention program in Australia, a crime prevention program that is being used as a model for the development of crime prevention programs around Australia.

The reality in this area is that increasing crime rates are a matter of concern. They are a matter of concern to this community; they are a matter of concern to the Government; and, over the past decade or so, this Government has taken a large number of measures across a range of areas to deal with the issue, including increased sentences, increased police powers and increased resources to police and criminal justice agencies in this State. In this State we spend more than the national standard on criminal justice matters and we have more police *per capita* than any other State in Australia.

As the honourable member knows, we have toughened laws and increased sentences in a number of areas. Prisoners now spend more time actually in gaol than they did 10 years or so ago. All those matters have occurred, so I believe that what the Hon. Mr Rann has said is correct. But the fact of the matter, and this has been—

The Hon. R.I. Lucas: He says you should get tough.

The Hon. C.J. SUMNER: Yes, we have to get tough, I agree. We certainly have got tough where that has been necessary over the past decade. But the one thing we do know about this area, from interstate and international experience and, indeed, from experience in this State, is that, if you just rely on a simple approach of more police and heavier sentences, you almost certainly will not get on top of the crime problem. In the United States of America, for instance, there is some six times the imprisonment rate that exists in South Australia.

The death penalty exists in over 30 States in the United States of America, yet in that country the crime rates in most areas—particularly in violent crime—tend to be higher than those that exist in Australia. We have had strong law and order policies run in the United States by President Reagan and very strong law and order policies run by Margaret Thatcher during the decade of the 1980s in Great Britain, yet in both those countries we have seen significant increases in crime rates. What I put to the Chamber—and this is the argument that has been put by the Government to the community and I believe fully justified on the evidence—is that we have to have a broad based approach to crime prevention. That is why I was appointed Minister of Crime Prevention. It has to involve enforcement of the law with appropriate heavy sentences for violent offences, but that has to be complemented by community crime prevention schemes which the Government has put in place, and this, as I have said, has been used as a model around Australia.

What has happened with crime rates in South Australia is not something that is unique to this State: it is a phenomenon we have seen throughout other States of Australia and throughout virtually all the comparable western industrialised nations. So, the fact is that there are no slick easy solutions to the problem of law and order. As I said before, there has to be a two-pronged attack, which is what the Government has done. There is evidence that in certain localities the implementation of our crime prevention measures has had a beneficial effect in reducing the crime rate. Juvenile crime in Port Augusta, for instance, is one example. Crime rates in the inner-city area around Hindley Street is another example. The incidence of illegal use of cars was down on the last set of statistics. Juvenile offences are down. We have to check, of course, to see whether there are any long term trends in this reduction, but the fact is that there have been some reductions in crime in the last 12 or 18 months according to those latest statistics.

I am not silly enough, Mr President, to come into this Chamber and claim great things for a reduction in crime statistics on the basis of one year: we have to look at what the trends are over time. However, there is some evidence that localised crime prevention programs are working in reducing crime in those localities and that across the board in South Australia there may be some reduction in crime. Also in the area of homicide, while obviously there are variations from year to year, the general proposition is that crime rates in this area have not increased, if you are looking at it on a per capita basis, which is the only valid way of doing it, over a period of time. So the Government does have, and will continue to have where appropriate, a tough approach to law and order issues.

The honourable member mentions the question of home detention and says that it is somehow or other a Government policy. That, Mr President, is an approach to prison management which is generally accepted now in most States and countries and which was sanctioned by this Parliament. The Government is carrying out the wishes of this Parliament in the implementation of home detention for prisoners. And I think that most people realise in the Parliament—

Members interjecting:

The Hon. C.J. SUMNER: Parliament has not set the guidelines but Parliament has introduced, agreed and sanctioned a system of home detention. I think most people, whether they are on the Opposition or this side of the Chamber or involved in the community, accept that, if as happens in almost all cases, prisoners are eventually going to go back into the community it is important that they have a period before they go back into the community, perhaps under home detention first, then under a period of supervision, so that they are not in prison one minute and out of prison completely without supervision the next. Most approaches to prison management consider that to be unsatisfactory, and commonsense tells you that, in terms of rehabilitation and reoffending of the prisoner, it is unsatisfactory to have a prisoner in gaol one minute and out of gaol without any supervision the next. So what we have in this State—and this has been supported by the Parliament and the honourable member opposite—is a system of graduated release from gaol through a system of home detention, accepted by the Hon. Mr Irwin and other members, and then of course a period on parole after this.

The Hon. J.C. Irwin: The gaols are full; that's why—

The Hon. C.J. SUMNER: Of course the gaols are full. What do you want? Do you want them emptied? Do you want them emptied more?

The Hon. J.C. Irwin interjecting:

The Hon. C.J. SUMNER: The gaols are full, so the Hon. Mr Irwin wants them to be let out of gaol more quickly, and to that I ask: what do you want done with them?

The Hon. J.C. Irwin: More gaols.

The Hon. C.J. SUMNER: You want another gaol? Is that the Opposition's policy?

Members interjecting:

The Hon. C.J. SUMNER: Okay, I just want to know. The Hon. Mr Irwin has interjected and I am just asking whether he wants another gaol. The fact is that the number of prisoners in gaol since about 1985 has virtually doubled. So, on the one hand prisoners are being put in gaol for longer periods, and more of them are being put in gaol than occurred previously. That is the fact of the matter. The honourable member is quite right in saying that the gaol accommodation is stretched. The only solution to that is to build another gaol, and that would probably cost about $30 million or $40 million. That is the fact of the matter, and that is why the Government has to have and has had—

Members interjecting:

The PRESIDENT: Order! The Attorney-General has the floor. He has been asked a question and I ask that he be heard in silence.

The Hon. C.J. SUMNER: Mr President, in summary, that is why we have that approach to crime. We are tough where it is necessary, but we combine that—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Just a minute, I did not say that. We combine that with crime prevention programs. The question of home detention has been sanctioned by the Parliament.

Members interjecting:

The Hon. C.J. SUMNER: I have only been in this job for less than a week, a few days, and obviously if there are

concerns about the operation of home detention the matter can be examined.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Overall, I believe that the home detention system has worked satisfactorily.

Members interjecting:

The Hon. C.J. SUMNER: I am saying that overall I believe it has worked satisfactorily. It is sanctioned by the Parliament. If at some stage the matter needs looking at, I am certainly happy to examine it. As I said, I have only been the Minister of Correctional Services since Friday of last week. I am putting a general proposition: the Government supports home detention, the Parliament supports home detention and we will certainly examine whether there are any issues that need looking at in relation to it.

WHEATMAN, MR PAUL JOHN

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about the release of Paul John Wheatman.

Leave granted.

The Hon. K.T. GRIFFIN: As my colleague the Hon. Robert Lucas indicated, a report today indicates that Paul John Wheatman, convicted of murder in 1981, is to be released on home detention after having served about 12 years in prison. When he was convicted the 12-year non-parole period meant that he could not apply for parole until he had served 12 years and then he could apply to the Parole Board for release. At that time, the board had a discretion whether or not to release. Since that time the Government has amended the parole scheme and applied it to that non-parole period, as a result of which he could have been released after eight years. It is acknowledged that on two occasions the court has extended that period because, as reported, Wheatman experiences fantasies suggesting he could commit more crimes on release. There is still some concern about what might occur with Wheatman's release, even on home detention. My questions to the Attorney-General are as follows:

1. Is the Attorney-General satisfied that Wheatman is unlikely to commit further serious offences whilst on home detention and subsequently parole, and are there grounds for yet another application to the court for a further extension of his non-parole period?

2. In approving home detention has the Government sought and had regard to the views of the family of Wheatman's victim?

3. What conditions and supervision have been imposed on Wheatman in respect of his release on home detention?

The Hon. C.J. SUMNER: He has not been released on home detention. That is the fact of the matter at this stage. The recent media reports—

The Hon. K.T. Griffin: Is he likely to be?

The Hon. C.J. SUMNER: This is my briefing note; one hopes it is correct. The recent media reports that Wheatman 'will be released from prison on home detention next month' are not based on fact. Wheatman has applied to the department's prisoner assessment committee for release on home detention; however, this application has not yet been considered. So a good bit of the basis upon which the honourable member has asked his question once again is apparently incorrect. It is true that Wheatman is serving a life sentence—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: You should check your facts. If you are relying on reports—

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Do not rely too much on what you read in the media. Sometimes it is right, more often than not it is wrong, but it is one of the facts of life we have to live with in this State.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: If you pick up a newspaper and read it, you might believe half what is in it if you are lucky; the rest you usually have to check fairly carefully. Anyhow, it will probably turn out that the briefing note is wrong and the media was right. You cannot win in this game, either way.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: All options have been covered now; either the media are to blame or the minute is wrong, but I am the only one who is in the clear. I am enjoying the new portfolio. They told me to be very careful about correctional services, so I am. Anyway, that is what the briefing note says. So, as the honourable member said has said, his non-parole period has been extended twice from the original 12 years, which was set under the old sentencing regime. However, it is important to note that the prosecution authorities have taken his matter back to court on two occasions and have got an extension of the non-parole period on those two occasions. So, the final decision as to the release of Wheatman has effectively been made by the court, and that needs to be borne in mind.

In preparation for his release on parole, the Correctional Services Department has developed a resocialisation program which at this stage involves accompanied leave. On this program, every time Wheatman leaves the Northfield Prison Complex he is accompanied by a departmental officer. On these occasions his behaviour is monitored as closely as possible. His progress will be reviewed by the prisoner assessment committee later this month. At present he has some accompanied leave; he has not been released on home detention.

As to the question relating to whether or not the DPP believes there are grounds to take action to further extend the non-parole period, the DPP has made two applications to extend the non-parole period, resulting in two extensions of three years and 20 months respectively. The basis of the last extension was to place Wheatman on a pre-release program, which was done. The behaviour which gave rise to the previous application has ceased. The pre-release program involves closely monitored assessment, leading to accompanied and unaccompanied leave with strict conditions (although at this stage he has only had accompanied leave), home detention and eventually parole on conditions set by the parole board. If he accepts the conditions his anticipated date of release on parole is 12 December 1993. Home detention will be considered at the end of October. So, he is not into that phase yet, apparently.

The DPP advises me that every effort is being made to ensure the protection of the public. The DPP advises that there is no basis for a further application to extend the non-parole period. The existing non-parole period with extensions equates with an 18 year non-parole period which, it could be argued, is inadequate, having regard to the crime, but in the DPP's opinion it cannot be reviewed, because of the legislative changes interpreted by the court in the Addabbo case.

That is the situation as far as the DPP is concerned. If any members of the community wish to make submissions to the DPP in relation to whether another extension of the sentence should be sought by the DPP for Wheatman, they are entitled to do so. That is the advice that I have on this matter to the present time.

The Hon. K.T. GRIFFIN: As a supplementary, what is still relevant in my question is whether, as home detention has not yet been approved, it is the Government's intention to seek and have regard to the views of the family of the victim.

The Hon. C.J. SUMNER: I will examine that matter. It was not necessary to answer it because there is not, at this stage at least, any decision relating to home detention. However, I will examine that issue and bring back a reply.

STATE TRANSPORT AUTHORITY

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

Leave granted.

The Hon. DIANA LAIDLAW: Again last year the number of people using STA services fell dramatically. Figures in the Program Estimates book issued to members of Parliament yesterday reveal that last financial year patronage of STA services fell by a further 3.7 million, or by more than 10 000 journeys a day. This is the lowest patronage level since bus and train services became widely available in the metropolitan area in the 1930s; and the estimates of patronage for this financial year reveal that the rot has not yet stopped.

For 1993-94, patronage is estimated to be 48.3 million—down a further 800 000 on last financial year. In the past, the Minister has fudged the STA's poor patronage record by noting the increase in passenger numbers on transit link services. However, the STA's patronage figures for last year and this year reveal that the increased numbers of people travelling on transit link services have not offset the huge numbers of customers that the STA is losing on all other services, with the exception of the O'Bahn.

The figures also confirm concerns expressed by me, by unions representing the transport sector, by STA workers and by the travelling public over the past 18 months that transit link services have been introduced by starving inner city, night and weekend services of the funds they need to operate a frequent and reliable service that people want to use. In the meantime, the Government has had little success in encouraging local councils to operate community bus services to cater for the travelling needs of people whom the STA is no longer prepared to serve.

In respect of bus, train and tram services operated by the STA, will the Minister provide the patronage figures for the last financial year and the previous financial year in order to reveal what modes have experienced the heaviest fall in passenger journeys over the past year?

Will the Minister also provide the estimates for passenger journeys by modes for this financial year to reveal which modes are expected to experience the brunt of the anticipated fall of 800 000 passenger journeys in 1993-94?

The Hon. BARBARA WIESE: Some of the response that is required by the honourable member will have to be provided at a later date, but I can provide some information now about patronage trends within the State Transport Authority and the various modes of transport for which the public transport system is responsible.

Over the last decade, with the exception of the two years when children and students were allowed to travel free on STA services, patronage on STA services has generally been declining, as the honourable member has indicated. Patronage during 1992-93 was 49.1 million passengers compared with 67.5 million passengers 10 years ago, a total drop of 27.3 per cent, reflecting a compound average decline of about 1.4 per cent per annum over the 10-year period. This declining trend is now beginning to be arrested with the introduction of the new transit link services which are gradually being introduced into all parts of the metropolitan area.

The Hon. Diana Laidlaw interjecting:

The Hon. BARBARA WIESE: Let me give you some information that might interest you about this matter, because the claim that I make about the arrest in the declining patronage is correct, and the transit link services are proving to be extremely successful. As to the specific information that the honourable member requested concerning patronage figures for the financial year 1992-93, I can indicate that total patronage decreased by 7 per cent from 52.8 million journeys to 49.1 million journeys. Bus patronage decreased by 9.3 per cent from 44.2 million to 40.1 million journeys. Train patronage increased by 8.7 per cent from 6.9 million to 7.5 million journeys.

The Hon. Diana Laidlaw: There was no strike last year, was there?

The Hon. BARBARA WIESE: I don't know that there have been any strikes for a very long time.

The Hon. Diana Laidlaw: There was the year before.

The PRESIDENT: Order!

The Hon. BARBARA WIESE: Regular patronage decreased by 9.3 per cent from 18.3 million to 16.6 million journeys. Concession fare patronage, including free passengers, decreased by 5.8 per cent from 34.5 million to 32.5 million journeys.

By comparison, patronage during the first six months of 1993 relative to that during the first six months of 1992 showed the following. Total patronage decreased by only 2 per cent from 24.8 million journeys to 24.3 million journeys. Bus patronage decreased by 5.3 per cent from 20.8 million to 19.7 million journeys. Train patronage increased by 11.8 per cent from 3.4 million to 3.8 million journeys. Regular fare patronage decreased by 6.9 per cent from 8.7 million to 8.1 million journeys. Concession fare patronage, including free patronage, increased by .6 per cent from 16.2 million to 16.3 million journeys.

The fact that there was only a 2 per cent reduction in patronage during the six months to the end of June 1993 compared with the same six months of the previous year indicates that the success of the transit link services is beginning to show through.

The honourable member will know from this year's budget, which has just been announced, that several new transit link services are commencing. Only last week the Premier announced that there would be a revamp of public transport services in the southern suburbs, which include an additional three transit link services. Today I have announced that new transit link services will be operating to the Adelaide Hills and out to the northern suburbs. Further work is being done on revamped services in the western suburbs, and further transit link services are to be developed for the northern suburbs. Following that, work will be undertaken in the eastern suburbs to improve public transport networks.

The Hon. Diana Laidlaw: Not offsetting the losses.

The Hon. BARBARA WIESE: The fact is that transit link services are beginning to show success in arresting the decline in public transport patronage. That is our aim. As we proceed to introduce more of these services, we should also see an even better improvement in patronage figures than we have seen in the past six months.

With respect to the operating costs of the State Transport Authority, there has been a very significant reduction during the past eight years or so to the tune of about 20 per cent. Further reforms will improve the operations of the organisation even further over the next few years.

In addition, there has been an increase in our capital costs. If we are to have an efficient, modern public transport system which can attract people back to public transport, we must have the most modern equipment; we must have up-to-date buses and trains.

So, those facilities are also in the pipeline. We are constantly taking delivery of new trains and buses, which are upgrading and modernising our fleet. If we can have a system which is modern, comfortable and fast—

The Hon. Diana Laidlaw: What about clean?

The Hon. BARBARA WIESE: And clean.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: And most of our services are clean. The honourable member knows full well what the program of the STA is in this respect.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: Short of having—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. Diana Laidlaw: Have you seen the seats on the train?

The PRESIDENT: Order! The Hon. Ms Laidlaw will come to order.

The Hon. BARBARA WIESE: The thing I find interesting about the honourable member's interjection is that she keeps shifting the ground. She wanted to attack me on patronage figures; I can show that there is an arrest in the decline in patronage. She then wants to attack us on costs; well, we can show that there has been a significant reduction in costs in the public transport system over the past few years.

However, there has also been an increase in capital expenditure because we must modernise our fleet. We are doing that to bring about a public transport system which provides the best possible service to the community.

We also have the schemes which have been in place for a long time and which are effective, whatever the honourable member wants to say, but they cannot be 100 per cent effective 24 hours of the day, because we cannot have sufficient people on every bus and train in our community to ensure that every child who wants to pull out a Texta cannot write all over the seats or the walls.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: But what I can say is that our scheme within the STA—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order! The Hon. Ms Laidlaw will come to order.

The Hon. BARBARA WIESE: —is to ensure that graffiti is removed from STA property within 12 to 24 hours wherever it appears. That has been in operation now for quite some time. It has worked very effectively, and we are also experimenting with new fabrics to introduce onto train seats so that graffiti is not as obvious to passengers wherever that occurs.

The fact is that if we have a social problem within our community, as we do with young vandals and graffitists, and the State Transport Authority cannot be held responsible for that. What the State Transport Authority can do is clean off graffiti as soon as it appears—

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —and to work with young people through the Transit Squad and through community organisations to try to change the behaviour of young people. They are doing that very effectively and it is having an impact on reducing the amount of graffiti and vandalism that we see on buses and trains and on STA property.

However, these things will not work miraculously overnight. We are not the only public transport system in the world that is subjected to this sort of behaviour. We have to do the best we can in trying to control this sort of anti-social behaviour, but the STA alone is not responsible for it and cannot take responsibility for it. It is a broader community problem and others must be involved in that.

The essential questions that the honourable member asked have been answered. The arrest in declining patronage is improving. On some individual transit link services, for example, we have seen an increase to the tune of some 26 or 27 per cent in new passengers coming into the system. That means those people are leaving their cars at home and they are hopping on to buses or trains probably for the first time.

This is a success story, and it ought to be acknowledged by members of the Opposition because it is an enormous success story. We have much more in the pipeline and we will have before very much longer a highly efficient public transport system. In fact, already it is recognised by people who know what they are talking about as a very good public transport system as it stands.

FINGER POINT

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage, representing the Minister of Public Infrastructure, a question about the Finger Point Sewage Treatment Works.

Leave granted.

The Hon. M.J. ELLIOTT: I asked a question in this Council on 4 May this year about the Finger Point Sewage Treatment Works near Port Macdonnell. I received a response from the Minister which I relayed to constituents in the South-East. Their fears remain about the possibility that heavy metals from the sewage works drying ponds could leach into the sea and have yet to be convinced that the monitoring of the site is adequate.

The Minister told me that heavy metals are unlikely to leach from sludge drying areas due to the area's limestone formations underlying the sludge beds, as it would take between 600 and 1 000 years for water to leach through the limestone.

It is commonly known in the district that the nature of the limestone in the Port Macdonnell area is generally referred to as 'Swiss cheese', in that it features many sink holes and an extensive system of underground caves and tunnels. Only

a few are known to the public in general and there are countless more on private properties.

A concerned local resident who visited the site for the drying beds prior to the completion of the treatment works has told me that tapping the surface of the area produced hollow sounds throughout the entire area due to the nature of the limestone. While it might take hundreds of years for contaminated water to leach through a solid mass of limestone, the retention time for water is in fact likely to be far less than the Minister claimed.

The Minister also pointed out that there was no decline in the level of heavy metals in stored sludge compared to recently produced sludge, despite the Minister's reference to a concerted waste strategy in the Mount Gambier area to reduce to a minimum the toxic wastes which entered the sewer in the Mount Gambier area. It is also worth noting that Mount Gambier is the one area where the sewers allow industrial waste to be put straight into the sewers.

As well, concerns about the ageing five kilometre section of pipeline which carries sewage to the treatment works have not been allayed. We are still yet to be told the nature of the patrols which the Minister says are regularly made of the line and how reliable the evidence is that is gained. This is needed to support the Minister's opinion that this section requires no attention even though all other sections of the outfall main were replaced several years ago due to severe deterioration caused by acid eating away the pipe.

It is worth noting that that pipe is underground and that such leaks are not easily detected by simple visual means. There has been no satisfactory answer to requests about the composition of heavy metals, the levels of their concentration and since when and how regular monitoring of heavy metals has occurred.

I also understand that the E&WS Department has recently tested the water in a spring known as FP No.7, which is only about 100 metres from the sludge drying beds for heavy metals to test that there was no water leaching. My questions to the Minister are:

1. Has any research been done to ascertain the porous nature of the limestone under the sewage treatment works sludge drying ponds?

2. What do the heavy metals contained in the sludge consist of?

3. What are the levels of their concentration?

4. Since when and how often has monitoring of heavy metals occurred?

5. Will the Minister make the results of the testing public and, if not, why not?

6. What is the nature of the patrols of the original five kilometres of the original outfall main?

7. How reliable is the information gained to support the Minister's opinion that this section of pipe requires no urgent attention at this stage?

8. Will the Minister make public the results of heavy metals tests on water from the spring known as FP No.7?

The Hon. ANNE LEVY: I will refer those eight questions to my colleague in another place and bring back a reply. I may perhaps comment that this question on Finger Point is somewhat different from those that perpetually came from the opposite side of the Council when the Hon. Mr Cameron used to fire them off daily.

REICHERT, MR ERICH

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

Leave granted.

The Hon. L.H. DAVIS: In 1983 Mr Erich Reichert was the Victorian Development Manager for Beneficial Finance Corporation. In that year he was actually dismissed from this position for poor or unsatisfactory performance by two senior executives of Beneficial Finance who went to Melbourne for this purpose. At the time of his dismissal, Beneficial Finance was being effectively run by a management committee, pending the appointment of a new Managing Director. A few months later, Mr John Baker was appointed as Managing Director of Beneficial Finance but, to the great surprise and horror of many senior Beneficial executives—and apparently without advertisement—Mr Baker appointed Mr Erich Reichert to the position of National Development Manager of Beneficial Finance. Shortly afterwards, in April 1984, the Savings Bank purchased Beneficial Finance Corporation and, following the merger of the Savings Bank and the State Bank on 1 July 1984, Beneficial Finance Corporation became part of the State Bank group.

It has been claimed that, following Mr Baker's appointment as Managing Director and Mr Reichert's appointment as National Development Manager, the risk taking by the Beneficial Finance group increased dramatically. Prior to these appointments, Beneficial Finance had been regarded as a well managed finance company and the Bank of Tokyo, as a major shareholder, had a member on the Beneficial board as well as a senior staff member seconded to the Beneficial executive team. My questions to the Attorney are:

1. Was the State Government aware that Mr Erich Reichert, who in time became deputy to Mr John Baker at Beneficial Finance, had in fact been sacked by Beneficial Finance in 1983 prior to its becoming part of the State Bank group?

2. Following the acquisition of Beneficial Finance by the Savings Bank in April 1984 and the merger of the State Bank and Savings Bank on 1 July 1984, what procedures were undertaken to review the senior staff at Beneficial Finance, their suitability and background?

3. What procedures were put in place for the assessment of loan proposals and the type of business to which Beneficial Finance would lend money, following the merger of the State Bank and the Savings Bank?

The Hon. C.J. SUMNER: The latter two questions were matters for the Savings Bank at the time and, as the honourable member knows, the Government did not then or subsequently have power to direct that Savings Bank or, indeed, the new State Bank of South Australia in relation to these matters. Whether the Government was aware of the facts outlined by the honourable member, I cannot say. Obviously, I cannot speak on behalf of the whole of the Government, but whether someone within Government was aware it is not possible for me to say, and I am not really sure whether anyone could find out at this late stage unless there is any documentation in relation to it, and I suspect there is not. However, I will refer the question to the appropriate Minister to see whether there is anything that he wishes to add to what I have said.

POLICE INVESTIGATIONS

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Attorney-General a question about the police Internal Investigations Branch.

Leave granted.

The Hon. I. GILFILLAN: On page 4 of today's *Advertiser* is a report regarding a senior police officer having been charged with having police property in his garage, allegedly without proper authority, and I quote the article, 'Officer charged over property', as follows:

> A senior South Australian police officer has been charged with having police property in his garage without proper authority. The Deputy Commissioner, Mr Pat Hurley, said yesterday the chief superintendent was charged under the Police Act. The charge follows an Internal Investigations Branch probe instigated after a complaint by a member of the public, apparently sparked by an altercation with the officer. During their inquiries, investigators allegedly found the police property in the officer's garage. Mr Hurley said if the officer pleaded not guilty to the charge it would be heard before a magistrate as part of the police tribunal. If he pleaded guilty, it would be left to the Police Commissioner, Mr David Hunt, or Mr Hurley to determine a penalty. Mr Hurley said the chief superintendent could face a range of penalties including dismissal, a fine, demotion or a reprimand.

Quite clearly from this story there is a structure within the Police Department that not only investigates but then sets up as a court before which the accused, having had a charge laid against him, can plead. Eventually, having pleaded guilty, if that is the way he chooses to plead, the Commissioner of Police acts as the sentencing judge. My questions to the Attorney are:

1. Does the Attorney agree that the facts as described amount to an offence of theft?

2. Why should charges not be laid in the usual manner as with a civilian charged with theft?

3. By what authority does the Police Commissioner have the power to accept a plea of guilty and then sentence the offender?

4. Does the Attorney agree that this is a deplorable example of the police investigating, trying and even sentencing the police themselves?

The Hon. C.J. SUMNER: It depends whether we are talking about findings relating to departmental discipline or about criminal offences. I am not aware of the circumstances of the case to be able to give a reply, but the honourable member can rest assured that police are acting in accordance with the legislation passed by this Parliament, of which the honourable member was a very prominent supporter.

PRISON OFFICERS

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Correctional Services, a question about warder numbers at Yatala Labour Prison.

Leave granted.

The Hon. J.F. STEFANI: I have been informed that the Department of Correctional Services has drastically reduced the number of correctional officers employed at the Yatala Labour Prison. There is great concern amongst the remaining staff of the prison that, in the event of an emergency or, worse still, a prison riot, the existing number of correctional officers is not sufficient to control prisoners within the Yatala prison. The situation has been described as dangerous and unconscionable, and it is said that the Government is more concerned about money than the safety of prison officers or prisoners. In view of the situation, I ask these questions:

1. Will the Minister confirm or deny that correctional officer numbers within the prison system have been reduced?

2. Will the Minister advise how many prison officers have been removed from the Yatala prison and from each of the other prisons within the State?

3. What is the total amount saved by the staff reduction?

4. Will the Minister advise what security arrangements have been undertaken to meet any emergency that may arise within our prisons?

The Hon. C.J. SUMNER: I will take those questions on notice and bring back a reply.

AGE DISCRIMINATION

In reply to **Hon. I. GILFILLAN** (5 August 1993).

The Hon. BARBARA WIESE: The concession travel scheme referred to is the Student Pass Concession Scheme. This scheme provides for concessional fares for students who use particular private route service buses to travel to and from their place of study on school days.

1. Bona-fide students of any age are entitled to participate in the scheme although the wording of the application form for secondary students would indicate that a student, 19 years or over, would need to be classed as a tertiary student. The entry criteria is presently being reviewed and one of the outcomes will be a change in wording to the secondary student application form; all references to an age criteria will be withdrawn as it is not the Government's intention to restrict eligibility to the scheme of any bona-fide student on the basis of age. The cut-off age for a secondary student of 19 years was first written into the scheme at its inception in 1975. At that time it was uncommon to have mature aged students. Students 19 years or over were then classed as tertiary students and were able to gain the same concession applying to secondary students.

2. I have sought and received a report on Mr Jackaman's complaint and I can advise you that while Mr Jackaman is eligible to participate in the Student Pass Concession Scheme if he so desires, he should be aware that the scheme does not provide for a single return trip ticket as described. The minimum student concessional fare between Murray Bridge and Adelaide is $106.90, this will purchase a concession pass which will be valid for approximately one month or 20 school days. The pass is not valid outside of school hours, on weekends or during vacation periods.

It would appear from the information provided to me that Mr Jackaman is not being discriminated against on the basis of his age or for any other reason. He can participate in the Student Concession Scheme if he wishes, but as a student of the Marden Open Access College, an institution which does not require regular attendance, it would be pointless for Mr Jackaman to purchase a concession pass for a month's travel if there is no need for him to travel for educational purposes, he would be paying for a monthly ticket which he would rarely use.

GOVERNMENT INFORMATION SERVICE

The Hon. CAROLINE SCHAEFER: 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 the Government Information Service and toll free numbers.

Leave granted.

The Hon. CAROLINE SCHAEFER: A rural constituent contacted my office yesterday after some delay and difficulty. He had telephoned the Government Information Service asking how he could obtain information on my parliamentary performance. He wanted access to my speeches and questions. He was told that the Information Service had not heard of me and was unaware that I had taken my seat in Parliament. However, he was advised that he could ring Parliament House if he wished. He was not told that there was a toll free number he could access.

While I realise that the halls of this hallowed establishment have not quaked because I took my seat, I have been

here for a month and, during that time, I have made three speeches and asked several questions. My questions therefore are:

1. How well informed is the Information Service?
2. How well publicised is the 008 toll free number?
3. Can figures be obtained to determine how much the toll free number is used?

The Hon. C.J. SUMNER: I am sorry that the honourable member was overlooked, despite having made three speeches. Perhaps she should have made more controversial speeches and tried to get on the front pages of newspapers—give her time—then she would have been well known. I do not know the circumstances of the call, but the honourable member has asked for some factual information that I will attempt to obtain.

ENTERPRISE BARGAINING

In reply to **Hon. I. GILFILLAN** (24 August).

The Hon. C.J. SUMNER: The Minister of Labour Relations and Occupational Health and Safety has provided the following responses:

1. The Minister of Labour Relations and Occupational Health and Safety did not refuse to attend a meeting called by Mr Brereton. The Minister refused to attend a meeting called by the Victorian Minister of Industry and Employment.
2. The Federal Government has not as yet finalised its proposed amendments to the Federal Industrial Relations Act.
3. When the Federal Government has finalised its amendments to the Industrial Relations Act the Minister of Labour Relations and Occupational Health and Safety will consider these amendments.
4. This Government supports enterprise agreements which deliver real productivity improvements while maintaining the integrity of the current award system. The current industrial relations system provides the flexibility needed to bring about innovative agreements appropriate to the needs of businesses, employees and the community.

IMMUNISATION

The Hon. BERNICE PFITZNER: I move:

That this Council:
1.Condemns the Federal Government for axing of the newly proposed MMR (measles, mumps and Rubella) immunisation booster program for year 8 boys and girls to be commenced in 1994.
2.Urges the State Government to find ways and means to fund and implement the proposed MMR immunisation booster program for the due date of January 1994.
3.Directs the President to convey this resolution to the State and Federal Ministers of Health.

Mr President, in moving this motion I would like to speak about immunisation generally, to describe the disease of measles, mumps and Rubella (German measles), and finally to conclude with a strong recommendation that the booster dose for MMR immunisation should be implemented for 1994 as planned. The terms 'immunisation' and 'vaccination' have been used interchangeably. Strictly speaking 'vaccination' originally relates to the vaccinia virus (smallpox virus) used to obtain immunity against smallpox. Some people still use the term 'vaccination' to denote the administration of any vaccine. The term 'immunisation' is used to describe the process of providing immunity artificially by administering immunobiological products. 'Immunisation' does not automatically denote the development of adequate immunity.

Immunisation is one of the greatest medical strategies in the prevention of human disease, especially in children. As a medical intervention it has prevented more suffering and saved more lives than any other medical procedure in this country. It is one of the safest and most effective procedures in modern medicine, and it is cost effective. With high rates of uptake of the immunisation program one cannot only expect a decrease and diminution of a disease, but also the final eradication of a disease. For example, the last naturally acquired case of smallpox in the world occurred in 1977, and world-wide eradication was confirmed by the World Health Organisation (WHO) in 1980. Therefore, the occurrence of even a single case of smallpox anywhere in the world now is an international epidemiological emergency. This is the kind of end result that we can achieve with an immunisation program that is aggressively pushed and sold. It can lead to a disease being extinct.

Further, Australia, in effect, eliminated poliomyelitis in 1956. Diphtheria also has virtually disappeared. This aim of controlling and finally eradicating a disease is about to be applied to measles, mumps and Rubella (MMR). The separate vaccines for MMR were introduced 20 to 35 years ago. We have a good track record for the control of MMR but we need the booster dose for MMR to further strengthen the first dose to protect non-responders of the first dose and to catch up on those who have missed the first dose.

Of course, there are adverse effects following immunisation. However, it is important to note that modern vaccines are extremely safe and effective. Adverse reactions have been reported in all vaccines. They range from local reactions to extremely rare and sometimes severe generalised reactions. To improve knowledge about adverse reactions all the reactions needing medical attention are reported and investigated to find out the aetiology of the reaction, be it an allergy, a hypersensitivity or any other cause.

Let us look at the individual diseases and note the needless suffering and possible death that can result. Measles or Rubella is a highly infectious disease passed on through droplet secretions of the nose and throat. Measles is one of the most readily transmitted communicable diseases. Measles starts with a fever, conjunctivitis, cough and a blotchy rash. Complications of measles can lead to ear infections, pneumonia, encephalitis or infection of the brain. Mumps is also an acute viral disease characterised by fever, swelling and tenderness of the salivary glands—that is those glands on either side of our face. The complications of mumps are inflammation of the testicles or to a lesser extent the ovaries leading to possible sterility, deafness, arthritis, nephritis or inflammation of the kidneys and meningo encephalitis or the inflammation of the brain and its coverings. Rubella (or German measles) is a mild febrile infectious disease with a diffuse rash which may resemble measles or scarlet fever. Some people may not even have the rash or fever, but just a minor headache and tiredness. German measles is important because of its ability to affect the foetus, resulting in deformities. These foetal deformities occur in 25 per cent, or even more, of infants born to women who acquire German measles during the first trimester of pregnancy. The defects which may be single or which may be in combination are deafness, cataracts, mental retardation, heart deformities, bone disorders, jaundice, glaucoma (which is an eye disorder) and meningo encephalitis or inflammation of the brain and its coverings. Thus, as will be noted, these so-called childhood diseases can have severe complications. These diseases (MMR) can be well on the road to elimination if we institute an effective immunisation program. The first part of the

program is in place, which provides immunisation of MMR at 12 months of age.

As an aside, Mr President, I noticed that one of the letters to the editor in the *Advertiser* recently criticised my statement on the first MMR immunisation being done at 15 months rather than at 12 months. I have not responded until now as I was advised by a very senior staff member of the Health Commission that it was 15 months, and having been in Parliament for approximately 2½ years I thought my original information of a dosage at 12 months was erroneous, and I accepted that statement. I have now come to the conclusion that one has to check all things out no matter how simple. With the initial dose given at 12 months of age, it has been recommended by the National Health and Medical Research Council (NHMRC) that a booster dose is now needed. The South Australian Health Commission sent out a circular in February of this year to all units providing an immunisation program, and I would like to read part of the memo today, as follows:

> Measles, mumps and rubella vaccines, second dose, to be introduced in South Australia in 1994.
>
> The NHMRC has recommended that a second dose of MMR vaccine be introduced in 1994.
>
> This recommendation has come about following much investigation, including studies of continued outbreaks of measles in western countries with a one dose regime. The need to ensure all children receive two doses of measles vaccine to account for vaccine failure, failure to seroconvert and to reduce the rubella virus in the community. This vaccine is to replace the rubella vaccine currently being given to girls between 10 and 14 years at school, usually in year 8 in South Australia. In addition to the girls receiving MMR, all boys in the same age group will be offered the vaccine. This is a major campaign involving direct costs for vaccine purchases, promotion, education and administration. The estimated cost of vaccine for 20 000 children per annum at $4 a dose is $80 000 and the estimated cost of administration is $130 000. The estimated total cost of this booster is $210 000.

This internal memo was given to units in February this year. Six months later a second memo 'Immunisation update', again from the Health Commission, was sent to the units. It contains seven points, and the seventh point, in very small print, reads:

> Second dose MMR not commencing in 1994.
>
> Funds are not available to commence this program next year. . .
>
> Please help to increase the uptake of MMR vaccination at 12 months of age.

The footnote states:

> There have been 69 cases of measles notified in the first six months of 1993.

The update ends with the statement:

> Keep up the good work towards maximum immunisation levels.

I find this ironic, as MMR for next year's booster is now no longer available, and therefore how are we to maximise our immunisation levels? We do not now have any funding within the Federal or State budgets for this necessary and essential program which plans to give a booster dose to girls as well as to boys between the ages of 10 to 14 years, which is in about school year 8. In providing immunisation to the boys we are eliminating another avenue of transmission by the viruses. It may be coincidental, but with the funding provided by the Federal Government for Hib for the 0 to 3.11-year-olds the Federal Government has now cut the funding for the MMR booster dose for 1994. It must be highly commended that the Hib program has finally made it, except it would have been better if the 4 to 4.11-year-olds could have been included. I suggest that they are not.

Returning to the funding for the MMR booster program, it will need about $250 000 for the State to provide the vaccines and to use the existing immunisation units to implement the program. It has been put to me that Hib is more destructive than MMR. This is not so. Hib bacteria certainly has significant complications for young children and perhaps that has a more emotive perception. However, the three viruses of measles, mumps and rubella (German measles) have equally if not more significant complications and must be addressed immediately. A booster program in 1994 for children around the age group of 10 to 14 years must be seen as a priority. We need to fund this program if we are to look forward to the exciting concept of the elimination of MMR and achieving the reality of obtaining the extinction of those three viral diseases. Therefore, I strongly urge my colleagues in this Council to support the amended motion.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

PETROL

Adjourned debate on motion of Hon. Diana Laidlaw:

That this Council—

I. supports a differential in the price of leaded and unleaded petrol as a means to encourage more motorists to use unleaded petrol in their vehicles and to reduce both lead emissions and airborne lead levels;

II. deplores the Federal Government's proposal to impose an extra tax on leaded petrol, recognising that such a move will disadvantage people who are least able to afford the tax or who cannot afford to replace their older vehicles, namely, young people, the unemployed, low income earners, struggling small business and farmers and people living in outer metropolitan areas who do not enjoy access to a strong network of public transport services; and

III. urges the Commonwealth Government to pursue alternative environmental strategies which also take account of social justice issues, for example, reducing the excise on unleaded petrol or cutting the sales tax on the purchase of new cars and do not simply amount to another revenue raising tax.

which the Hon. R.I. Lucas had moved to amend by adding the following new paragraph:

> IV. directs the President to convey this resolution to the Prime Minister and to the Leader of the Federal Opposition.

and to which the Hon. I. Gilfillan had moved the following amendments:

> Paragraph III—Leave out all words after 'social justice issues'.
>
> Proposed Paragraph IV moved by the Hon. R.I. Lucas—After 'Federal Opposition' insert the words 'and Leader of the Democrats in the Senate'.

(Continued from 25 August. Page 285.)

The Hon. R.R. ROBERTS: At the outset, I wish to advise that basically the Government supports the motion, but I will be moving an amendment on behalf of the Government. Copies of the amendment are now being circulated. I move:

> Insert new paragraph IIIA as follows:
>
> IIIA. supports the consistent position of the South Australian Government, opposing an increase in the fuel excise on leaded petrol, and supports the State Government's proposals for—
>
> (a) a national monitoring program of blood lead levels, particularly in young children;
>
> (b) a national study to investigate the possibility of lowering RON levels in petrol from 97 to 96; and
>
> (c) a national public education campaign to minimise the use of leaded petrol.

Events surrounding this issue have somewhat overtaken the motion now before us. Events on the Federal scene indicate

that it is clear that an alternative arrangement to the original proposal of taxes on leaded and unleaded petrol will change. I would congratulate my Federal back bench colleagues for taking the case of disadvantaged people in Australia, especially people living in country areas, to our Caucus room. I am aware that other points of view were put in other forums and by and large the situation has been overcome.

As members opposite are leading me to point out, there was also action in the Senate. Whilst I agree with the outcome of those actions, I think all members of Parliament have to view that activity with some concern. It was interesting to note that during the last Federal campaign, when both Parties were promoting their tax platforms, the Prime Minister, after being questioned about the controversial GST, assured the country that in the Senate the Labor Party would act responsibly and pass Dr Hewson's legislation if the Liberals were elected. Fortunately, the people of Australia had the good sense not to allow that situation to occur.

Members interjecting:

The Hon. R.R. ROBERTS: Members of the Opposition are starting to interject and obviously they would do so, because they are the people who always espouse the independence of Upper Houses, claiming that they should be divorced from the Lower House; yet for purely cynical reasons, I suggest, the position became clear when the Leader of the Federal Opposition, Dr Hewson, said, 'I will stop this in the Senate.' He can no longer stand up and talk about the independence of Upper Houses. They have now revealed what they are really on about.

Going through this motion, the first part of the motion reads that this Council here in South Australia support a differential in the price of leaded fuel and unleaded petrol as a means of encouraging more motorists to use unleaded petrol in their vehicles and to reduce both lead emissions and airborne lead levels. This is not entirely consistent with the position taken by Minister Mayes at a national conference on lead, where he strongly opposed the selective increase of fuel excise on leaded petrol, on social equity grounds. I am sure those grounds are still of major concern to the Minister, but this Government, unlike other people who practise in the Parliaments of this country, has taken the national point of view. Whilst we are still concerned about the social equity grounds, we have accepted that line.

The second paragraph deplores the Federal Government's proposal to impose an extra tax on leaded petrol, recognising that such a move will disadvantage people who are least able to afford the tax or who cannot afford to replace their older vehicles, namely, young people, the unemployed and low income earners, struggling small business, farmers and people living in the outer metropolitan areas who do not enjoy the access to a strong network of public transport services. As a member who lives in the country areas, I am fully sympathetic to all that is in that statement, and I do it from a position of conviction. I suspect that the members opposite supporting this motion, whilst they say that they do so on social equity grounds, are doing so purely as a matter of political advantage.

Members interjecting:

The Hon. R.R. ROBERTS: They are going to bring their record on petrol into question. I will come back to that, because I still have in front of me a $3 note that was put out by the Vehicle Builders Employees Federation in 1980 which explains very clearly the Liberal Party's history on petrol. So, I will come back to that. I oppose this, because I actually believe in what is being said. It is not a cynical exercise on our behalf for purely political advantage. I will go into the history of petrol. Members of the Opposition said during the most recent Federal campaign what they would do with petrol pricing. However, when it comes to petrol, the history of the Liberal Party is far from a glowing one. Back in 1980, during a Federal campaign, the vehicle builders, who were suffering fairly great hardship, pointed out in this electioneering document that I have before me:

> Petrol—Tax Rip Off.
> When Fraser was elected you could fill a Holden car with petrol for $11.10. Now it costs $23.50.

This is the Government that says they have a policy on petrol and social justice. That was in 1981. Also in that year the vehicle builders pointed out:

> In four years, Fraser's Government has made $2 400 million, at a cost of 25 000 vehicle industry workers' jobs.

Obviously, they were not very happy about that. They further stated:

> The average car owner is now paying $12 a week for fuel. For every $1 spent on fuel, 83¢ goes to the Government.
> Ask your Federal MP what is he doing to protect the vehicle industry workers' jobs.

We know exactly what the Federal Government was doing about that; it was doing absolutely nothing. The Liberals insisted that we had to have the extra petrol tax, with world parity pricing. We all remember the campaign; they said—

Members interjecting:

The ACTING PRESIDENT (Hon. M.S. Feleppa): Order! Will the Hon. Mr Roberts resume his seat for a moment.

The Hon. R.R. ROBERTS: Forgive them, Mr Acting President, for they know not what they do.

The ACTING PRESIDENT: I ask the Hon. Mr Lucas to stop interjecting. If he wishes to add his eloquence to this debate later he will be most welcome.

The Hon. R.I. Lucas: I have just spoken, though.

The Hon. R.R. ROBERTS: It was a most unmemorable speech, Mr Acting President; I can understand why you do not remember it. However, what the Liberals were saying to Australians then was, 'We have to double the price of petrol, because you are using too much,' and now we have this hypocrisy when they come out and talk about petrol. They want to interfere with the good running of this country. They want to interfere from South Australia in the tax measures and the money Bills of the Federal Government. I shall finish my comments in relation to what was happening in 1980, when we had the $3 note with this wonderful photograph of Mr Fraser standing alongside a petrol pump saying, 'Petrol rip-off, a division of the Taxation Department'. In fact, I am not completely sure whether he is wearing very tight trousers; but it looks to me as though Mr Fraser is leaning on this division of the taxation department with his palm out saying, 'Give me more money.'

As to members on this side of the House, our opposition to what was being proposed was one of consistency. Minister Mayes on behalf of the Government has required the Mobil refinery at Port Stanvac to lower its lead levels in petrol from .55 to .4 grams per litre at the end of next year, and if the research octane number levels can be lowered to 96, then we would require it to be .3 by that time. The Minister has called for a national monitoring program, pointing out that the most recent comprehensive study in South Australia was in 1984, well before the phasing in of unleaded petrol.

It has been claimed by some sections of the automotive industry that facilitating lead reduction in petrol by lowering

the research octane number in leaded petrol will cause pinging and other problems in some models of cars manufactured prior to 1986. The Minister has called for a national study funded by the industry to investigate these claims, and suggests options for overcoming any identified problems. The Minister has indicated the oil industry should take the major responsibility for funding those initiatives. He argues that under the polluter pays principle the industry must accept that the unacceptable pollution of the environment, that the risk to public health is an external cost that cannot be allowed to continue and that the cost of reducing pollution levels should be met by the sector that receives the principal financial benefit from the product. I would conclude this contribution on behalf of the Government by saying that we do support the thrust of the motion, and I would indicate that in respect of the amendment moved by the Hon. Mr Gilfillan, it would be the Government's intention to support that also.

The Hon. I Gilfillan's amendment carried; the Hon. R.R. Roberts' amendment carried; the Hon. I. Gilfillan's amendment to the Hon. R.I. Lucas's proposed amendment carried; the Hon. R.I. Lucas's amendment, as amended, carried; motion as amended carried.

CLASSIFICATION OF PUBLICATIONS (ARRANGEMENTS WITH COMMONWEALTH) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 September. Page 326.)

The Hon. C.J. SUMNER (Attorney-General): The Hon. Dr Pfitzner had a query about one clause of the Bill, but I think she has misread the section. The honourable member has mistakenly thought that section 13(3)(b) of the Classification of Publications Act 1974 is the subject of amendment in clause 4 of this Bill. Clause 4 amends section 13(3)(3b), which is quite a different section. Amendment is made to this section to remove the reference in the Act to 'corresponding law' and to make other consequential amendments. Section 13(3)(b), which refers to circumstances in which the Classification of Publications Board may refrain from assigning a classification to a publication, is not amended by this Bill in any way. It seems as though, subject to what the honourable member may have to say after examining the matter, there is no problem. At least, that is my advice, but I shall be happy to discuss the matter with the honourable member if it appears that there is a problem.

The only other comment I would make is on the question of uniformity. I am pleased that the Hon. Dr Pfitzner has supported uniformity of censorship laws in this place. She referred to the Australian Law Reform Commission's report on censorship, which is currently being considered by the Standing Committee of Attorneys-General and censorship Ministers. In general terms, I support the proposals emanating from the Law Reform Commission's report, and I certainly agree that the various pieces of legislation should be rationalised.

It is generally true that South Australia, Victoria and New South Wales have agreed to uniform consistent principles and have accepted the decisions of the Commonwealth censor in this area.

However, the honourable member went on to say that the Australian Law Reform Commission said that there were a number of ways of getting uniformity, one of which was a Federal Act—presumably, an Act passed by the Federal Parliament—or a model code for all States and Territories. In effect, we have an attempt to get a model code in each State and Territory. It is just that while Victoria, New South Wales and South Australia have tended to have uniform principles (if not uniformity in the actual legislation, there are uniform principles), it is extremely difficult to get the other three States to agree.

Queensland, under previous regimes and indeed under this regime, has a different attitude to censorship matters. Western Australia has tended to go on its own as well as has, from time to time, Tasmania.

The answer to the honourable member's question is that I support national uniformity. I have always worked towards, as far as possible, national uniformity in this area because communications in Australia cross State boundaries, and we are involved with national publishers, national film distributors and national video distributors.

I support it but the only way to get real uniformity would be for the Federal Parliament to legislate for a uniform Act across the whole of Australia or to have some kind of cooperative scheme where the Federal Parliament legislated on behalf of the States. But if the second proposal is a model code for all States and Territories—which I suspect is the proposal that is likely to be acceptable to the States—then you always have the capacity for different States to do their own thing. Once that is permitted then uniformity tends to go by the board because, although you can generally get the three States I have mentioned, including South Australia, to the barrier, it is very difficult to get uniformity from some of the other States.

So, I support uniformity. The Australian Law Reform Commission report is before the ministerial committee on censorship, and no doubt work will be done on developing a model code in the context of some other issues, one of which is the Bill that was passed by this Parliament at Dr Pfitzner's instigation.

I hope that a model code can be developed and introduced in all States and Territories, but I do not know that that will necessarily ensure uniformity for the reasons I have outlined.

This is a fairly small Bill; it does not raise the full issues, but I have used the opportunity to respond to the honourable member's specific technical question and the general issue she raised regarding uniformity.

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

ENVIRONMENT PROTECTION BILL

Adjourned debate on second reading.

(Continued from 19 August. Page 246.)

The Hon. DIANA LAIDLAW: The Liberal Party supports the second reading of this Bill, which aims to promote and stimulate sustainable development and environmentally sound practices by all sectors of our community. The Bill also aims to encourage constructive and collaborative planning and action by Government, industry and everyone else in our community to achieve effective environmental protection and improvement.

The Bill also aims to set rules and offences, penalties and remedies to apply when environmental performance does not match agreed community goals and expectations. The goals of this legislation are laudable and they do have the full support of the Liberal Party. I admit, however, that I was most surprised to read a claim by the Minister in a publication

circulated at the Adelaide Royal Show this past week. The publication is entitled *Ecobiz* and quotes the Minister of Environment and Land Management as follows:

> August was a very important month for the Department of Environment and Land Management with the introduction to Parliament of perhaps the most comprehensive environmental legislation ever drafted in Australia. The Environment Protection Bill is the single most important piece of environmental legislation presented by this Government and will give us the strongest ever protection of the environment and help cut red tape for business.

I know that it is difficult to get publicity from time to time unless one goes right over the top, and that is one of the hazards of comment on any issue today, because there tends to be exaggeration. But there is, without question, exaggeration in Minister Mayes' statement in this publication.

It is wrong, misleading and mischievous to say that this Bill before us today is the most comprehensive environmental legislation ever drafted in Australia. I would also argue most strongly that it is wrong, misleading and mischievous to suggest that this is the single most important piece of environmental legislation presented by this Government. If in fact my claim is not the case, then it is a sad reflection on environmental legislation presented by this Government to date.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: They certainly do. It is also extraordinary for the Minister to claim that this will give South Australians the strongest ever protection of the environment. When one sees the representations that have been received on this matter from the wide range of community groups, including the Conservation Council and the South Australian Division of the National Law Environmental Law Association, one sees that this Bill clearly falls far short of their expectations for a strong piece of environmental legislation.

It is also important to recognise that the Minister is over the top when you look at what legislation has been passed in other States, and I cite New South Wales as an example. There has been much stronger environmental protection legislation for many years in that State prior to the Minister's introducing this Bill. For instance, the provisions of the New South Wales Environmental Offences and Penalties Act in relation to civil remedies are much stronger than those provided for in this Bill. There are in fact provisions in New South Wales that we will be seeking by way of Liberal amendment to include in this Bill. I suspect that when this Bill passes this Council it will be a much stronger piece of environmental legislation than the piece of legislation before us at this present time.

It will, in fact, be the strongest ever protection of the environment, as the Minister claims this legislation to be. In relation to this Bill, it is also important to remember the amendments that the Liberal Party and the Australian Democrats forced the Government to accept when the Marine Environment Protection Bill was debated in this place some three years ago. Minister Levy will remember that debate well, I suspect, because it was a tortuous process.

The Hon. Anne Levy: Very enjoyable!

The Hon. DIANA LAIDLAW: I do not like torture much, and I remember that debate as tortuous. Certainly, many other things, including the arts, give me a great deal more pleasure than some of this environmental legislation. But the Australian Democrats and Liberal Party fought long and hard and there was a bitter battle in conference over amendments to that Bill, and we finally won most of those amendments. That is important to recall today, because the Bill before us repeals the marine environment protection legislation and embraces the standards that we established in that legislation. The Bill before us today is certainly better for that tough fight waged in this place three years ago to improve the provisions of the Marine Environment Protection Bill.

It is also important to recall that on behalf of the Liberal Party I moved major amendments to the Marine Environment Protection Bill to make the Government more accountable in terms of sludge and sewerage. I would like to read those provisions which I moved at the time and which state:

> Notwithstanding any other provision of this clause, a licence may not be granted to the Minister responsible under the Sewerage Act 1929 authorising
>
> (a) the discharge, emission or depositing after 31 December 1990 of sludge produced from the treatment of sewerage at the sewerage treatment works at Port Adelaide
>
> or
>
> (b) the discharge, emission or depositing after 31 December 1990 of sludge produced from the treatment of sewerage at any other sewerage treatment works forming part of the undertaking under the Sewerage Act 1929.

We believe that that amendment was most critical to keep the Government accountable for the very specific promises that it had made to the electorate on both matters at the time of the last election. It was interesting how strongly the Government resisted those amendments that would have enshrined in legislation Government commitments at the last election. I would be most interested, in terms of the provisions in this Bill in relation to exemptions, to learn whether that has been incorporated simply to provide the Government with further excuses to get out of some of the election promises it has made in the past and, heaven forbid, may make and have an opportunity to enforce in the future.

I remind members about that sewerage and sludge amendment of three years ago to the Marine Environment Bill, the amendment that the Government fought strongly against, because in terms of action rather than mere rhetoric it is a fair example of this Government's record on environment protection. It is also important to recall that three years ago, when debating the Marine Environment Protection Bill, much comment was made about the proliferation of environment-related Acts in this State. There were at the time five (and with the passage of the Marine Environment Protection Bill six) such Bills embracing everything from beverage containers to clean air, to the Environmental Protection Act, to waste management, noise control and water resources.

We had this mess of Acts, all with statutory bodies, all with committees, all with their own infrastructure and licensing processes. It was the clear undertaking of the then Minister (the Hon. Ms Lenehan) that she would be seeking to bring these Acts together, and I am pleased to see that this Bill is the result of that undertaking. This is an important Bill because it repeals six existing Acts and licensing and approval systems and because it will work together with the Development Act 1993 and the Environment, Resources and Development Court Act 1993.

So, with the repeal of all those Acts and the fact that it is to work with the Development Act and the Environment, Resources and Development Court Act, it is hardly surprising that this is a big Bill, with 141 clauses and a couple of schedules. It will be bigger by the time we have finished with it, because I note that the Minister herself has four pages of amendments and I have yet to see the Democrat amendments. I have some amendments prepared although not yet on file,

and further amendments may well be necessary from the Liberal Party's perspective following answers that I hope the Minister will provide to a number of questions that I will be raising during this second reading contribution.

There are many positive features of this Bill, and I will name a number of them. There is the fact that the Environment Protection Authority is to be established as a statutory authority with six members. I like the fact that it is confined to six members, and I also like the fact that at this time those members are non-representative. The Environment Protection Advisory Forum is to be established. It is that forum which will be a representative body and which will embrace some 18 members. I recall that, in the initial discussion paper, the green and white papers on this Bill, 21 were proposed, and I think that the forum will be improved and leaner with 18 members.

I also welcome the introduction of the South Australian State of Environment Report, which will be delivered to the South Australian Parliament at least every five years. There are other positive features, including the arrangements between industry and future developments in this State. It is worth briefly recording how that will work. In future, development proposals with the potential to pollute the environment or to generate significant waste will be referred to the Environment Protection Authority by the relevant development approval body under the Development Act.

The EPA will then have an input into initial development authorisations and may well impose conditions or, in certain circumstances, veto proposals. This system will in turn ensure that, where the EPA has agreed to a development authorisation, the application will be assured of receiving an environmental authorisation under the EPA Act.

As I indicated earlier, this approach is a healthy and positive one. It confirms that in future there will be a heavy emphasis placed on prevention of pollution and waste at a stage when development proposals are being planned, designed and assessed for approval. It is also important because we find that in this approach, through this Parliament, we will be putting into practice what many of us have preached for many years, and that is that economic and environment issues can work together: they need not always be seen in separate boxes and at loggerheads, as so often has been the approach, or at least the perception of the approach, of environmental concerns about development and economic issues.

So this approach in future is a strong, positive advantage and one the Liberal Party strongly supports. In future an environmental authorisation, such as a licence, will provide for ongoing environmental oversight of activities. This in turn will lead to the introduction of environmental and waste minimisation audits by companies assessing their compliance with legal requirements and so on. I again welcome this measure. In my view it has been a flaw in the past that EIS statements have been produced but there has been no process of oversight to check whether a company has complied with that EIS or not. The only oversight has been a random one, where someone may detect that a company has offended, and then one has to go through a series of processes involving offences and penalties. However, under these new provisions companies will be encouraged to be much more responsible corporate citizens, and they will be encouraged to be much more responsible for their own affairs and the management of the environmental consequences of their operations.

In addition, the Bill provides a number of positive environmental steps on the part of industry and public authorities where they will be recognised, encouraged and rewarded under the new legislation, and again I think that this is an excellent advance in this Bill because there is no question that, until we encourage industry to have confidence in environmental legislation where they have an enthusiasm to play a strong and responsible role in administering their own affairs and legislation, we will have a continuation of the antagonism and bitterness that we have often seen in these economic and environmental development issues in the past.

I will be moving a number of amendments to this Bill, Mr President. My first amendment will be in relation to clause 13, and there will be related amendments in clauses 29 and 30. Clause 13 deals with the functions of the authority and 1(c) provides that the authority has a function to contribute to the development and the implementation of national environment protection measures. The Liberal Party does not like that blanket function. It believes there should be some qualification that provides that, where appropriate, the national environment protection measures should be adopted. The consequential amendments relate to clause 29, which we will oppose. Those amendments also relate to clause 30, which provides a qualification in terms of the adoption of these proposed national environment protection measures.

It is important to recognise that, in South Australia, there have been many instances where there has been resistance for good reason to the adoption of national legislation. I am most aware of this case in the road transport area where the road transport operators and Governments, generally, have been seeking to introduce national road regulations and also road cost charges. In theory that all sounds wonderful; it sounds efficient and it sounds like micro-economic reform, and as though it will have great benefits for everyone, including industry. However, when the details become known it is often quite clear that, for a State such as South Australia, for northern Queensland, the Northern Territory, for all of Western Australia and probably parts of Tasmania, national uniformity in a country that is as vast and as sparsely populated as our nation can create tremendous disadvantages for those parts of Australia that I have just specifically mentioned. Certainly it was the case with road transport, whether it be the new proposed regulations for the introduction of standard breaks for 'A' and 'B' doubles, or whether it be road user charges. I applaud the former Minister of Transport, the Hon. Mr Blevins, for his strong response to endeavours by the Federal Government to insist on uniformity in terms of road cost charges, because the disadvantage for South Australia would—

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: No. You have not listened to what I have said. I said that, in theory, it may sound fine: in practice the Hon. Mr Blevins fought hard, and I applaud him for doing so, against national uniformity in road cost charges, and I hope the Minister opposite would have supported her colleague in such a fight, because the road cost charges proposed on a national basis would have essentially wiped out South Australian business, not only in the road transport field but in manufacturing and primary sector business, and it certainly would have had dramatic effects for country communities. As I say, there are areas where, in principle, national uniformity sounds fine but when we see the detail it can be horrific, particularly for outlying States away from the more populous bases of New South Wales and Victoria.

So I and my colleagues have misgivings about the fact that there is no qualification in this Bill, whether it be in clauses

13, 29 or 30, that would allow any State consideration in the adoption of national environment protection measures. Therefore, we will not be supporting that because we see that there could be cases where it would be of severe disadvantage to South Australia and we do not want that disadvantage wrought on this State. I do not believe that, in every case where there is a national environment protection measure, it will disadvantage South Australia. There may be only one in 99, but we should still maintain the option in that one case to be able to express South Australia's interests and fight for those interests. I know that, in the ministerial statement delivered by the Minister yesterday, she tabled the extract relating to the Intergovernmental Agreement on the Environment and in particular drew our attention to schedule 4. That agreement was signed in May 1992.

There have been many changes of Premier since that time. I notice that the Hon. Nick Greiner from New South Wales is no longer there; the Hon. Joan Kirner is not only not there but there has been a change of Government; the Hon. Carmen Lawrence is no longer there and there has been a change of Government in Western Australia. John Bannon is no longer the Premier of South Australia and I believe that the Chief Minister of the ACT has also changed.

The Hon. Anne Levy: It is still Rosemary Follett.

The Hon. DIANA LAIDLAW: I thank the Minister; they seem to change so often in recent times, and I did not realise that she was still there. That is good in terms of this agreement. In terms of this agreement also it is important to recognise that the Hon. Mr Perron, Chief Minister of the Northern Territory, signed subject to reservations, and they are noted in the agreement. I note also that the Western Australian Government has reservations, and I suspect that other States do also, but I have not canvassed the opinion of all those States. Therefore, I would like to refer to material I have received from Western Australia. The Attorney-General, Mrs Cheryl Edwardes, MLA in Western Australia advises:

> That legislative scheme is being developed by a working group on environmental policy, comprising Commonwealth, State and Territory officers.
>
> A Commonwealth Bill is being drafted to implement the Intergovernmental Agreement on the Environment. . . In particular, clause 16 of schedule 4 of that agreement requires Commonwealth and State legislation establishing mechanisms to ensure that any measures established by the authority will apply, as from the date of the commencement of the measure, throughout Australia as a valid law of each jurisdiction.
>
> There may be a number of options to implement that requirement, for example:
>
> 1. State legislation to contain a provision which automatically makes a measure established by the authority State law. There will be no ability for State parliamentary disallowance or input. The Commonwealth Bill will, however, define a measure in such a way that it will come within section 46 of the Commonwealth Interpretation Act and, therefore, be able to be disallowed by either House of the Commonwealth Parliament. That ability of the Commonwealth Parliament to disallow such a measure is specifically required by the intergovernmental agreement.
>
> 2. State legislation to contain a provision requiring the State Minister (who is a member of the authority) to make a regulation (within a specified period) implementing the measure established by the authority. If such regulation was defined as an instrument which is able to be disallowed by either House of the State Parliament, that may be one way of ensuring State parliamentary participation and ameliorating undesirable aspects of template legislation.
>
> The working group has requested Parliamentary Counsel to draft provisions to implement 1 and 2.
>
> This question of the implementation in a State of measures established by the authority is a central aspect of the proposed National Environment Scheme. How it can be achieved, within the parameters of acceptable Commonwealth/State arrangements and without diminution of State powers and responsibilities, is a fundamental problem. The working group has been endeavouring to address this matter. It therefore may be inappropriate to include within the South Australian legislation clause 29A—

which is the clause we seek to oppose—

> especially if that provision is not essential to other aspects of the Bill—for the following reasons:
>
> (a) It represents the template model of Commonwealth/State legislation;
>
> (b) It would pre-empt the work of the working group; and
>
> (c) It would indicate that South Australia is in favour of the template model for environment protection measures.

This is at a time when the working party has not determined which model should be the basis for proceeding with national environmental protection measures. I concur with those views expressed by the Attorney-General in Western Australia. I believe that until the working party has responded to these matters and determined an appropriate approach it is most unwise for South Australia either as a State Government or as a Parliament to endorse this measure as outlined in the Bill, and that is why we will be moving amendments in this area. The amendments that I will be moving will allow some discretion to be made in the State's interests and will not automatically tie South Australia into what the eastern States claim they want or need. I am also looking at amendments to clause 31 as to reference of policies to the Environment, Resources and Development Committee. Clause 31 provides:

> (1) When the Governor declares a draft environmental protection policy to be an authorised environment protection policy under this Act, the Minister must, within 28 days, refer the policy to the Environment, Resources and Development Committee of the Parliament.

The Liberal Party believes strongly that there should be that option but that there should be the further option of the policy being laid before both Houses of Parliament. It is important to recognise in this matter that the policies that we are referring to, as outlined in clause 27(2)(b), contain offence provisions. There are policing matters and penalties involved. In that instance we believe it is important that the Parliament be able to consider these matters. Therefore, we will be moving that these policies can be referred to the Environment, Resources and Development Committee of the Parliament and also laid before both Houses of Parliament.

Further, we will be moving amendments so that the Environment, Resources and Development Committee can resolve to suggest an amendment to the policy. This is an important advance. It should be recognised now that under the Legislative Review Committee, when that committee considers regulations, it cannot recommend amendments and can only recommend the allowance or disallowance of regulations. Likewise, the Parliament cannot amend and can only allow or disallow. We are suggesting that these policies, when they go before the Environment, Resources and Development Committee, be subject to suggested amendment. We are also arguing that when the policies come before the Parliament, the Parliament should be able to amend the legislation. We believe that those measures are appropriate because of the matters which these environment protection policies will address.

Further amendments will be moved to clause 105 in relation to civil remedies. We moved similar amendments in the other place but have had time to reconsider the matter over the past couple of weeks. We now believe it is important that other parties have the right to seek leave to appeal to the Environment, Resources and Development Court but that they must seek leave to do so, and that in this Bill we should

provide the grounds that the court will consider in terms of determining that leave. Our amendment in this regard will be similar to the situation which has prevailed in New South Wales for at least two years.

We have discussed this matter with the Chamber of Commerce and Industry and while they may wish that the measure was not being moved by the Liberal Party they acknowledge that the provision in New South Wales has not caused industry difficulty or heartache, and neither has the measure been the basis for frustrating the process of the courts or of industry generally. It has not been used in a vexatious manner and has been used at all times in a responsible manner. Having received that acknowledgment from the Chamber, I see no reason why we should not proceed with this amendment with confidence.

There are other matters which my colleague the Hon. Trevor Griffin will raise in his contribution; for instance, clauses 87 and 88 about authorised officers and why the Bill does not provide for those officers to produce identification. The Bill simply provides that ID be produced if a person asks for such identification. There is some concern that clause 88 may widen its ambit and that authorised officers should only be allowed entry if there was reasonable suspicion that an offence had been committed, and the Liberal Party would welcome a response to that matter from the Government.

We would have questions about clause 115 and why the authority should carry on operations when it is also the regulator, because that would appear to give rise to a conflict of interest, and there are arguments that suggest that that is not in the interests of the authority and its credibility in the work we would be charging it to do under this Act. I also have questions about clause 7(4). This clause provides that this Act does not apply in relation to a number of Acts and indentures, including the Roxby Downs (Indenture Ratification) Act 1982, the Mining Act 1971 and the Petroleum Act 1940, and I wonder why the Government has not included the Stony Point Indenture in these indentures, under either clause 7(3) or clause 7(4).

Other matters have been raised by the Australian Conservation Council, and I wish to refer to these at this stage. The first is third party appeals. The Conservation Council has written to the Liberal Party as follows:

> The Government has resisted our previous proposal to allow for third party rights directly in clause 107 of the Environment Protection Bill alongside the provision for applicant appeals, on the ground that to do so will undermine the planning system scheme for third party appeals under the Development Act. In defending the decision to confine third party appeals to those situations where they would be available in relation to an application for development authorisation under the Development Act, the Minister stated in the House (*Hansard* 18 August 1993, page 393):
>
> > Section 38(2)(b) of the Development Act provides that category 3 developments which are to be the subject of public notice and potential third party appeals will be any development other than those assigned to categories 1 and 2.

I expect that most if not all of the schedule of this Bill will refer to category 3 developments. The Conservation Council then goes on to state:

> Our opinion, based on expert advice received from senior members of the legal profession with considerable expertise in planning law, is that the Minister is fundamentally mistaken in expressing the above view. Third party appeal rights may not be available in relation to a very wide range of matters requiring referral to the EPA. The simple reason why this is likely to be so is that the second category (as currently described in the draft development regulations) includes the following forms of development:
>
> · a light industry or motor repair station in an industry, light industry or general industry zone;
>
> · a general industry in a general industry zone.
>
> Hence, only 'special industry' will automatically fall within category 3 so as to attract third party appeal rights. Proposals capable of being classified as light or general industry will not do so, where located respectively in a light or general industry zone. This would not be such a serious problem were it not for the fact that considerable discretion and uncertainty currently exists in planning law as to how planning authorities should allocate industry proposals to the categories of light, general or special industry respectively. As well as noted below, the Minister has rejected proposals for broader rights of civil enforcement on the ground that this will create uncertainty for industry.

That is a matter that I intend to produce amendments on. The Conservation Council goes on to state:

> In that particular context, his assertion is plainly wrong, yet in the case of third party appeals he has relied upon a scheme which is dominated by legal uncertainty concerning the availability of such rights with respect to any form of industrial development proposal.

The Conservation Council then goes on to give a number of opinions that would substantiate the legal difficulties associated with the classification of industry development and planning law. All I would indicate in respect to the Conservation Council's submission at this time is that the legal advice it has received is similar to legal advice I have received from a separate source, which is that the Minister has provided wrong advice to the Parliament in respect to the treatment of light and general industries and heavy industries and that there will not be third party appeal rights through the Development Act for most industries defined in clause 107 of this Bill.

In considering the Conservation Council's representations on this matter, I believe it is very important that the Minister does clarify the situation, because it may be that the Minister in another place received wrong advice or had time to reconsider the advice he gave; but it is very important to the Liberal Party that this matter be cleared up, given the uncertainty about the matter at the present time and the strong representations that we have received in relation to the absence of third party appeal rights in this Bill.

So, our attitude to that matter will depend heavily on the Minister's answer to those concerns. Certainly, the Conservation Council is arguing that, given that the Government has agreed to allow such appeals in principle, the only satisfactory way of ensuring that such rights are provided in practice is to make provision for them in this legislation in the same manner as they have been provided for in relation to applicants and, indeed, widened even further by amendments introduced by the Minister. They are seeking third party appeal rights, and the Liberal Party will want to consider this matter further. The Conservation Council has also argued for amendments to the enforcement of civil remedies, and I have outlined the amendment that we shall be moving on this matter.

I share some of the concern expressed by the Conservation Council about the exemption provisions in the Bill. Subclauses (3) and (4) of clause 7 refer mainly to the Pulp and Paper Mills Agreement Act 1954, the Pulp and Paper Mill (Hundreds of Mayurra and Hindmarsh) Act 1964 and the Roxby Downs (Indenture Ratification) Act 1982. I understand that the Roxby Downs (Indenture Ratification) Act provided that the company would have to take account of all future environmental legislation and comply accordingly. Therefore, I wonder why we find this provision which provides that 'This Act is subject to . . . the Roxby Downs (Indenture Ratification) Act 1982.' If my understanding is correct, that Act required Western Mining to honour or comply with all

environmental protection legislation. There seems to be some contradiction in this matter.

I also know that Kimberly-Clark has made many phone calls to my office, and possibly to other members, because it is agitated that the Liberal Party might make changes to the Bill in respect of clause 7(3), which requires that this Bill would be subject to those indenture Acts. I have given an undertaking that we would not be seeking or supporting any amendment of clause 7(3). However, I must admit that in discussions with representatives of the company I wondered why they were agitating so hard and long about this matter. It was as if they had some specific reason for requiring this legislation; as if they had done something wrong or they might not be revealing what they were doing at present in environmental terms.

However, I have been reassured on that count after the company appeared aghast at my questions. I am sufficiently confident now that the company has made great strides in terms of the installation of its recovery furnace that has recently been constructed and the aeration ponds or secondary treatment ponds that have started in the past three weeks. Those aeration ponds remove what is called biological oxygen demand (BOD) and ensure the non-toxic treatment of effluent.

The company acknowledges that in Lake Bonney there is still some chemical legacy from the past in terms of trace levels. I understand their anxiety that they should not be subject, in terms of the provisions of this Bill, to the penalties and payments in respect of that chemical legacy. However, I indicated that there is always the power in this Parliament to change the provisions in clause 7(3). If the company does not do the right thing in respect of the environment and the people of this State, the opportunity is always available to change these provisions. I see no reason why we should do so, and the company has not provided us with any cause to contemplate that at this time. However, as they are being provided with a blanket exemption, they should be alert to the fact that it ensures that they have some responsibility to the people of this State in terms of environmental practices. There will be keen interest by members of Parliament to see that they honour that responsibility.

The Conservation Council also questions, as I do, why the Government, having made the blanket exemptions in respect of clause 7(3) and (4), has also included other exemption provisions in clause 38. I would be interested to learn from the Minister, before the Liberal Party determines its attitude to this provision, why this general exemption provision is necessary when specific exemptions have been made in clause 7(3) and (4). I am not sure whether it is to provide exemptions for the Government, which is certainly bound by this legislation; but, as we recall the Marine Environment Protection Bill, the Government, when it came to specific examples, such as sewage and sludge treatment works and discharges from Port Adelaide and elsewhere, was not keen to make sure that they were responsible by the specific dates that had been promised at the last election.

I wonder whether this general exemption provision has been included to cover Government enterprises, notwithstanding that the Government is meant to be bound. I should like some specific examples, not just general examples, to indicate what cases she believes could arise under this exemption provision. Otherwise, I shall be inclined to move that we oppose that provision.

I have received many representations from Kimberly-Clark Australia. In addition to their anxiety about clause 7, about which I gave assurances earlier that we would not move to amend or oppose, they are concerned, as is Western Mining, about the definition of 'pollute'.

Kimberly-Clark is recommending (and I would seek advice from the Minister on this matter) that the definition of 'pollute', namely,'(a) discharge, emit, deposit or disturb pollutants; or (b) cause or fail to prevent the discharge, emission, depositing, disturbance or escape of pollutants,' would include their proposed addition 'so as to cause environmental harm'.

I have considerable empathy for this suggestion. I believe Western Mining are arguing for the same, and certainly legal precedent suggests that 'to pollute' is to harm and it would not hurt in this regard to have such an addition made to the definition of 'pollute'. However, I would welcome the Minister's views on that matter.

Kimberly-Clark is also concerned about clause 5 in relation to material that is defined as causing environmental harm. At present it provides that material environmental harm is any environmental harm that is not trivial or negligible in nature or extent. Given that causing such harm is an offence with penalties up to $250 000, the company considers that this definition is too broad. It goes on to say that in clause 5(3)(c)(II) it is unclear what subclause is being referred to. They go on to state that it is desirable to remove the ambiguity but more importantly to ensure that 'material environmental harm' is both reasonably and clearly defined. The company says that it would be helpful to say that 'material environmental harm' does not include environmental nuisance unless it is of the high impact or on a wider scale; this may be intended but it is not clear.

I would again appreciate advice from the Minister in respect of those representations. I have also received representations, as I understand the Minister and the Australian Democrats have, from the National Environmental Law Association. Again, it is concerned about the definition of 'environmental harm'. It is also concerned about clause 56 'Suspension or cancellation', which does not differentiate between when an environmental authorisation can be suspended and when it can be cancelled. It argues that that should be cleared up. Also, in respect of clause 101, it argues that while it supports the power to issue a clean-up authorisation the drafting appears to go too far. It argues that clause 101 allows a clean-up authorisation to be issued by the EPA, which will authorise a person to undertake works to make good environmental damage on a person's land. But it believes that all the circumstances listed provide for potential costs which it believes would impact harshly on people. Their correspondence states:

> We support the power to issue a clean-up authorisation but given the potential cost we consider that those persons who will be impacted upon by it need to be given the opportunity to have some input into it together with the right of appeal.

I think at this stage I will conclude my remarks. I have, as I have indicated, a number of amendments to move to this Bill. I am keen to assess whether further amendments should be moved in the light of the representations we have received and in the light of the answers I am looking forward to receiving from the Minister in reply to my comments so far. In conclusion, I say that in general we strongly welcome and support this measure.

The Hon. BERNICE PFITZNER: I rise to support the second reading of this Bill. The main object as I see it of this Bill is as stated, that is, to promote the principles of ecologically sustainable development. Such principles are that the

use, development and protection of the environment should be managed in a way and at a rate that will enable people and communities to provide for their economic, social and physical wellbeing; for their health and safety while sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and safeguarding the life supporting capacity of air, water, land and eco-systems and avoiding, remedying or mitigating any adverse effects of activities on the environment.

This principle has the same effect as the definition of Bruntland, made some years ago, and an attitude I totally endorse as it puts a limit on what we can do to the environment as we also have to meet the needs of the future generation—our children. I have noticed that those of us who feel that development has been hijacked by environmentalists find the term 'ecologically sustainable development' something that is difficult to accept. One has to admit that in the midst of the deepest recession that we have had for 60 years jobs are the highest priority.

However, green issues are not necessarily mutually exclusive, and in fact one will note that tourism is one of the biggest and fastest growing industries. It will increase because of our overseas neighbours who are attracted to our healthy, fresh and naturally clean environment, and with this tourism growth will come a growth of jobs. However, this perception is not generally accepted, as *Time* magazine wrote in December 1991, as follows:

> The challenge confronting environmental activists is to show that they can be relevant and can offer solutions to long-term problems, not only during economic booms but also during troubled times. The challenge is formidable.

So it is with those of us who wish to amend certain parts of this Environment Protection Bill. This Bill does much to protect the environment and also to place importance on economic development and employment.

As stated in the Bill the quality of life is dependent on effective measures to protect air quality from motor vehicle, factory and other emissions; to protect water quality from discharges affecting rivers, catchments, marine and ground water; to guard against contamination from land-fills, industries and other activities; to protect the community from excessive noise; to conserve the natural resources by minimising industrial and domestic waste and encouraging recycling and the judicious use of resources.

I ask: what is the use of living and sitting in a mansion whilst all around is an arid, dry and desolate scenery or perhaps a concrete jungle? However, as *Time* magazine again notes:

> It is very difficult to be altruistic when you have mortgages and school fees to pay.

The Bill emphasises an integrated approach to development and environmental issues addressed from the very outset. That is very important to avoid conflict on these at times divergent issues.

A new body will be formed, known as the Environment Protection Authority (EPA). Whilst the Government is responsible for policies and standards, the EPA's main role will be to implement those policies and standards through licensing systems, to monitor, to enforce, to encourage best environmental practices and to conduct research and public education. A recent agreement made in May 1992 between the heads of Government of the Commonwealth, States and Territories of Australia and representatives of local government identifies similarities with this Bill.

For example, the principle of the agreement's environmental policy is similar, as follows:

> The parties consider that the adoption of sound environmental practices and procedures, as a basis for ecologically sustainable development, will benefit both the Australian people and the environment, and the international community and environment. This requires the effective integration of economic and environmental considerations in decision making processes, in order to improve community wellbeing and to benefit future generations.

In the agreement is an interesting 'precautionary' principle, as follows:

> Where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environment degradation.

As one tries to justify keeping the environment green in the face of economic rationalism, one tries to look for a more relevant and more improved accounting for the environment. According to the *Economist* of July 1993, the United Nations has devised a system of national accounts (SNA)—the internationally agreed basis for measuring national income and wealth. At issue is how one deals with the environment in this system. Some of the disadvantages are: they do not count clean air or extensive forests as part of the country's wealth, yet people may feel worse off if they live in a country that is dirty and barren. They record the depreciation of man-made capital but not the use of natural capital. A country which exhausts its man-made capital without replacing it grows poorer; one which exhausts its fish stocks or mines may appear to grow richer. Something like the ozone layer or a clean river is never likely to be bought or sold.

Therefore, it is difficult to equate the environment with cost and, if it should be shown that environmental loss leads to economic cost, perhaps people's behaviour will change. Policies that actually make people pay the cost of environment damage might be a better way to go. This Bill is taking up this trend to a certain extent. Four additional amendments that ought to be reconsidered have been alluded to by my colleague, the Hon. Di Laidlaw, in her second reading contribution, and I will very briefly enumerate them. They are: third party appeals to provide separately and specifically for third party appeals in relation to environmental authorisation; civil enforcement so that any person may appeal to the court for an order to remedy or restrain a breach of the Act, whether or not the right of that person has been or may be impinged by or as a consequence of that breach; exemptions in which this Act does not apply to some other Acts; and public notice that requires details of environmental authorisation to be recorded in a public register and the minutes of meetings of the EPA and its subcommittee to be available to the public.

However, these amendments will, I guess, place too much pressure on development progressing efficiently and effectively. After all, for the environment we are unable to put a price on the priceless. However, this Bill is a step in the right direction, if only we can get it completely right. For the environment, as the *Economist* says, 'It is the price of everything and the value of nothing.' So, with this brief contribution, I strongly support the second reading.

The Hon. K.T. GRIFFIN: I want to address a few remarks to some specific provisions of the Bill, if only to put the Minister on notice as to the sorts of issues about which I have concern. Some of these, if not all, would probably have been addressed by my colleague the Hon. Diana Laidlaw but, because I had some other business out of the Chamber, I

regret I did not hear all her contribution, so if I duplicate some of what she said I seek the indulgence of the Council. I come at a consideration of the Bill more from the legal position than from the point of view of adopting a position on the establishment of the statutory authority and its operation. Those issues can be better addressed by some of my colleagues and also by consideration in Committee. I know that the Hon. Diana Laidlaw has addressed some remarks to the issue of environment protection policies, the way by which they are made and become law and the extent to which they may be subject to scrutiny by the Parliament or by a committee of the Parliament.

Clause 27 deals with the content of environment protection policies, and subclause (2) provides that they may set out controls or requirements (which become mandatory provisions) to be enforceable as offences under division 2 of that part, or they may set out policies that may be given effect to by the issuing of environment protection orders under part 10. If one turns to division 2, the contravention of mandatory provisions brings penalties for category A offences and category B offences, and they are quite substantial. In one instance, at least, there is a division 5 imprisonment for a natural person. In other cases there are quite substantial fines of up to $250 000.

What we have is an environment protection policy that sets the criteria by which the penalties are applied and, to that extent, establishes by something less than regulations offences that will apply as laws in South Australia. There is some mechanism for review of environment protection policies under clause 31 of the Bill, because they are to be referred by the Minister within 28 days to the Environment, Resources and Development Committee of the Parliament. That committee may resolve to suggest amendments to the policy or resolve to object to the policy.

If, at the expiration of 28 days from the day on which the policy was referred to the committee, the committee has not made a resolution either to suggest amendments or to resolve to object to the policy that is the end of the matter, and it is to be conclusively presumed that the committee does not object to the policy and does not itself propose to suggest any amendments to the policy. If there is an amendment proposed the Governor may, on the recommendation of the Minister, by notice in the *Gazette* proceed to make an amendment, or the Minister reports back to the committee that the Minister is unwilling to make a recommendation for an amendment. In that event the committee may resolve that it does not intend to object to the policy as originally authorised by the Governor or may resolve to object to the policy.

If it resolves to object to the policy, the policy is to be laid before both Houses of Parliament, and that is the point at which the Parliament becomes involved in the consideration of a policy. Either House of Parliament may pass a resolution disallowing the policy, which is, of course, the power which each House presently has to disallow regulations. However, unless the Environment, Resources and Development Committee resolves to object to the policy Parliament will not get a chance to make a decision about a particular policy, so that the policy which creates offences, which sets the basis for the issuing of environment protection orders, and which can have a significant impact upon citizens, is not effectively subject to review by both Houses of Parliament.

The Hon. M.J. Elliott: Are you going to amend that?

The Hon. K.T. GRIFFIN: Yes, the Hon. Diana Laidlaw proposes to amend that. I think that, because of the nature of the policies that may be proposed and become law and have such far-reaching effects on citizens, either House of Parliament ought to have the power to disallow, and that ought not to be conditional upon the Environment, Resources and Development Committee, on which the Government of the day has a majority, deciding that it should object to the policy. So, that is an area of major concern. It is one of principle that is important and I think that both Houses, and this Chamber in particular, should not allow an executive arm of Government to make significant laws by something less than subordinate legislation, and even laws which, so far as the Liberal Party is concerned, really ought to be made by statute.

We have had this argument on a number of occasions. We sought to raise the issue when the Controlled Substances Act was before the Parliament in the mid-1980s because the Controlled Substances Act allows regulations to be made which set levels at which very substantial penalties may be imposed. It is our view that, where penalties of imprisonment, in particular, but also substantial monetary penalties are imposed, the basis for the offence and the level at which the offence comes into operation—for example, under the Controlled Substances Act the quantity of a particular drug upon which the level of penalty depends—should be included in the statute. Clause 105 deals with civil remedies. Again, my colleague the Hon. Diana Laidlaw has dealt with this as I understand it, and I do not want to do anything more than touch upon several issues that she may not have addressed. Under clause 105(1)(c) and (d) applications may be made by the Environment, Resources and Development Court for particular orders, and under paragraph (c) if a person has caused environmental harm by a contravention of this Act or a repealed environment law then a particular order may be made, and under paragraph (d) if the authority or any other public authority has incurred costs or expenses in taking action to prevent or mitigate environmental harm caused by a contravention of the Act or a repealed environmental law, or to make good resulting environmental damage, other orders may be made. My question in relation to the reference to a repealed environmental law really relates to the question of retrospectivity: whether what is proposed by that is that, even if under a repealed environment law there was no power to make such an order, this legislation now grants authority for such an order to be made. That, of course, would mean retrospective effect given to this legislation in so far as it related to powers to make orders under repealed environment laws. If, on the other hand, it means that where there is presently a power to make an order under a repealed environment law the Environment, Resources and Development Court has the power to make orders in relation to it in substitution for some other body, tribunal or court it is less of a problem. So, that is an issue that needs to be addressed.

Clause 13(1) deals with prescribed national scheme laws, which are also dealt with in clause 29. In clause 29 the national environment protection measure comes into operation under the prescribed national scheme laws, and when it does come into operation it becomes an environment protection policy under this division, division 1 of part 5. One can raise questions about the way in which such a measure becomes an environment protection policy. The definition of 'the prescribed national scheme laws' is:

(a) the prescribed law of the Commonwealth; and

(b) the prescribed law of this State; and

(c) the laws of other States or Territories of the Commonwealth corresponding to the prescribed law of this State,

under which national environment protection measures may be made.

The difficulty with that is that, so far as I can see, there is no involvement of the South Australian legislature in that decision-making process. If the national environment protection measure becomes an environment protection policy it is presently subject to review only by the Environment, Resources and Development Committee to be dealt with in the way that I have previously outlined in respect of clause 27. It is my view that whatever becomes the law of South Australia, even under prescribed national scheme laws, ought to be subject to some form of review by this Parliament. They bind the citizens of South Australia as laws of South Australia and they ought to be the subject of review and I would propose, as I have indicated in relation to clause 27, that each House of Parliament should have an opportunity to disallow such provisions. Clause 24 provides:

(4) The [Environment Protection] Fund may be applied by the Minister or by the authority with the approval of the Minister (without further appropriation under this subsection)—

It may be that that adequately provides for parliamentary supervision either through the Appropriation Bills and Budget Estimates Committees, but I want to be assured that the way in which this money is spent and the way the fund is managed is subject to parliamentary scrutiny. I do not believe we ought to tolerate a situation where there is not an appropriation of moneys, even if kept in funds such as the Environment Protection Fund, without the appropriate budgetary scrutiny of the Parliament. Clause 77 provides:

1. The authority may, by notice in the *Gazette*, prohibit the sale or use within this State of any products or products of a specified class, that have been manufactured inside or outside of this State by a process involving the use of a prescribed substance.

In the context of this provision I point out that the prohibition from sale is not subject to any form of review. It can be an arbitrary decision by the Minister. There may be occasions in the sense of an emergency arising where something does have to be taken immediately by the Minister, but I think there ought to be some mechanism for review of such decisions. It may be that there is adequate explanation as to why that is dealt with in this way by clause 77, but at the moment I remain to be persuaded that we should allow the authority to prohibit without at least having some form of review.

Clause 87 relates to identification of authorised officers. I have made the point on a number of occasions that it is not good enough in my view for authorised officers who have powers of entry and inspection, and powers to require answers to questions and a whole range of other powers, merely to wait for a citizen to request that the identification of the authorised officer be produced. I believe the identity card ought to be produced voluntarily by the officer at the point of requesting information from or cooperation of a citizen. As I recollect in relation to some other legislation last year, we did amend that and it is important that in something where authorised officers have such extraordinarily wide powers, certainly they ought to be required to volunteer the production of identity cards.

Again in clause 88 the powers of authorised officers are dealt with in a wide way. As to the power to enter and inspect any place or vehicle for any reasonable purpose connected with the administration or enforcement of this Act, it places the wrong emphasis upon the exercise of the power. I suggest that the power of the authorised officer ought to be dependent upon the existence of a reasonable suspicion that an offence has been connected. In answering that particular point the Minister might indicate what a reasonable purpose is. It is an unusual description. It may be that it is in some other legislation, but it certainly is not commonly used as I understand it, and to define what is a reasonable purpose may mean that the power can be abused but rather, if the exercise of the power is dependent upon a reasonable suspicion or reasonable belief, at least it is a concept that has been fairly well explored by the courts and should be well understood by authorised officers.

As to clause 88(5), I can recollect on a previous occasion that we addressed the issue of the extent to which an authorised officer may require the cooperation of a person in providing information. This subclause provides:

An authorised officer may require an occupier. . . apparently in charge of any plant, equipment, vehicle or other thing to give to the authorised officer or a person assisting the authorised officer such assistance as is reasonably required by the authorised officer for the effective exercise of powers conferred by this Act.

I take the strong view that a citizen placed in that position should not be required to provide free of cost the use of photocopiers, fax machines, telephones and other equipment. If any cost is incurred as a result of the authorised officer's requests, they ought to be reimbursable rather than leaving open the question whether they can be recovered by the person who is being required to give assistance.

As to clause 107(3)(a), I make the point that in respect of an appeal to the Environment, Resources and Development Court the time for an appeal is 14 days after the order is issued or a variation is made. Again, it is usual to provide for some reasonable period after service of the order or the variation of the order. I suggest that we need to look carefully at that because, by the time an order is actually served on a party, particularly if it is an *ex parte* order, the 14 days may well have expired. In any event, some consideration ought to be given to dating the time from the point of service of the order.

I have strong views about clause 141. I expect my colleague the Hon. John Burdett as a member of the Legislative Review Committee would also have strong views about it. Subclause (8) seeks to remove the reference to the Legislative Review Committee in respect of the regulations and replace it with the Environment, Resources and Development Committee of the Parliament. I object strongly to that change. The Legislative Review Committee of the Parliament has a technical task to undertake and it ought to be permitted to undertake that task in respect of regulations made under this legislation.

I will raise a number of other issues during the course of the Committee consideration of the Bill. There are matters of substance as well as technical issues that need to be addressed. It may be that they have already been addressed by the Hon. Diana Laidlaw, and again I apologise to the Council if I have been repetitious in referring to them at some length. I indicate my support for the second reading.

The Hon. M.J. ELLIOTT: I rise to indicate the Democrats' support for the second reading of this Bill and would echo the comments I heard made earlier by the Hon. Ms Laidlaw that the claims made by the Government in relation to this Bill are grossly overstated. The EPA in South Australia will be a mere shadow of the EPAs in most other States, and any claim to anything else simply would not be telling the truth. Having said that, however, one would note that there are probably some improvements on the current

situation, and at least on that basis alone the Democrats are willing to support the Bill.

While I am commenting on the relative weakness of this Bill, it is most noticeable that the Government has been hijacked and has been very weak-kneed in relation to listening to lobbying from one side of the fence, in particular industry, and not listening to the other side of the fence. The fact that since a draft of the Bill was released late last year and there was comment on it and that the environmental movement had no access to further drafts for the following six months and no input to the Bill is an indication of that. Actually, I understand that it was not until about 30 July that the environmental movement had a chance to see the Environment Protection Bill for the first time. I think that shows just how shallow the Government's claims are, if it does not even consult with the key bodies for such a long period of time.

The Hon. Diana Laidlaw: Perhaps they were consulting someone else.

The Hon. M.J. ELLIOTT: They clearly were. Everyone acknowledges that there is a need for development in South Australia and that we need sensible rules, but to shut the environment movements out of the negotiation process when you are talking about the Environment Protection Bill is nothing less than a disgrace. I suppose the most obvious particular strength of the Environment Protection Bill is the setting up of the Environment Protection Authority itself, and setting it up as a statutory body. That is probably the most important piece of progress in the whole legislation.

For the first time we do have an independent body overseeing environment protection in this State, but I suspect that its role will be somewhat limited for a start by resourcing. In fact, it is likely that fewer people will be working in the environment protection area overall than there were previously, when you take into account the people who were employed, not just in the old Department of Environment and Planning but also in the Department of Water Resources and other departments. When we consider the work that needs to be done, there is little doubt that the Environment Protection Authority will be under-resourced to carry out the role that will be required of it under this legislation.

I would also note that it is pleasing to see that the principles of ecologically sustainable development are incorporated in the Bill and that there is at least some attempt to point in the direction in which ecologically sustainable development is meant to go—something that was avoided totally in the Development Bill which we debated in the last session of Parliament.

There are elements within this legislation which mirror the marine environment protection legislation which was passed in 1990, as I recall, and some things we fought for very vigorously at that time have been maintained. To some extent that Bill has been something of a model for some of the matters that are picked up in this Bill. I think it is worth while examining where some of the weaknesses are in this legislation, some of which I will be tackling by amendment and some of which I will not at this stage.

The first weakness that I would point to is in relation to the committees and subcommittees that are being set up under the Environment Protection Authority. The legislation as now structured does not indicate what committees will be established. It does not indicate what the structure of committees will be, even in general terms, nor is there any commitment as to how they will function. I take the example of just one committee which I think should be persisting in the long term—the Marine Environment Protection Committee, a committee which the Government did not initially want but which was forced upon it. As I understand it, that committee has been extraordinarily successful. It brought together experts who understood the marine environment and related matters. There was a cross-section; there were representatives of secondary industry, the fishing industry and the environment movement and scientists with specialties in relation to the marine environment. That committee was and has been in an excellent position to provide expert advice to the EPA as to what standards we should be applying in relation to contamination of the marine environment and in relation to related matters.

This legislation gives no guarantee that that excellent committee, for one, will continue. I ask: will there or will there not be a waste management committee? Will there be a soil contamination committee? Will there be perhaps a stormwater committee? There is a host of specialty areas which deserve to have committees established that will represent the relevant interests and have the capacity to analyse in great detail those specialist areas that they work in. I think that this Bill is weak by not indicating what committees we will have, their structure or their function.

I believe that the Government also overstates the importance of the environmental forum. I believe that the forum will be one of the great white elephants of the next decade. It will fail dismally, for a couple of reasons. The forum is such a large committee, trying to cover such a wide range of issues, that I believe it will be absolutely incapable of having a sensible discussion across its membership on any particular issue. It is a generalist committee; it is a generalist body. If one sought to have a discussion about the marine environment, one would be lucky to find out of the forum of 20 members perhaps three or four out of them who really understood that issue in the way that the Marine Environment Protection Committee currently does.

If one set about to have a waste management discussion, again, we would be lucky to have three or four who would be capable of having any significant discussion on that matter. Here is this very large, generalist forum having to cover all issues and provide advice to the Minister and, I suspect, not meeting as frequently as all that, either. At the end of the day the forum will be a total and absolute waste of time, a window-dressing to give an appearance of wide consultation. I imagine that most people, after spending their two years on the forum, will say, 'That was a waste of time; why bother?' Anyone who looks at this issue uncritically would have to agree.

When we were debating the Development Bill, I expressed the opinion, which I still hold strongly, that the EPA should have been responsible for environmental assessment under the environmental impact statement process. The EIS process looks not only at environmental issues but also, despite its name, at social and economic issues. I find it difficult to comprehend why the planners in the Department of Housing and Urban Development are in charge of environmental assessment when they do not have the expertise to do that. It appears to me that if an EIS is to be carried out the planners should indicate to the EPA that a project is proposed and the EPA should carry out the environmental assessment and pass a report back to the planners saying, 'This is what we believe is the case in relation to the environment.' That would help to solve many of the problems that we have in the environmental impact assessment process where it is deemed not to

be independent. The EPA is a statutory body and, as such, it would be seen to be independent. Often it is clearly seen not to be scientifically based. In fact, in scientific terms the EIS process is dubious to say the least, and in general terms it is not adequately carried out.

One only has to look at the EIS in relation to Hindmarsh Island to realise that the chief wildlife officer from the National Parks and Wildlife Service was not consulted. When we consider that Hindmarsh Island is in an area of international significance, and we are signatories to international treaties, and the chief wildlife officer is not consulted, it shows how far the EIS process has degenerated and how lacking it is in proper inquiry. I believe, and I hope that eventually the Liberal Party might be persuaded, that the EIS process needs a radical revamp for the good of developers, not just for the good of the environment. It is currently in such disrepute that we are all losers. Indeed, it creates much of the confrontation that we are seeing in relation to development at this stage. I lost that argument when we debated the Development Bill, much to my chagrin, and I raise it again, although I shall not be moving amendments in that area.

I point to the definition of 'pollutant' in the Bill and note that, while the definition may stand up in a court of law, it would not stand up in any scientific discussion because it provides that 'pollutant' means 'any solid, liquid or gas (or combination thereof) that may cause any environmental harm, and includes waste, noise, smoke, dust, fumes, odour and heat'. I put it to honourable members that noise is not solid, liquid or gas; noise is vibration of molecules or atoms. Heat is not solid, liquid or gas; heat may be radiation or the energy of motion of particles. To that extent the provision needs to be amended because it is scientifically inaccurate to begin with. I am not a lawyer, so I cannot argue whether it would stand up in a court of law.

The definition also includes 'anything declared by regulation to be a pollutant'. What if we wish to declare radio waves to be a pollutant? Radio waves are not solid, liquid or gas. The radiation need not be radio waves emitted by radio companies; the radio waves may be coming from electrical sources, overhead power lines or equipment. Once again, there would be a scientific inaccuracy. Whether there could be a legal challenge saying that you cannot by regulation define a radio wave to be a solid, liquid or gas, I do not know; but, as a scientist, I find it totally unsatisfactory, and I shall be moving an amendment to overcome the wrong wording, as I now see it.

The question of exemptions deserves further analysis. The Pulp and Paper Mills Agreement Act 1958 is to be exempt under this legislation. I find it quite bizarre that an agreement, signed 35 years ago in ignorance of the dangers of the sorts of pollutants that can come out of pulp and paper mills, should be insisted upon and that the exemption should continue. One of the two mills subject to that agreement has now closed down, but the other, which is still operating, has gone through a dramatic expansion. It is far larger than it was when the agreement was signed. It is now claimed to be a state of the art mill, so why are they still trying to hide behind a 1958 agreement? For how long do these agreements have to stand? If 35 years is not enough, is 38 years, 50 years or 100 years? Somewhere along the line we must say that our predecessors made a mistake and we will not grant this exemption forever more. Thirty-five years is a tad too long. We now know more than we did then to excuse an agreement which was made at that time.

I also have some doubts about the exemptions granted under clause 7(4). We are here giving exemptions to activities under the Mining Act. But consider this: why are the wastes from mining to be treated differently from the wastes from any other activity? One of the real dangers is that some mining activities may, under this legislation, be exempt because they store their waste on site. I can give any number of examples of companies going broke or, having mined out the ore that was present, closing up shop and going away and some time later the waste escaping from the site. For instance, one may set up a tailings dam from which, while the plant is in operation and the tailings dam is maintained, there is no threat of any leakage or loss of waste from the site. However, one cannot give a guarantee forever more that that tailings dam will remain intact and that there will not be any loss of cyanide or whatever else may be stored in that tailings dam.

We should be quite rigorous with the storage of any waste. Why people operating under the Mining Act should have an exemption which is not available to any other industry is beyond my comprehension and is totally inconsistent. There should be one set of experts, the EPA, setting the rules in relation to waste. The people in the Department of Mines and Energy do not have that relevant expertise.

I also draw attention to clause 38. It is a pity that the Hon. Mr Griffin is not present in the Chamber, because I am sure that he would have picked up this matter. Under 'Division 3—Exemptions', clause 38, exemptions are to be granted which are totally open-ended. Having come up with an Act of Parliament which sets all sorts of rules, clause 38 allows the grant of exemptions at any time.

The Hon. Diana Laidlaw: I have raised it.

The Hon. M.J. ELLIOTT: I am having drafted an amendment which suggests that any exemption should be subject to the regulations. That does not mean that every application must be exempted by regulation, but they may be exempted within categories. For example, I understand that one form of exemption is for people who have one-off rock functions and they are allowed to go over so many decibels for so many hours. It seems to me that there could be a regulation which would talk about exemptions being available for concerts and giving a description of the circumstances under which an exemption would be granted. One would not require a regulation for every individual concert, but at least concerts in general could be covered by a particular regulation. I do not like the idea of blank cheques within legislation.

The Hon. Diana Laidlaw: I thought it might be there to make the Government honour its election promises about sewerage.

The Hon. M.J. ELLIOTT: All sorts of things are possible. If the Liberals are not moving an amendment to that clause, I certainly will be, in order to ensure that there are regulations and that it still needs to come back to this House, as we have done in many pieces of legislation. We do not, at least in the Upper House, write blank cheques for Government. We believe that Parliament has a role to supervise executive Government and statutory bodies.

I apologise for not having caught all the other speeches. I hope I am not covering ground already covered by other honourable members, but several matters were brought to my attention by the various conservation groups. They are matters with which I concur and so I will read into the record a submission made to me and I will be submitting amendments on these matters.

First is the matter of third party appeal rights. I am sure members know that the Democrats have consistently pursued the matter of third party appeals as being important in any democracy. In a democratic society citizens should be given a very clear role to have a say.

I want to quote from a document from the Conservation Council, which acts as a peak body also representing the ACF. It has also spoken with the Australian Centre for Environmental Law, among others. This submission, from all the important peak bodies, which is quite similar to submissions from the National Environmental Law Association, states:

The Government has resisted our previous proposal to allow for third party rights directly in clause 107 of the Environment Protection Bill, alongside the provision for applicant appeals, on the ground that to do so will undermine the planning system scheme for third party appeals under the Development Act. In defending the decision to confine third party appeals to those situations where they would be available in relation to an application for development authorisation under the Development Act, the Minister stated in the House (Hansard 18 August 1993, page 393):

"Section 38(2)(b) of the Development Act provides that category 3 developments which are to be the subject of public notice and potential third party appeals will be any development other than those assigned to category 1 or 2. I expect that most, if not all, of the schedule of this Bill will refer to category 3 developments."

I emphasise that last sentence of the Minister's quote.The Conservation Council submission continues:

Our opinion, based on expert advice received from senior members of the legal profession with considerable expertise in planning law, is that the Minister is fundamentally mistaken in expressing the above view. Third party appeal rights may not be available in relation to a very wide range of matters requiring referral to the EPA. The simple reason why this is likely to be so is that the second category (as currently described in the draft development regulations) includes the following forms of development:

a light industry or motor repair station in an industry, light industry or general industry zone; and

a general industry in a general industry zone.

Hence, only special industry will automatically fall within category 3 so as to attract third party appeal rights. Proposals capable of being classified as light or general industry will not do so, where located respectively in a light or general industry zone.

This would not be such a serious problem were it not for the fact that considerable discretion and uncertainty currently exists in planning law as to how planning authorities should allocate industry proposals to the categories of light, general or special industry respectively.

As will be noted below, the Minister has rejected proposals for broader rights of civil enforcement on the ground that this will create uncertainty for industry. In that particular context his assertion is plainly wrong, yet in the case of third party appeals he has relied upon a scheme which is dominated by legal uncertainty concerning the availability of such rights with respect to any form of industrial development proposal.

[Sitting suspended from 6.1 to 7.45 p.m.]

The Hon. M.J. ELLIOTT: Before the dinner break I was discussing some matters that had been raised with me by the Conservation Council, the ACF and the Australian Centre for Environmental Law, in particular, looking at the question of third party appeal rights. I was quoting from a document received from the Conservation Council representing those organisations, and I continue the quote as follows:

In support of the opinion that there are substantial legal difficulties associated with the classification of industry development under planning law, we refer to the following observations by the Planning Appeals Tribunal:

(i) in *Scott v DC of Port Elliot and Goolwa and Walter & Judd*, (PAT No. 844 of 1987), the full bench of the tribunal indicated that the decision whether a particular proposal is light, general or special industry cannot be addressed simply by an objective listing of particular types of proposals within the respective categories but must be assessed on a case by case basis:

'In our view, the definitions relating to the various classifications of industry, of which the definition of 'special industry' is but one, call for an examination of the nature, extent of and processes to be used in any proposed industry, and not for a mere classification of various industry types or groups under the headings of 'light industry', 'special industry', etc, irrespective of the processes proposed in and the likely impact of any industrial development.' (Page 12).

In this case, a plant for processing sheepskins was held to be a general industry, rather than a light or special industry. The tribunal in this case emphasised that the definition of 'special industry' in the regulations required satisfaction of three distinct sets of criteria:

'In the view of the tribunal, there are three limbs to the test of whether any proposed development will comprise a 'special industry'. The first is whether it will be an 'industry' as defined. The second is whether it is likely to cause or create dust, fumes, vapours, smells or gases, or discharge foul liquids or substances. The third limb is whether such dust, fumes, vapours, smells, gases, foul liquids or substances as are likely to be emitted will either endanger, injure or detrimentally affect the life, health or property of any person or produce conditions which are or may become offensive or repugnant' (page 10).

Given these cumulative tests, it is clear that many activities listed on the first schedule of the EP Bill would be most likely to fall outside the definition of 'special industry' and within either a 'general industry' or 'light industry' classification. As a result, if located within a relevant zone, they will not be subject to third party appeals. The position is in fact almost the complete reverse of what the Minister has advised Parliament!

(ii) More recently, in *Powell v South Australian Planning Commission and Waste Management Services Pty Limited* (PAB No. 162 of 1989), the tribunal made further reference to the difficulties which arise in practice when planning authorities are required to apply the definitions of the various categories of industry:

'The difficulty faced by the commission (and the tribunal) in this case arises from the definitions of 'light industry' and 'special industry'. In a sense those definitions are not definitions at all, because they are couched in such terms that a 'planning decision' is required to give meaning to them. That is to say, it is extremely difficult if not impossible to decide whether these definitions apply until, in effect, the very planning decision necessitated by the application for consent has been made. But the planning authority has to make the decision as to the appropriate category before it can proceed to make the planning decision' (page 3). In this case, an incinerator and waste paper shredder were held to be 'light industry'.

(iii) Most recently, in *Richards v the Corporation of the City of Salisbury* (LVD No. 1660 or 1992, judgment delivered 7 May 1993), Mr Justice Debelle expressed the view that an activity which fitted within both the definition of 'general industry' (and was therefore permitted under the Development Plan) and the more specific definition of 'junk yard' (and was thereby prohibited) should be treated nevertheless as a permitted development. This gives further cause for concern that proposals for an 'industry' nature will, by virtue of this vague classification, be able to avoid third party appeals.

There are clearly deep seated problems within the existing and proposed planning system for the classification of industry proposals, particularly for the purpose of determining what public notice and third party appeal rights requirements will apply. It therefore seems absurd to reproduce these difficulties and uncertainties in relation to the Environment Protection Act by tying its third party provisions to the Development Act. The most likely result, in practice, will be a substantial denial of third party appeal rights. The Minister has erred in his advice to Parliament on this matter.

The proposal, which I referred on to Parliamentary Counsel to have amendments drafted, was as follows:

Given that the Government has agreed to allow such appeals in principle, the only satisfactory way of ensuring that such rights are provided in practice is to make provision for them in the Environment Protection Act in the same manner as they have been provided for in relation to applicants (and indeed widened even further by amendments introduced by the Minister in the other House).

Reference is made to the previous submission of the Conservation Council, which proposed a specific amendment to

clause 107 to provide separately and clearly for third party appeals and urged that it be adopted.

The next matter is that of civil enforcement, and I continue to quote as follows:

> The Government has engaged in a major shift with respect to the recognition of community interests under this legislation by refusing to provide those rights which it had previously indicated it would provide to members of the public to bring civil proceedings to enforce the Act, in the event of its contravention by any party. In a previous submission a compromise position was advanced (based on longstanding provisions contained in the Commonwealth's Administrative Appeals Tribunal Act). This proposal was rejected by the Government, as was an alternative proposition of the Opposition contained in an amendment which it moved in the Assembly. The reasons offered by the Minister are both illuminating and alarming (see *Hansard*, 18 August 1993, pp 397-8):
>
> For me to concede to such an amendment at this point would mean throwing the whole package out.
>
> This is very important because we have an arrangement we are putting in place with the support of industry and we need its support. . . If I accepted what the member for Heysen proposes, it would throw out the package and the confidence that my officers and I have built up in our negotiations with industry in this State. It creates a degree of uncertainty that I have never seen before.'

We see no point in pursuing our previous compromise proposal in view of this intransigence, nor do we feel entirely satisfied with the amendment moved by the Opposition that will allow civil enforcement proceedings to be brought 'by any other person who has, in the opinion of the court, a proper interest in the subject matter of the application'. This creates too much discretion and uncertainty as to how 'proper' may be defined and the opinion of the court may be formed. Instead we now prefer to adopt and support the proposal advanced by the National Environmental Law Association in its submission on the EP Bill dated 13 August, 1993, that the standing given to any person by the Development Act also be provided to third parties under the Environment Protection Act.

I note that it is quite bizarre that the Government is willing to do something under the Development Act, which has only recently been passed by this place, yet does not maintain the consistency with the Environment Protection Act. The submission continues:

> A clear precedent has been provided by the Development Act, and indeed it follows similar provisions in five separate pieces of environmental legislation in New South Wales. Industry in that State has not found itself operating in a situation of serious uncertainty as a result of these provisions. In this instance the Government has capitulated to an unsubstantiated and unwarranted scare tactic on the part of industry and admits that the change of position on this crucial matter is the result of negotiations with industry (but not with community groups).

Again I reiterate, Mr President, that for six months environment groups were totally locked out of negotiations on an Environment Protection Act.

The proposal that has been put to Parliamentary Counsel for amendment is that clause 105(7) be amended to provide:

> Any person may apply to a court for an audit or to remedy or restrain a breach of the Act (whether or not any right of that person has been or may be infringed by or as a consequence of that breach).

We should note that here we are talking about civil enforcement of the law, and whatever furphies the Government may care to put forward in relation to third party appeals here we are talking about allegations of a breach of the law. To deny civil enforcement is totally unacceptable.

The next matter raised by the Conservation Council is one that I referred to earlier in relation to exemptions, and the exemptions that are being offered are in all cases unacceptable as drafted. I can see some merit for exemptions under the regulations but there would have to be some rules put in place and not a general exemption clause as currently exists in the Bill before us.

The next matter is a matter which we debated when we were debating the Marine Environment Protection Bill and something on which the Democrats and the Liberals agreed with each other strongly, enabling us to force change with that legislation. That is the question of public notice and access to information. The submission states:

> Clause 40 of the Bill provides for public notice to be given and submissions to be received from the public in respect of applications for environmental authorisations. Clause 110 requires the EPA to maintain a public register which shall contain amongst other things details of determinations by the EPA in relation to applications for environmental authorisation and any conditions imposed. An environmental authorisation is defined to include a works approval, licence or exemption. However, it is clear from subclause (5) of the transitional provisions contained in the second schedule, clause 4, that public notice is not required with respect to any activities which are being lawfully undertaken at the commencement of the Act. This is a major exception to the public notice and submissions procedures which has not been acknowledged by the Government in its explanation of the Bill and which has been discreetly locked away in its transitional provisions.

Therefore clause 4(5) of the second schedule will be opposed. In addition, I have instructed Parliamentary Counsel to produce an amendment that requires that any environmental authorisation made in relation to an existing lawful activity should be recorded on the public register as soon as practicable and, in any event, within three months. There are also a couple of consequential amendments. The amendment to clause 105(16) would make more explicit the distinction between security for costs and undertakings as to damages. The submission states:

> Given that the previous wording of this subclause (i.e. prior to its amendment) was derived exactly from an equivalent provision in the Development Act (section 85(15)), we believe that an amendment corresponding to that, which has been made to clause 105(16), should be made to the subsection. On the same grounds an amendment is also necessary to section 39(1) of the Environment, Resources and Development Court Act 1993 to remove the underlined words contained in the reference to 'security for the payment of costs or other monetary amounts that may be awarded against the party'. These amendments will simplify the misunderstanding that the Government has accepted was evident in clause 105(16) where it is evident in other recently adopted legislation.

So, we will have a chance to debate these matters at more length in Committee, but in summary I reiterate that, by national standards, this Bill is the poorest of all the EPA Bills. It is a mere shadow of legislation in other States. The only thing that can be said for it is that it is an improvement on the current situation.

The Hon. L.H. Davis: I think 'shadow' is a compliment.

The Hon. M.J. ELLIOTT: It probably is—a very faint shadow. The only significant gain is the fact that we now have an independent statutory body, namely, the Environment Protection Authority, looking after the standards and enforcing the legislation. I have already noted that, if it is under-resourced, which already looks as though it is going to be the case, it will not be in a position to even enforce the standards which it has to establish. I believe it will be strangled by lack of resourcing and the one thing that it could hope to achieve will be undermined.

There are a series of significant weaknesses. The committees are inadequately described—in fact virtually not described at all other than the fact that they will exist. The forum will prove to be a farce. The EIS process remains unaddressed. The exemptions have the capacity to undermine

the whole Bill. Neither third party appeals nor enforcement procedures have been addressed by the Government, and in fact the Minister quite clearly does not even understand what this Bill is doing: that is quite plain by what the Minister has said in the other place. The issues of public notice, access of information and a few other amendments also need addressing. So, Mr President, the Democrats are supporting this Bill only on the basis that it is marginally better than the current situation and for no other reason.

The Hon. M.S. FELEPPA secured the adjournment of the debate.

MUTUAL RECOGNITION (SOUTH AUSTRALIA) BILL

Adjourned debate on second reading.

Continued from 25 August. Page 290.)

The Hon. I. GILFILLAN: Mr President, I do not intend to extensively canvass the details of this Bill because it is identical to a Bill that failed in this Parliament in the last session.

The Hon. M.J. Elliott: And deserved to. It can't get up in Western Australia.

The Hon. I. GILFILLAN: Yes, and it will be our intention to oppose the second reading because, although there has been change of ground by the Opposition in this matter, we are even more firmly convinced that, from South Australia's point of view, there is nothing to be gained to outweigh the quite clear disadvantages that we see in this inappropriate piece of legislation.

If uniformity is considered to be an essential in the aim, we already have procedures in place to get uniformity for national economic efficiencies. It is not as though we do not have a series of methods, procedures, committees and statutory bodies working towards that and, in many cases, quite successfully. The problem with this as a measure to achieve that so-called aim is that it virtually will impose the lowest common denominator in any of the aspects which it addresses of significance concerning the trading of goods, the provision of services and the recognition of professional and trade qualifications. As the Minister said in the second reading speech:

> If goods are acceptable for sale in one State or Territory, then there is no reason why they should not be sold anywhere in Australia.

That clearly identifies that the lowest required standard applying in any Territory or State is acceptable to this Government to be sold in South Australia without let or hindrance. A further quote from the second reading speech by the Minister is as follows:

> I am sure that everyone would agree that in Australia the existing regulation arrangements of each State or Territory generally provide a satisfactory set of standards.

It is quite clear that we have in South Australia separate standards, separate series of requirements in a whole range of matters that are at variance and in many cases are more demanding than those that apply in several other States and Territories. Even if the majority of States or Territories were on a par with South Australia, the fact that one was below that standard would allow those products, if we are taking the case of imported products, to be marketed in South Australia without any requirement for them to match our standards and without any requirement for them to be labelled specifically to highlight that point.

Various points were raised by the Attorney-General in the last debate in which he was critical of the Opposition's and the Democrats' position on this Bill, and I intend to address those comments and go through them in particular detail. Another of what the Democrats see as a major deterrent in this piece of legislation is the ceding of the power to the Commonwealth. We are not paranoiac about there being shared standards and responsibilities and the proper role for the Federal Government; but we are State politicians and we are charged with the responsibility of protecting and maintaining the optimum standards of goods and services and professional and trade qualifications in this State. This Bill obviously undermines that and, with the Bill as it is before us, it virtually surrenders the birthright of South Australians represented through their Parliament to have an acceptance or denial of amendments to the Federal Act. They would just be imposed on us.

There was substantial opposition to the Bill originally and I believe that much of that opposition stills exists with the Employers Federation, engineering employers, horticultural associations in this State, plumbers, teachers and the Printing Union. Certainly, there were seen to be some distinct advantages for certain professions, in particular, the medical profession and people who had come from overseas with medical or legal qualifications who were looking to have the option of working in any of the States of the Commonwealth. I have sympathy, and I still do, for those people who felt that they were discriminated against in the way the current situation is in Australia, but I believe there are much simpler ways which would provide freedom for those professions which have established their standards nationally, to enable people who have come from overseas to have virtually automatic right to practise in any State without having to be drawn into this omnibus legislation, the Mutual Recognition Bill.

Unfortunately, it is very much a take it or leave it piece of legislation. Previous valiant attempts, which had my sympathy and to a certain extent my support, by the Hon. Trevor Griffin were not acceptable to the Government. Unfortunately, the Opposition is now no longer going to insist on that line. I do not intend to make particular criticisms of the Hon. Mr Griffin who applied himself most diligently to it, but I believe it will be clear in the fullness of time that the Opposition has surrendered the best interests of South Australians by virtually acceding to the virtual passage of this Bill.

I believe amendments should be made and I will look for constructive ways to achieve this. But the bottom line is this: the Bill is a Bill that suits the Federal Government because it is a centralist Bill. It suits States which at this time are rather indifferent about certain standards that apply and can see that there will be an advantage to their trading position and some flexibility, which in the short term appears attractive, but only superficially, I believe.

We have repeatedly called for clear evidence of the real advantages that will flow to South Australia from this Bill. I have not seen any. There have been pathetic attempts by the Attorney in the last debate when talking in generalities, but nothing specific, and I fail to see that there has been any analysis of the previous experience of the State to show that we have suffered through a lack of having mutual recognition legislation in place. A confidential report which came from Parliamentary Counsel was referred to in the previous debate, and I quote this because it does identify clearly the

Democrats' major concern about the ultimate effect of this Bill:

> Because of the extreme breadth of many of its provisions it could have the quite disastrous impact on the State's legislative capacity, rendering it impotent to deal with a large range of issues.

I believe that no-one sitting in this place can choose to ignore that stark warning—

The Hon. T.G. Roberts: What are the issues?

The Hon. I. GILFILLAN: They are not spelt out in this part of the report. They may well be in the report. The report was not widely circulated, certainly not by the Government, and the only access I had to it was by the Hon. Mr Griffin's quotes given into *Hansard*. I have enough respect for Parliamentary Counsel to believe that they, or whoever is the author of the report, have no hidden agenda. There is no advantage to Parliamentary Counsel to be exaggerating. When they refer to 'a large range of issues' and imply that it would have a disastrous impact, I take it at face value, until it is disproved otherwise.

The Hon. T.G. Roberts: That is not like you. You have an investigative mind.

The Hon. I. GILFILLAN: Well, if I have an investigative mind, I would wish that the Government had had more of an investigative mind in preparing specific justification, argument and evidence to show that this Bill really was tangibly to the advantage of South Australians. There is a blind faith in the Mutual Recognition Bill as if in some sort of mystical way it is going to turn around the fortunes of South Australia. It is a false hope and we are being bullied by what are vested interest groups, mostly with interstate tentacles. It is not South Australian based groups that are screaming for it but those that have these other interests elsewhere.

The Attorney-General, to my mind, showed an almost callous indifference to the interests of South Australia when referring to the effect of mutual recognition, where there would be this surge of product and manufactured products which would come in from interstate, or internationally, incidentally, through another State, and I quote him:

> This could create added competition for local manufacturers who are required to manufacture to higher standards in some instances.

Well, boy! If local manufacturers are looking to have added competition, I would like the Attorney to go out and knock on the few doors. If we are looking after South Australian interests we should be looking to encourage and even protect the local manufacturers rather than this sort of reckless way of saying they would benefit from the competition. The National Food Authority is dealing with food standard uniformity in a national context, and that was one of the issues where there was an argument and I will refer to that in a moment when I turn to the Attorney's speech. The Attorney turned rather savagely, I think, on those of us who said we ought to look at what the impact of this legislation would be on South Australia's autonomy and sovereignty. He agreed with me that it was a very significant piece of legislation, and in relation to the Mutual Recognition Bill he said:

> This is the equivalent of giving up income tax by the States.

He sees it as an enormous surrender by the State of its own decision making power, and I further quote the Attorney, I assume describing my attitude and possibly that of the Hon. Trevor Griffin at the time:

> . . . a niggardly, parochial, States' rights approach.

I make no apology for having a States' rights approach. So, it is worth looking in a little closer detail at certain aspects of the Attorney's speech, because it reflects what I think is the wrong attitude with respect to the Government. It is very much based on a centralist form of control of Australia, and I reject that, but added to that I think it definitely brings in the lowest common denominator and a lowering of the standards for South Australia and takes away from us the right to determine what standards we believe should apply. In his speech, the Attorney's said:

> I should say that as far as I am concerned I believe in the area of consumer laws, because they do impact on the economy, they should be uniform throughout Australia, and the notion of different consumer standards in different States around Australia, in my view, is no longer tenable.
>
> A national accreditation scheme has been developed for water well drillers who have been required to be licensed in South Australia since 1976. This approach will greatly enhance the protection of Australia's valuable groundwater resources, while providing well drillers with greater flexibility to extend well drilling activities and improve their employment opportunities. That is an example of where a national scheme has been developed.
>
> Further, a Commonwealth-State Consumer Products Advisory Committee has been assessing a range of products which are regulated in some jurisdictions and not in others. The aim of this work is to ensure that national standards are established where these are seen to be necessary in the interests of consumers.

That is a fine way to do it, and that is the way the Democrats would support it to be done. The irony is that the Attorney spells out these ways in his second reading reply speech. He is aware of it and he knows it is working in this way. That is what makes it so doubly baffling, unless one translates it entirely as a motive to kowtow to Canberra. He goes on:

> So, it is possible that mutual recognition will have the effect, if you look at it on an Australia-wide basis, of increasing standards in areas in this country where those standards are too low if that is what is agreed to on a national basis by the responsible authorities. . .

That is exactly the process that is going on right now. He continues:

> There has been a considerable amount of discussion about food. I turn now to food quality standards. In the past, many standards in the food standards code were established on the basis of composition, for example, specifying the percentage of fat to be included in milk products, which could be considered a quality issue. A review by the Industries Assistance Commission in conjunction with the Business Regulation Review Office suggested that such standards should be deregulated. The National Food Authority supports this view.

Here again we have the structures in place; there is the scope for a national debate on the issue with a recommendation to be promulgated from it. He went on to list various aspects of the colouring of prawns, the standard for fish, the human consumption of kangaroo meat and so on, sulphur dioxide, mince meat in South Australia and dried fruits, and I quote:

> South Australia has initiated steps to overcome this duality of standards for the dried fruits industry. At the request of the previous Premier, Ministers of Agriculture have initiated work to establish national quality standards.

These are all admirable initiatives; very effective. It is quite clear that the summing up of the Attorney in the last debate spells out in some detail how effective and how broadly based are the structures in which the moves towards uniformity are already effective in Australia.

The Hon. C.J. Sumner: That is bunkum; absolute bunkum. Stop misrepresenting what I am saying.

The Hon. I. GILFILLAN: I might bring the Attorney to his own speech, and I quote:

> It could be argued that quality standards are a matter for control by market forces and that mutual recognition will give consumers a wider choice. These comments are made in response to the food policy alliance. The counter argument is that competition with cheap

imports may cause lowering of local standards with a consequent detrimental impact on the reputation of the local product on local and export markets. Regardless of base standards, it should be possible for South Australian producers to maintain or establish a reputation for quality products, at the same time as beginning to operate within a less restrictive market environment. Market forces should be allowed to prevail in relation to quality issues.

This Bill and the Federal Act prohibit you from publishing in the labelling what are the differences. There are no obligations. There will be no way that the gullible South Australian consumer will know what the differences are. The so-called market competition will not be there, there will be ignorance and there will be undercutting by inferior quality and lower priced product, which we have seen already, and it will not be addressed through the Mutual Recognition Bill at all. In fact, I believe it will be exacerbated by it.

It is interesting that one of the trade qualifications which was mentioned by the Attorney in his second reading summing up was dealing with the plumbers, gasfitters and drainers, and in a moment I will refer briefly to a Bill that was introduced in this place today dealing with the registration of these people, because it is not only the production and marketing of the actual goods which are affected by this piece of legislation. I refer any members who do want to look at this to go back to the Federal Act. Section 10 spells out the conditions which do not have to be complied with and section 20 indicates the automatic registration of people in equivalent occupations and how they are automatically registered in any State or Territory where the mutual recognition applies.

I think it is appropriate to read the following part of the Attorney-General's speech. He said:

> While there is already a degree of mutual recognition in this industry—

he is talking about the plumbing industry—

> a study has been undertaken to determine the extent to which uniformity exists in relation to the education, experience and registration requirements of plumbers, gasfitters and drainers, and to identify what the registration requirements should be on a national basis to ensure national consistency. While this work has the in-principle support of South Australia's licensing boards, some of the proposals are contrary to both existing and proposed licensing requirements in South Australia and, as such, are not supported.
>
> These are proposals to impose regulatory controls on activities which are not currently regulated in South Australia; to restrict certain work which can currently be carried out by householders (such as changing tap washers, changing in-line water filters) to registered/licensed plumbers only; and to increase the cost of housing, in particular in relation to the construction of stormwater drains and the extension of cold water installations in this State.
>
> These are not acceptable outcomes of uniformity for South Australians, and could be construed as an attempt by the industry to capture an unregulated sector of the activity, making it the exclusive preserve of the plumbing industry at the expense of the public of South Australia. The Government will be vigorously opposing the adoption of national standards which encompass these aspects.

The pressure through mutual recognition will virtually make ineffective the capacity of individual States, through Governments or Parliaments, to determine their individual standards or requirements in many of these areas. It will be a minefield of dispute. It is abundantly clear to us that the Bill is bad news for South Australia.

The Hon. C.J. Sumner: It is not. That is rubbish.

The Hon. I. GILFILLAN: I have had a fax today from the South Australian Institute of Teachers in relation to their registration. It reads as follows:

> Lowest common denominator.
>
> Only South Australia and Queensland have teacher registration which includes 'fit and proper' clauses.
>
> Boards or employer classification committees in other States and Territories only assess qualifications or represent only one sector (Government/non-government) of education.
>
> SAIT is concerned that the lowest common denominator of teacher training will prevail under mutual recognition.

If honourable members will look at the Act that we are taking on board with this Bill, they will see that it is specifically saying that, wherever there is some form of registration in any State or Territory for qualified teachers, those teachers will automatically be able to come into South Australia and teach. There is no need for them to be identified necessarily as having been qualified interstate. The fax continues:

> The Australian Education Union (formerly ATU) has identified the following public interest reasons for ensuring that teachers are well-trained, well-qualified and are generally fit and proper:
>
> · the need to enable students to achieve the best possible learning outcomes
> · the importance of good learning outcomes for the national interest
> · the need to promote the welfare of all children attending school and protect them from moral and physical danger
> · the need to promote social, cultural and intellectual values and the development of students as future citizens of this nation
> · the need to ensure that teachers are able to meet their duty of care responsibilities.
>
> Establishment of Australian Teaching Council.
>
> Recent establishment of the Australian Teaching Council will look at the issue of national registration.
>
> The ATC will additionally be a professional body for teachers. It is inappropriate to introduce mutual recognition for teachers at a time when a national body has been established to consider national registration.
>
> The report of the House of Assembly Select Committee on Primary and Secondary Education supports the continued existence of the SA Teacher Registration Board for this reason.

So, we remain opposed.

Earlier I referred to the irony that with this Bill before us we have today introduced the Electricians, Plumbers and Gas Fitters Licensing Bill. Why worry; why bother? We may as well turn to the State or Territory which has the lowest qualifications for these trades, whichever place it is, which cares less about the qualifications, and accept them. That is what will happen. It does not matter how high the qualifications are that we require in this Bill which we shall be debating and which sets the requirements, and arguing how important it is for certain abilities and knowledge to be inculcated in the training, because whichever State or Territory accepts the lowest will be the one that prevails. Who will come to train in South Australia if they know they can go to the Northern Territory or Queensland and get through in half the time with half the qualifications and then be able to come and set up their plate in South Australia?

According to the Commonwealth Act, we cannot discriminate; we cannot even ask for the details; they have to be registered automatically to work. That is what will happen. It is a camouflage for federalism to be imposed. It is a Trojan horse, and the Liberals have been sucked along and they will have to comply with it. I am bitterly disappointed that the earlier stand of the Hon. Trevor Griffin, who spelt out a formula which would still retain the right of this Parliament to determine what happens in South Australia, has been surrendered by the Liberal Party. At best, they have only some minor amendments which certainly will have to be looked at in Committee. However, it involves caving in to the pressure from interstate and from certain business interests which have put the heat on them.

The Hon. C.J. Sumner: I will debate this any time you like anywhere—anywhere in Norwood, if you wish. Just let me know, and I will come out.

The Hon. I. GILFILLAN: The Attorney-General's idea of a debate is to shout interjections. That is not my idea of a debate. The debater who shouts usually has the least substantial argument to put forward. The Attorney-General has been abundantly vacuous in trying to answer my question: spell out the advantages to the people of South Australia.

The Hon. C.J. Sumner: Significant.

The Hon. I. GILFILLAN: Yes, generalities like 'significant', or 'We will be left behind.' There has been a whole lot of emotional subjective phrases, but no detail. I believe that as an autonomous State and Parliament we have attempted to put in place in the South Australian Legislature standards and desired goals which have been very important for us. We have worked our way through them to achieve certain standards for South Australia, but this Bill is the erosion. It is not an agricultural erosion, but it is just as devastating. We shall see the independence of South Australia washed away through the effects of mutual recognition as the heavyweights and the bullying from Canberra and other places and the lowest common denominator sweep into South Australia. It will be a very sad day when we see this Bill pass into law in this State. I repeat: the Democrats will be opposing the second and third reading stages of this Bill.

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

STATE BANK OF SOUTH AUSTRALIA (PREPARATION FOR RESTRUCTURING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 August. Page 295.)

The Hon. K.T. GRIFFIN: I indicate support for the second reading of this Bill, which is one step in the necessary amendments to the Act leading towards corporatisation and sale. One can well understand that, as a result of the dramatic losses of the bank, this becomes a necessary step in the process towards the sale of the State Bank.

However, last week, as I understand it, the Treasurer, Mr Blevins, at a business breakfast talking about the budget, indicated that he was not necessarily committed to the sale of the bank and that things were picking up rather than bumping along at the bottom of the trough.

Because the Bill really is a consequence of the State Bank disaster it is important, just for a few minutes, if I relate some of the observations that have been made about that disaster. The Auditor-General's annual report into the finances of the State has been tabled today with volume 1 having some pertinent observations about it, I think it is important to put the disaster into a broader context. If the Council will bear with me, I will refer to some of the comments which he makes. The first observation is as follows:

> In the past two years, I have made specific comment on the financial consequences of events associated with the State Bank of South Australia and the State Government Insurance Commission (SGIC). The losses associated with the operations of these two statutory authorities have contributed to deficits on the Consolidated Account recurrent results since 1989-90. In summary, the need for financial assistance to these two entities, and in particular to the State Bank, has contributed to:
> (a) a reduction in the financial reserves of this State;
> (b) a continuing deficit on recurrent operations;
> (c) an increase in the Treasurer's borrowings; and
> (d) significant related debt servicing costs.
> The combined effect of these matters, in conjunction with general recessionary economic conditions, is a marked deterioration in the State's financial position.

He later states:

> The task ahead is to manage the consequences of having diverted a significant portion of the State's financial resources to the rescue of the State Bank, rather than having those resources available for the further development of the State's economy. It is imperative that there be effective reporting of the financial position of the public sector.

The Auditor-General really sums up what the consequences of this disaster mean for South Australia. It has had a disastrous effect not only on the finances of the State but ultimately on the lifestyle of South Australians and the capacity of this State to compete in not only the national but the international environment. There is no doubt that services have suffered; schools are not being maintained as they should; hospitals are deteriorating; waiting lists are long—a whole range of consequences which impinge upon many South Australians.

The Auditor-General also makes an observation about the effect of the State Bank disaster in a much broader context, as follows:

> It is an inescapable conclusion that the significant improvement in the State's financial position, as mentioned by the ratio of net indebtedness to Gross State Product after 1980, was undermined by the losses of the State Bank revealed in February 1991.

He continues:

> It is reasonable, in my opinion, having regard to the longer term movements in the ratio of net indebtedness to GSP, to conclude that the need to support the State Bank cost the State the opportunity to implement significant initiatives to support and enhance the prosperity and wellbeing of its citizens.

One only has to talk to people who come into South Australia on a periodical basis, either from overseas or interstate, or even South Australians who have been overseas and returned to South Australia, to hear their commentary on the attitude which prevails in South Australia and the air of despondency which hovers over everything we do and which provides something like a lead weight around the feet to those who seek to improve their position, whether it be in their personal lives or their businesses.

The Auditor-General in clause 1.5.2 of his report talks about the fall-out from the State Bank rescue. He states:

> The simple facts associated with the State Bank rescue can be succinctly stated as follows:
> (a) The State's history, in terms of its financial status, measured from the period of the establishment of the Loan Council (on a voluntary basis in 1923) and from when the Financial Agreement came into effect (1 July 1927) up until and including 1989-90 reflected a healthy position. This could legitimately be said to be the outcome of the prudent financial policy of Governments over that period. A significant part of that legacy came to an end in February 1991. Over 70 years of prudent financial management was dissipated by the activities of one institution.

That is an interesting commentary:

> Over 70 years of prudent financial management was dissipated by the activities of one institution.

One must remember that that institution was ultimately under the oversight of the present Government, particularly through its then Premier and Treasurer. The report continues:

> (b) It has imposed on the State a severe financial handicap as it moves to adjust to the volatile economic environment of the 1990s and at the same time accommodate restructuring of the South Australian economy.
> (c) In order to meet its legal liabilities under the Treasurer's indemnity the State (via SAFA and the South Australian Finance Trust) has realised investments and borrowed to provide for the

financial assistance package, thus forgoing interest income and incurring interest costs on additional borrowings.

(d) The net indebtedness of the public sector has escalated from $4.303 billion at June 1990 to $7.869 billion at June 1993, of which $2.95 billion represents financial assistance paid to the State Bank and GAMD.

(e) The accumulated debt servicing cost met from Consolidated Account, and related to the assistance package, was estimated to amount to $447 million at June 1993.

(f) Pressure has been put on the State's credit rating which has been downgraded.

(g) Since around the time it became apparent that the Government guarantee would be invoked, senior public servants have been deflected from their principal duties of managing important Government activities in order to pursue a rescue and salvage program related to the bank.

(h) To address the budgetary problems caused by the disaster, the public sector is now subject to financial pressures that would not have otherwise occurred.

There are a number of other observations that one could refer to, but they will undoubtedly be brought to public notice over a period of time.

What the Auditor-General does in putting this disaster into a longer term perspective is to reflect quite properly that South Australians have lost a significant amount of their wellbeing as a result of a dissipation of assets. What was once a jewel in the Crown—and I think in 1984 was proposed by the then Premier, Mr Bannon, to be the star in South Australia's economic revival, the State Bank—came to the point of absolute disaster.

What we have been saying over the past 2½ years is that the reasons for that ought to be clearly identified. That was one of the reasons why both the State Bank Royal Commission and the Auditor-General's investigation were established. What that Royal Commission and that investigation have brought to life is a devastating and distressing series of factors of mismanagement and incompetence, lack of proper oversight and a range of other factors at governmental as well as institutional level which led the State to this disastrous position.

What we have been saying as a result of yesterday's final royal commission report is that there does have to be both legal as well as political accountability for the disaster and, undoubtedly, that political accountability for the Government will occur at the time of the election. In a democratic society, in consequence of the reports that is probably the only way that there will be ultimately a judgment finally placed upon those in the Government who have to accept political responsibility for that disaster. I have been tempted to go into the reports of the Auditor-General and the Royal Commissioner at length, but I have refrained from that on this occasion. The general overview should be sufficient to put this Bill into its proper perspective.

I want now to turn to the Bill that was received by the Legislative Council from the House of Assembly. This is one of several Bills that will need to be enacted to deal with the move from a statutory authority to a corporatised entity and, subsequently, to its disposal. I received a briefing from the Crown Solicitor, a Treasury officer and the leader of the legal team involved with what is effectively a due diligence inquiry into the State Bank and the identification of assets that may be included in any corporatised entity, and I appreciated the opportunity to discuss with them the reason for the Bill.

The Bill is not controversial, I suggest. It is a necessary step in that move towards corporatisation. As I understand it, the significant legislation will come before Parliament in the first half of next year, when decisions have been taken as to the form in which the bank will be corporatised and, ultimately, disposed of. That will be the occasion to look more critically at the way by which the Government intends to dispose of the bank. As I understand it, it is necessary as a result of the agreement between the Government and the Federal Government to ensure that the bank is at least corporatised by 1 July 1994 and falls into the Commonwealth tax net at that time. So, there is a measure of urgency to identify what assets are in the bank and should be part of the bank that is ultimately disposed of.

As I understand it, the Government has not yet made any decision about the structure, but one of those to be considered, I understand, is the public company structure where assets that are viable assets will be transferred. But that is something we will have an opportunity to consider at some time in the future. The Bill as it was received by us does provide access by legal advisers of Government to the books, papers and documents of the bank, and that will necessarily involve access to the names of customers although, as I understand it, the names of customers are of little interest to those undertaking that work. What is of interest is the integrity of the documentation and the appropriate stamping and other technical and legal obligations which have to be satisfied and in respect of which ultimately a certificate may have to be given.

What the Bill does is to grant the authority for certain persons involved in what is defined as the 'authorised project' to gain access to that information, but to make them subject to specific statutory provisions relating to confidentiality. That part of the Bill is to be retrospective to 1 January 1993 and, whilst I have periodically raised issues about retrospectivity, this is not one of those occasions where it removes rights but, rather, confirms the authority of those who have been involved in undertaking activities on behalf of the Government in moving the bank towards a corporatised entity.

I have raised (and did raise at the time of the briefing that I received) several matters that are essentially technical and relate to the evidentiary provision, and I am pleased to see that the Attorney-General has on file amendments which address those issues and which I think make sure that there are no doubts about either the authority of those involved in the authorised project or the means by which they may establish that authority. So, that part of the Bill is a provision that the Opposition supports.

The Attorney-General has on file an amendment and, whilst it is probably more appropriate to deal with the detail during the Committee stage, I take this opportunity of making some observations about it. I do so because, again, the Crown Solicitor did seek to brief me on the matter and there have been a number of discussions since that time about the issues raised by the proposed amendment and some changes to the drafting made to accommodate matters I have raised. I appreciate that the Government has been prepared to authorise the Crown Solicitor to discuss the issue with me to ensure that the issues of principle and technical matters, which have been of concern, are appropriately addressed.

Without wanting to usurp the Attorney-General's probable intention of explaining the amendment, I will identify what I understand to be its object. It relates to the records held by the Auditor-General in consequence of his investigation under section 25 of the State Bank Act. Some questions have arisen as to what should happen with the records held by the Auditor-General as a result of that investigation. The records are the transcript, documents, papers, submissions, correspondence and perhaps other material, all of which the

Auditor-General has taken into consideration in submitting his various reports.

What brought the matter to a head was a proposition from one of the groups that had given evidence to the Auditor-General that the Auditor-General should not hand over any of the records, documents, papers, etc. to the legal team or the task force which was assisting the Government in determining what if any proceedings, civil or criminal, should be initiated as a result of the two inquiries.

That necessarily caused concern because, if the request not to divulge information from the Auditor-General's inquiry in particular was to be upheld, and whilst the documents may well be discoverable and are likely to be discoverable in legal proceedings, the fact of the matter is that that would undoubtedly be costly and would involve further delay. With the expenditure of $35 million of taxpayers' money on both the royal commission and the Auditor-General's inquiry, and whilst another half a million may be neither here nor there to some people, it is nevertheless of concern that costs involved in any review of the material should be escalated as a result of further interlocutory proceedings. There is some suggestion that, in the absence of specific statutory provision, the rights of persons producing documents to the Auditor-General and giving statements to him are unclear. It was intended that where original documents are being produced they should be returned to the person or body who supplied those documents when examination of them had been completed by the Auditor-General and the investigation closed. This Bill proposes that all those documents and papers should be vested in the Attorney-General and that, in effect, the Attorney-General is in a position similar to that of the Auditor-General in respect of the way in which the documents will be dealt with except that he will be able to make them available to the task force and the legal team as well as to the DPP, the Australian Securities Commission and other prosecuting authorities in relation to criminal proceedings.

Under the proposal the Auditor-General is to retain a right of access to records. If the Attorney-General determines that the need for the documents has ceased they are to be returned to the appropriate person, although again, as I understand it, there are no original documents—certainly from some of the parties who have protested; they are all in fact photocopies. If any binding obligation arose that a particular record or particular information gained in the course of the investigation should be kept confidential, that obligation is also binding on the Attorney-General and all others who have access to that record with the approval of the Attorney-General. The obligation does not prevent disclosure of the record to the Crown, its officers or legal advisers, or a prosecuting authority, but the obligation is similarly binding upon them.

The Bill also provides that there should be no limitation on the right of a party who might subsequently be the subject of litigation to take any appropriate points in that litigation as to whether or not the evidence obtained by the prosecuting authority is admissible evidence, although the mere fact that the documents have been made available by the Attorney-General to the Crown and its advisers or a prosecuting authority is not to be a matter of such objection. The material can be used for the purposes of civil or criminal proceedings, although where statements have been taken by the Auditor-General under section 34 (3) of the Public Finance and Audit Act, which protects against self-incrimination, that protection is to be maintained. The concern that has been expressed by some of the groups to whom I have made the proposed amendment available relates to the fact that they believe that they were given an undertaking of confidentiality by the Auditor-General, either in relation to particular documents or in relation to the transcript. I have had access to some of that material and in some areas there is an express undertaking, and in others it is not so clear. The argument that has been used by those who protest against the legislation is that, if they had known that the material would be available in the way in which is proposed by the amendment that the Attorney-General has on file, they may have approached the matter differently: they certainly may not have made submissions as extensively, or for that matter conceded points or made admissions. That may be correct. To some extent I am uncomfortable about overriding those particular undertakings if they can be established by legislative enactment, but we are faced with a dilemma, and that dilemma is one that has faced us on other occasions. However, in respect of this particular investigation one has to balance the public interest against the interests of those individuals.

I want to make an observation about the Auditor-General's powers, Mr Acting President, and then I want to make some observation about precedents for what is being proposed by the amendment. The State Bank Act was amended to amend the power for the Governor to appoint the Auditor-General or some other person to make an investigation and to report under section 25. Under that section, as amended, it provided for the investigator to investigate matters that were determined by the Governor, to report to the Governor and to comply with any directions of the Governor, and then subject to any directions to make public statements as to the nature and conduct of the investigation, and then to present a report to the Governor, which must then be laid on the table of both Houses of Parliament after being presented to the President and to the Speaker. For the purposes of the investigation, the investigator was to have the same powers as the Auditor-General and authorised officers under division 3 of part 3 of the Public Finance and Audit Act, including section 34 (2) and (3). There was power to issue summonses to appear, to produce documents, to provide information, and then to provide under the Public Finance and Audit Act that, if there was an objection taken to the answering of questions or production of documents on the basis of the tendency to incriminate, that was to be noted and the evidence that was given was not then to be admissible.

It is important to recognise that, under section 25, it is not the Auditor-General as Auditor-General who is undertaking the investigation, but it is the Governor appointing, in this case, the Auditor-General to be an investigator. So to that extent I would suggest that the Auditor-General is an instrument of the executive arm of Government. That, in itself, may be some compromise of the Auditor-General's statutory responsibilities but I am not addressing that issue now.

The Governor making the appointment and all the other matters which place control of the investigation ultimately in the hands of the Governor is a strong indication in my view that the investigator is not a quasi-judicial investigator but an investigator *per se* and acting as an instrument of the Executive arm of Government. Because of that I would have thought that the records of the investigator were records of the Crown. Who else could have custody of the records if this person acting as an investigator for the Executive arm of Government was not an agent of the Crown? But for some

undertakings about confidentiality, the issue of who the records belong to was really not an issue.

The Hon. C.J. Sumner: That is right.

The Hon. K.T. GRIFFIN: I am just explaining what I understand to be the position. That person is an investigator and the records would be in the custody and control of the Crown. If there was any deficiency in the powers of the investigator, then one moves to section 34 of the Public Finance and Audit Act and again there are wide powers to issue summonses, to compel attendance and to compel the production of documents, so that, whilst I suspect the Auditor-General was endeavouring to conduct the investigation under section 25 in a way which ruffled as few feathers as possible and gained the maximum amount of cooperation from those who were requested to give evidence or produce documents—and that may have been why some undertakings about confidentiality may have been given—the fact remains that the investigator in my view did not have to do that.

That may have created other problems in the way the inquiry was conducted but, if one looks at the essence of the provisions of the State Bank Act and the Public Finance and Audit Act, it is beyond doubt that the Auditor-General had the appropriate power. Whilst the undertakings were in some instances given, as I have said, the Liberal Party has taken the view that, whilst being uncomfortable about legislation which overrides such undertakings, in the public interest the custody of the records should be put beyond doubt; otherwise there would be litigation which, whilst it may end up with the result I have predicted, that the records are the property of the Crown, would nevertheless involve further legal costs.

I now turn briefly to some of the precedents for what is before us. There is legislation in Western Australia, the Royal Commission Custody of Records Act, which vests all of the records of the royal commission in that State into what in shorthand is described as W.A. Inc. in the Director of Public Prosecutions in that State. It gives to the royal commission some powers to determine what records should not go to the DPP. In essence, that legislation was passed after the royal commission, or at least in the course of the final stages of the commission, and assented to in October 1992, but it establishes a precedent for providing for custody of the records of that commission.

As I understand it, in this State the Royal Commissioner has already determined the way by which his records will be dealt with. It involves the return of some documents and papers and the handing over to the Crown of other records and papers. One does distinguish between the royal commission and the Auditor-General's investigation to this extent: one was a public inquiry with some records and papers kept confidential and the other was essentially in private. There is the Fitzgerald inquiry royal commission. Fitzgerald himself instituted some of the prosecutions but in that State obviously material that was collected by the royal commission was made available to prosecutors.

In the Commonwealth there is legislation dealing with royal commissions and the custody of records, although I do not think that that was passed in consequence of a particular commission of inquiry. It may be that in future this whole area needs to be properly examined with a view to putting these sorts of issues beyond doubt. The amendment that we will consider in Committee puts the issue beyond doubt. I hope that, in the light of the concerns expressed by a number of those who are going to be affected by the passing of this legislation, wherever possible the concerns of those parties might be sensitively recognised and handled rather than being ignored. But in the end we recognise that in the context of this whole saga of the State Bank this is the appropriate way for the records, documents and papers of the Auditor-General to be handled. When we get into the Committee stage I will be indicating support for the amendment, notwithstanding some concern about aspects of the Auditor-General's undertakings and submissions and evidence given as a result of that.

The Hon. I. GILFILLAN: The Democrats have divided opinions on the two limbs of this Bill and the amendments that I saw for the first time today. As to the treatment of material gathered by the Auditor-General, that has our unqualified support. Any amendments that the Hon. Trevor Griffin puts forward will need to be looked at having regard to beneficial effect to the overall aim, which principally is to ensure that the material which was gathered at taxpayers' expense by a taxpayers' servant is given optimum use without what might be blatant contravention of justice. It is quite clear that we are all impatient to see this process expedited, and I indicate that it is the Democrats intention to support that large battery of amendments, which unfortunately are a Siamese twin. I would prefer to see them as two separate pieces of legislation that could be dealt with separately. I make it plain that that part of the legislation has our unqualified support so that we can move quickly into what must be the last active arena of mopping up the mess of the State Bank, and that is to see that justice is done as expeditiously and economically as it can be.

There is a different response of the Democrats to the prime part of the Bill, which was the first substantial step preparing for the sale of the bank. We are not convinced that an absolutely watertight case has been presented that the bank must be sold. There is an interesting reflection in the budget recently brought down, and it is relevant in this debate, perhaps even more than it is in the debate on the budget itself. I quote from the budget speech of the Treasurer in another place and delivered in this place as well. Page 14 of the printed document states:

> This budget includes receipts totalling $297 million from the State Bank, made up of: $55 million as income tax equivalent for 1992-93; $52 million as dividend for 1992-93; $160 million as a return of capital in the form of a special dividend; and $30 million as estimated guarantee fees in respect of 1993-94 as provided for in the Bank's statute. This amount of $297 million has not come about by accident. It has come about as a result of well conceived policies and hard work by all concerned. I pay tribute to the hundreds of thousands of South Australians who have stood by the bank as loyal and valued customers. I pay tribute also to the 3 000 or so bank employees, at all levels, who have worked so hard, often under great difficulty, to keep the bank alive and, we can now say, well. The $297 million included in this year's budget represents the first return which will be received by the South Australian community from the efforts which we have all had to make. It is not in any sense an undue return, nor will it be the last.

Whether it will indeed be the last depends on how quickly the bank is sold. If we go back to look at it in some detail here, we see that the Treasurer has identified and paid a tribute to 'the hundreds of thousands of South Australians who have stood by the bank as loyal and valued customers'. What will those hundreds of thousands of South Australians do in relation to a possibly foreign owned and certainly no longer State owned bank? They will not be loyal to this enterprise once it is sold. He paid a tribute to 'the 3 000 or so bank employees at all levels who have worked so hard and often under great difficulty to keep the bank alive and, we can now say, well'. What will happen to those 3 000 people when the

bank is sold to some detached and certainly interstate owned, if not internationally owned, enterprise? How many of them will be left to remember with that warm inner glow that they were praised in the budget of 1993 before the bank was then sold?

How much faith can we put in this promise that there will be more of this financial good news of $297 million taken from the bank in this year? 'Nor will it be the last', says the Treasurer. It is very difficult to see the economic sense of selling what is by this Government's own estimate its most rewarding and most dramatically turned around asset. We are now preparing to sell it, and at great cost. I ask the Attorney—although he may not have time before winding up this debate because we are scurrying along with this—what is the estimated cost of the relatively highly qualified and certainly extraordinarily highly paid army of consultants who are currently there in the bank, preparing some argument, some assessment of the bank, preparing it for sale? I want to know how much that is costing us as additional expense in this push towards selling the bank. In any case, I am sure it will only be a guess. Talking about guesses, how much will we get for it? If you have an asset which is putting a clean $297 million into your pocket, try putting that in capital value terms. What do you get? I would ask the economic gurus on the bank bench of the Opposition, many of them self-confessed experts, to give me a back-of-the-envelope estimate.

The Hon. Peter Dunn: What about the 'Bad Bank'?

The Hon. I. GILFILLAN: I will not be drawn into analysing the 'Bad Bank'. In relation to the 'Bad Bank', as the Hon. Peter Dunn appropriately mentions, it would be a different matter if we were moving to sell that, for $1 billion net, a different matter indeed. However, the sad fact is that the advice that I got in a private briefing from the current General Manager of the bank and one of his assistants is that the bank will be plundered. The marketplace for banks is definitely predominantly a buyers' market and we are being pressured by a Federal Government which once again wants to eliminate the State sovereignty of owning and controlling its own bank. We are being blackmailed and bribed into the sale, and the Democrats believe that it is economically unjustified. It is a removal of not only one of the State's assets but also one of the prime economic arms of a Government fiscal policy.

One can remember quite clearly that it was proved in 1983, by all the Parties in this place, as being a desirable entity to be constructed and to be looked forward to as a long term contributor to financial lending and the well-being of this State. It has gone through the dramatic traumas—and I do not intend to go through that; it is only too well-known—and why should the load of the tragic and disastrous history push us into what is an imprudent sale of an asset, one of the few assets which really look good?

I indicate that it will be the Democrats' intention to oppose the basic Bill as it was presented in this place to just bulldoze ahead preparing the sand for the sale of the bank. It is unfortunate and unnecessary. The issue of reducing the debt is certainly important, but no-one who is a competent financial manager is so obsessed with just cutting the figure of the debt that they also throw away one of the richest sources of revenue to the coffers of the State. I indicate that we oppose the legislation that is targeted for preparing the bank for sale, and we will support the amendments which are required for the other task of this piece of legislation, namely, to enable the Auditor-General's files and material to be made available for a possible court action.

Bill read a second time.

In Committee.

Clause 1—'Short title.'

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

Page 1, line 10—Before 'Preparation' insert 'Investigators' records and'.

I have a series of amendments to this Bill to deal with the subject matter of access to records held by the Auditor-General. The Hon. Mr Griffin indicated in his second reading speech the reasons for my amendments. These have been the subject of discussion with the Opposition and the Democrats. Therefore, the honourable member was placed on notice about the amendments that I intended to move. I will not repeat what he said in support of them, because he explained the rationale for them. I adopt that position, because that was the Government's proposal.

Perhaps I should put the clause notes into *Hansard* so that there is a record of the amendments before the Committee. I am referring to clause 2A, which inserts a new section 25A into the principal Act. It refers to the subsections of the proposed section 25A. Subsection (1) is a definition section.

Subsection (2) vests the custody and control of the records presently held by the Auditor-General in the Attorney-General. It should be noted that this entitlement is subject to subsection (4).

Subsection (3) preserves the rights of the Auditor-General to have access to and to copy the records. This is necessary because some of the work done by the Auditor-General in his inquiry will be of assistance to him in carrying out his audit functions. The subsection also preserves any rights that a person may have to have the document returned to them after the Attorney-General is satisfied that the record is not required for the purpose of any civil or criminal proceeding.

Subsection (4) requires the Attorney-General to return the document to the person entitled to it when it has become clear that the document is not required for the purpose of legal proceedings.

Subsection (5) ensures that the Attorney-General is subject to any obligation or undertaking of confidentiality, subject to the disclosure of the information or records to the Crown or to a prosecuting authority for the purpose of proceedings and subject to the use of the information or records in any court proceedings.

Subsection (6) provides that a document is not to be excluded from production in evidence in any legal proceedings merely because that document has been provided to the Crown or a prosecuting authority under the Act. Any other objection to admissibility such as its relevance and so forth would still be available.

Subsection (7) provides that the disclosure of the records and information to the Crown or to a prosecuting authority cannot give rise to any civil or criminal liability. This provision is specifically intended to ensure that legal proceedings are not instituted against the Auditor-General or the Attorney-General if some of that information or material is defamatory.

Subsection (8) ensures that any witness who has, pursuant to section 34(3) of the Public Finance Act, given self-incriminating evidence subject to objection will still enjoy the protection afforded by that section, namely, that the answer will not be used in evidence in criminal proceedings.

Subsection (9) ensures that the provision would be recognised by interstate courts.

The variations to clause 3 (and I am dealing with the amendments *en bloc*) were made at the suggestion of the shadow Attorney-General, the Hon. Mr Griffin. The purpose of the variations is, first, to make it clear that the proof provision in clause 3, page 4, line 19, is not an absolute proof provision but is only proof in the absence of proof to the contrary; and, secondly, to provide a means by which bank officers can be satisfied that persons claiming to be entitled to access to bank documents are so entitled.

As I said, these amendments have been the subject of fairly extensive discussion between the Government and the Opposition and their respective legal advisers, and I believe that they are in a form that should be acceptable to the Committee. I have explained them all, but it may be that the Hon. Mr Griffin wants to take them one by one.

Amendment carried; clause as amended passed.

Clause 2—'Commencement.'

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

Page 1, line 15—Leave out 'This' and insert 'Subject to subsection (2), this'.

The Hon. K.T. GRIFFIN: I do not question the amendment, which relates to the Act coming into operation on 1 January 1993. That is the part that is in the Bill which we received from the House of Assembly. Can the Attorney-General indicate why 1 January 1993 was settled upon as the appropriate date from which it will operate? I understand that the authorised officers did not start their work until some time after 1 January, unless there was some other activity which ought to have protection. Will the Attorney-General clarify that point?

The Hon. C.J. SUMNER: That date is put in at the suggestion of Parliamentary Counsel out of an abundance of caution to ensure that all work has been covered. By going back to that date, we make that clear.

Amendment carried.

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

Page 1, after line 15—Insert subclause as follows:

(2) Section 2A of this Act will come into operation on the day on which this Act is assented to by the Governor.

The Hon. K.T. GRIFFIN: I have already spoken at length on this and I indicate support for it. I want to make one other observation which I omitted to make. When I was considering and discussing this matter with advisers for parties who may be affected by the amendment, a proposition was put to me that we ought to endeavour to ensure that if an admission or a concession was made in any submission to the Auditor-General, whether orally or in writing, that ought not then to be used against the party making that admission or concession.

I did have some discussion with the Crown Solicitor about it and finally I was persuaded, and not with any great difficulty, that it may become a Pandora's box and involve even further lengthy litigation to determine what is an admission and what is a concession and whether it was evidence or whether it was a submission. So I am persuaded that it would not be easy to make such a provision but I understand the concern which was expressed by those parties.

Would the Attorney-General indicate the way in which matters of concession or admission may be addressed in the context of the submissions which have been made by the parties?

The Hon. C.J. SUMNER: In the final analysis a court has to determine what weight to give to any concession or admission if the matter eventually got before the court. In determining whether to take proceedings the investigating team would have to look at the concession or admission and make its assessment of whether it was likely to be, first of all, relevant and, if it was, whether the court would admit it. I assume that there would be arguments similar to arguments about other concessions or admissions that are made by parties prior to proceedings.

If the concession or admission was made to speed up the proceedings or made under some kind of duress then the court would take a less sympathetic view to the admission of the concession than it might otherwise. So, each matter will have to be dealt with on its own facts, but the investigating team will obviously have to assess what view the court would take of such concession or admission. Obviously there is not much point taking proceedings if an important part of the evidence is not going to be got before the court.

The Hon. K.T. GRIFFIN: Again, just to get it on the record, I presume that, where some commitment to maintain confidentiality or some undertaking has been given and, as a result of that, evidence has been given and information provided, that is a relevant consideration and a matter which the court would be likely to take into account in determining the quality of the evidence?

The Hon. C.J. SUMNER: I cannot answer that definitely and look into a court's views on the topic, but certainly it is possible that that is a factor which would be taken into account.

Amendment carried; clause as amended passed.

New clause 2A—'Custody and use of investigator's records.'

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

The following section is inserted after section 25 of the principal Act:

25A.(1) In this section—

"authorised person" has the same meaning as in section 25;

"investigation" means an investigation under section 25 conducted either before or after the enactment of this section;

"investigator" means the person by whom an investigation is or was conducted;

"investigator's record", in relation to an investigation, means—

(a) evidentiary material produced voluntarily or under compulsion to the investigator or an authorised person in the course, or for the purposes, of the investigation; or

(b) any record of evidence or submissions made for the purposes of the investigation; or

(c) any record (including an expert's report) made or prepared by, or on behalf or at the request of, the investigator or an authorised person for the purposes of the investigation;

"prosecuting authority" means—

(a) the Director of Public Prosecutions of the State or the Commonwealth; or

(b) the Australian Securities Commission; or

(c) any other authority of the State, another State or a Territory of the Commonwealth, or the Commonwealth that undertakes responsibility for the prosecution of offences.

(2) Subject to this section, at the conclusion of an investigation, the Attorney-General is entitled to the custody and control of all the investigator's records to the exclusion of the rights of any other person.

(3) Despite subsection (2), the investigator retains a right of access to and may make copies of the investigator's records.

(4) If a person would, but for subsection (2), have been entitled to possession of a record at the conclusion of the investigation, the record is to be delivered to the person as soon as the Attorney-General is satisfied that there is no need to retain the record for the purpose of any civil or criminal proceedings.

(5) If an obligation arose, or an undertaking was given, that a particular record or particular information gained in the course of the investigation be kept confidential, the following provisions apply:

(a) the obligation or undertaking is binding on the Attorney-General;

(b) the obligation or undertaking does not prevent disclosure of the record or information to—

(i) the Crown, its officers or its legal advisers; or
(ii) a prosecuting authority;
(c) if such a disclosure is made, the obligation or undertaking becomes binding on the person to whom the disclosure is made.

(6) No objection may be taken to the use of an investigator's record or information gained in the course of an investigation for the purposes of, or as evidence in, civil or criminal proceedings merely because of disclosure of the record or information to—
(a) the Crown, its officers or its legal advisers; or
(b) a prosecuting authority.

(7) No civil or criminal liability arises from disclosure of an investigator's record or information gained in the course of an investigation to—
(a) the Crown, its officers or its legal advisers; or
(b) a prosecuting authority.

(8) This section does not affect the operation of section 34(3) of the Public Finance and Audit Act 1987 (relating to the admissibility in criminal proceedings of answers to questions put by an investigator or authorised person) as applied by section 25(7) of this Act.

(9) This section—
(a) applies both within and outside the State; and
(b) applies outside the State to the full extent of the extra-territorial legislative capacity of the Parliament; and
(c) is to be regarded as part of the substantive law of the State.

New clause inserted.

Clause 3—'Insertion of Part VI.'

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

Clause 3, page 3, after line 20—Insert subclause as follows:

(3a) The Treasurer may issue—

(a) to a person who is engaged on the authorised project; or

(b) to a prospective purchaser or an agent of a prospective purchaser authorised by the Treasurer to have access to information under subsection (3),

a certificate identifying the person as such and any such person may be refused access to information to which access is sought under subsection (3) unless the person first produces that certificate for the inspection of an appropriate officer of the Bank or subsidiary of the Bank.

The Hon. K.T. GRIFFIN: I have one question, although it is not about the amendment, which I support. I think there is a drafting matter which needs to be addressed, namely, that in the words 'a certificate identifying the person as such and any such person' after paragraph (b) the second 'such' ought to be removed. I had a discussion with Parliamentary Counsel, who said he agreed that the second 'such' should be deleted.

Proposed new section 34(3)(a)(ii) provides that:

The directors and other officers of the bank and its subsidiaries must, despite the provisions of section 29a and any other law:

allow—

(a) persons engaged on the authorised project; and

(b) prospective purchasers and their agents, as authorised by the Treasurer after consultation with the board,

access to information. . .

Is the reference to 'prospective purchasers and their agents' there merely to provide for something which may require legislation in the future, and this is being inserted now to accommodate the possibility that there will be a prospective purchaser some time after the corporatisation process has been addressed or are there some prospective purchasers and agents already identified who need to have this access now?

The Hon. C.J. SUMNER: There is no-one knocking at the door at this moment, but if the honourable member or the Hon. Mr Davis (who claims to be well versed in these matters) gets a consortium together and offers $3 billion or so for the bank tomorrow, obviously we will want to be able to facilitate their getting information about the state of the bank, but there is not—

The Hon. L.H. Davis: It is far too much.

The Hon. C.J. SUMNER: You never know. The Hon. Mr Davis might get a burst of enthusiasm and get a group together. But it is to anticipate that possibility, although there is not anyone there at the moment.

The CHAIRMAN: I take it that the Attorney is moving in an amended form that he wants to leave out that second word 'such' in the last paragraph.

The Hon. C.J. Sumner: Yes.

Amendment carried.

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

Page 4, line 19—After 'certified' insert 'in the absence of proof to the contrary'.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

MUTUAL RECOGNITION (SOUTH AUSTRALIA) BILL

Adjourned debate on second reading (resumed on motion)

(Continued from page 362.)

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to address only one aspect of the legislation and, as I did back in April of this year, to refer to some of the concerns within the education community about possible ramifications of the passage of the Bill. When I spoke in April I indicated that there was a lot of ignorance within the education community about the potential ramifications of the legislation. I had contacted a number of interested educational groups and associations at that time seeking their view of the legislation. At the time of my second reading contribution I had received responses from only three of those organisations, the Teachers Registration Board itself, the Independent Schools Board and ANGE, the non-government schools employees association, and had not yet received the view of the South Australian Institute of Teachers.

At a later time during the Committee stage I did receive a very quick indication from the Institute of Teachers that it had some concern about the Bill. The view of ANGE was strong opposition to the legislation. The Independent Schools Board attitude was basically one of not really understanding the ramifications. It could see some potentially good aspects to the legislation but equally was concerned about some potential ramifications. Nevertheless, its position might best be summarised as saying that it was really looking for a guide from the Parliament as to the implications on its industry.

The Teachers Registration Board submission was an interesting one. I read the submission into *Hansard* back in April and therefore do not intend to repeat it. That view was one of general support for the principle of mutual recognition, but the board believed there should be an exemption for education, at least until 1 January 1994, in order that some of these concerns could be ironed out. As I said, at the time of the second reading the Institute of Teachers had not forwarded a view to me but, subsequently, indicated that it did have some concerns about the legislation.

In the past 24 hours I have had discussions with Clare McCarty, the newly re-elected President of the South Australian Institute of Teachers, and subsequent to that I understand the Hon. Mr Gilfillan has also received a fax from the institute about some possible concerns it has with the legislation. If I can summarise the position the Institute of Teachers put to me this morning in the meeting, which was not really clear from the fax that I received, its position was that it would like to see an exemption for the education sector from the provisions of mutual recognition legislation.

I understand from my colleague the Hon. Mr Griffin that that is not an easy process for any industry sector to achieve. It is something that can be achieved only potentially through Government to Government negotiation and agreement between Governments as to whether the education industry could be exempted. I place on record briefly some of the concerns that the Institute of Teachers has with respect to the legislation. Under the heading of 'lowest common denominator', it indicates that only South Australia and Queensland have teacher registration which includes 'fit and proper' clauses.

The boards or employer classification committees in other States and Territories assess qualifications or represent only one sector of education, Government or non-government. SAIT is concerned that the lowest common denominator of teacher training will prevail under mutual recognition. There is then a discussion about the public interest reasons for ensuring that teachers are well trained, well qualified and are generally fit and proper, and I think all members would accept the argument as to why that ought to be the case. That is a summary of the Australian education unions' and SAIT's position in relation to the legislation.

As I understand the position, we do have a mutual recognition arrangement already between the Teachers Registration Board in Queensland and in South Australia so that a registered teacher in Queensland will automatically be entitled to teach in a school in South Australia and *vice versa*. What is still a little unclear to SAIT and to others is the effect of the legislation, if any, on the relationship between the teaching professions in States which do not have registration. Let us take New South Wales, Victoria or Tasmania for example, or the Northern Territory in particular, and a State like South Australia which has registration. My understanding of the Attorney-General's position in the debates in April was that a teacher coming from one of those States or Territories where there is no registration would not be entitled to automatic registration in South Australia, and would not therefore be automatically entitled to teach in a South Australian school because they have come from a State or Territory where there is no system of registration. I would seek confirmation from the Attorney-General that that still is his understanding of the provisions of the mutual recognition legislation, and that that would be the way the system would operate.

The concern from the Institute of Teachers, however, extends beyond that. Some questions that can be considered are, for example, if for whatever reason a State or Territory which does eventually have a system of registration was to accept a teacher with a lower standard qualification from perhaps an overseas country and that particular teacher was accepted for registration in another State or Territory, then under the provisions of mutual recognition legislation that particular teacher would have automatic registration and automatic entitlement to teach in schools in South Australia. That is one aspect of the concerns of the Institute of Teachers, that potentially the legislation might lead to a lowering of standards in schools in South Australia. This concern comes in the light of a bipartisan parliamentary committee report which was released only this week by a select committee of the House of Assembly and which expressed grave concerns about the quality of teacher training, and by inference therefore the quality of teachers and teaching in our schools in South Australia. Certainly we would not want to see, and the committee would not want to see, anything which might lead to a further lowering of teaching quality standards in schools in South Australia.

The other question that is allied with this particular difficult issue is the establishment of an Australian Teaching Council, and that is being strongly pushed by the Australian Education Union and other teaching bodies, which are looking at the issue of national registration. I think that it is fair to say that the idea, whilst gaining support from the Federal Government and from teacher unions, is being strongly opposed at this stage by other significant groups in the community such as some of the other State Governments, for example, which are not at all enamoured at the prospect of the Australian Teaching Council having responsibility for national registration. It would be interesting to know what that development might mean for the teaching profession if mutual recognition legislation passes this State as a result of this debate.

The other issue that needs to be considered, Mr President, is the issue of any State which might seek to upgrade the quality of teachers in its schools. There has been a long debate about the adequacy of the current three-year teaching course for teachers in schools in South Australia. We already have some teachers, in particular secondary trained teachers, who have to undergo a four-year degree course before they are entitled to teach. There may well be other requirements as well; that perhaps, for example, a Government might not only require a four-year teacher training course but also require that at least 12 months of that be a practicum comprising practical teaching in schools.

It may well be that a Government requires at least a semester's work in special education looking after children with learning difficulties and understanding the needs of students with gifts and talents. A Government might insist upon those requirements for prospective teachers in a particular State. It may well be that a Government, looking for further upgrading of teaching qualifications, may well impose, as some American States have done, the requirement, for the maintenance of registration of a teaching qualification,of ongoing testing, ongoing qualifications. I hasten to say that I am not indicating a personal view or Liberal Party view in South Australia, but I indicate an attitude that some Governments and boards of authorities in the United States of America have taken in relation to the maintenance of a teaching registration qualification. There is a specific requirement to undertake professional development or testing, or competency based assessment over a certain period, and only if you pass that sort of competency based testing or undertake that training are you able to hold on to your teaching registration qualification.

So there are those sorts of potential requirements that a State Government might require of its teachers in seeking to raise the standards of teaching in its schools. The dilemma with mutual recognition legislation from the education sector viewpoint is that, if a Government does take that decision, and other Governments in other States and Territories do not, then under the mutual recognition arrangements teachers from those other States with the lower qualifications and teaching registration requirements will automatically be entitled to come and teach in South Australian schools, and they will be in our schools side by side with those teachers who have been required to undertake those extra registration requirements as a result of the State Government's decision. So, I only list those as an indication of some of the questions that members of the education sector have raised with me and have asked me to put to the Attorney-General and to the

Minister of Education to seek some form of response from the Government to get a feeling as to how the Government sees these issues being affected by the passage of the mutual recognition legislation.

As I said, the preferred position of the Institute of Teachers is that the Government provide some form of exemption for the education sector, and for the teaching profession in particular, from the mutual recognition legislation. I seek a response from the Attorney-General and from the Government as to what the Government is saying in reply to the request by the South Australian Institute of Teachers in relation to that issue. The final issue I want to raise is the discussion that is going on at the national level in relation to partially regulated professions.

As I understand it from the definition, teaching is defined as a partially regulated profession. We have registration in two States—in Queensland and South Australia—but in other States we do not have that system of formal registration. The original position of the ministerial council at the end of last year and the start of this year was that, if there were these partially regulated professions, then we should move to a system of deregulation.

That was part of the national agreement between Ministers and Governments, that these partially regulated professions, rather than maintaining this partial regulation ought to move to a system of deregulation. I remember receiving significant correspondence from the Speech Pathologists Association. Speech pathology is also a partially regulated profession and the association expressed its grave concern at the prospect that Governments and Ministers were recommending that we move to a system of total deregulation of speech pathology. They had an argument in that they were a health profession and, as I understood it, health professions for some reasons had some form of exemption under the mutual recognition legislation. They were arguing that they ought to be treated similarly but that they were not being treated similarly by Governments under the legislation.

Will the Attorney-General consider and provide a response to me on the attitude of the Government and the ministerial council to partially deregulated or regulated professions and, in particular, the teaching profession? Is there any current agreement between this State Government and other State Governments and the Commonwealth that says that, if there is a partially regulated profession, the preferred option is to move towards a totally deregulated profession? As I said, I only wanted to address the effects of the legislation on the education sector. I leave the questions with the Attorney-General and look forward to his response.

The Hon. M.J. ELLIOTT: I will speak briefly to this legislation because it is something that the Hon. Mr Gilfillan has carriage of, but the legislation is of sufficient import that I would like to make a few comments. I spoke to the Bill when it was last before the Parliament and nothing has happened in the meantime to cause me to change my view that this legislation should fail. The concept of mutual recognition seems a reasonable one on the face of it. An argument that it is silly to have different standards in different States, and that we should all have the same, on the face of it is one that is difficult to disagree with.

The important question is how one goes about achieving it. This legislation, and the Federal legislation that goes with it, is a simplistic way of going about it and, I would argue, a dangerous way of going about it. In fact, the Bill almost went through this Parliament without some members realising what the potential impact of the legislation was because, as I said, the concept of common standards in itself is one that most people would have no difficulty with. It has been argued in this place that the Europeans have been setting common standards, so why can we not set them? The Europeans did not pass a piece of legislation like this which said that the lowest standard in any of the nations would be the standard for all of Europe.

In fact, the common standards were derived by way of negotiation. I recall some years ago that there was significant debate over the Euro-sausage involving what the standard was going to be. If we think about it, if there was mutual recognition legislation in Europe, then whoever made the worst sausage, the one with the most fat and bread, would have been setting the standard for the sausage for the whole of Europe, and that would be true here in Australia as well. Whichever State allows the most fat and the most bread would be setting the standard for the sausages throughout Australia.

The Hon. Anne Levy: That is trade standards and not recognition of qualifications.

The Hon. M.J. ELLIOTT: Trade standards are included, so perhaps the Minister had better look at the legislation, which is not just about qualifications. Read the Bill, because it picks up a wide spread of things. I am not going to get too hung up about the Aussie sausage. The point I was making is that in Europe they do not set about simply saying that whatever is the lowest standard will become the common standard. They set about negotiating. There are a large number of areas where negotiation will be very simple, and that will be true both in trade standards and in relation to recognition of qualifications. For many of the groups now arguing that they want mutual recognition it should have come about long ago. There are really only minor differences in standards between States in many areas and they could and should have been achieved long ago.

The Government has been trying to argue that we want to produce one big Australian market and one of the outcomes of the big Australian market is that we will have greater efficiencies and, therefore, we will become internationally competitive. But we do not necessarily become internationally competitive by accepting the lowest standard of all the States. For example, South Australia is possibly now the only Australian State that does not have fruit and vegetable grade standards. South Australian horticulture bodies have been arguing for a long time that we, too, should have fruit and vegetable grade standards, setting a high standard and by forcing growers to comply with those standards we would be producing a product that would be more easily sold overseas. But we have not chosen to do that at this stage. Their argument is to set a high standard and we will become internationally competitive.

It is fair to the Government to say that a common standard and a common market in Australia would help us become competitive, but if that common market or standard is a low standard then we may undermine genuine export attempts. I can only presume that the absence of fruit and vegetable grade standards in South Australia might make it easy for us to do our own packing of fruit and vegetables in South Australia and to send inferior produce interstate and they would have to accept it. Certainly, that is my understanding of the legislation. Only two weeks ago I was approached by a person who recently bought a toaster that caused a fire to start. He made further investigation and found that in Victoria several fires had been started by that brand of toaster and that

a fatality had been linked with it. He asked, 'Why don't you do something about it here in South Australia?' I said that because of my understanding of mutual recognition, setting a South Australian standard would be a waste of time because, if there is a different standard in another State, we would have to accept their toasters.

Setting a standard in South Australia under mutual recognition would be a waste of time because it would take only one State not to set a standard or to set a lower standard and that would be the standard that would be accepted. Let us go back some years when South Australia was the second State to legislate on chlorofluorocarbons in spray packs. We could not have legislated in relation to CFCs under mutual recognition because it would have been a waste of time. Other States could produce spray packs still containing CFCs, and under mutual recognition we would have had to accept them. We are ceding the right to be able to legislate safety standards and set environmental standards which are justified. If one looks at the situation and the way legislation evolves in Australia, we always find one or two States lead the way. Once one or two States have legislated it produces pressure for others to follow.

In fact, to some extent, if one State starts setting a standard the others would tend to follow. Under this mutual recognition system which is to be set up, that pressure is not there and in fact the lowest standard becomes the standard. One State legislating is a waste of time. So, the sorts of pressures we used to be able to build across State boundaries and for States progressively to pick things up will not happen, because you will not really be able to enforce those sorts of standards in individual States any longer. The fact is that, if we then look for standards to be set at a Federal level, the Federal Government is much slower to react than State Governments. What will happen is that standards that should be set will no longer be set and in fact there is a real danger that standards could go backwards.

Teachers registration is a matter that has already been raised by several members. It is probably true to say that, in 90 or 95 per cent of occupations, mutual recognition will not cause any problems, but in a couple of areas we are ceding something good that we have, and teachers registration is an example of that. I thought a simple way around it was simply to move an amendment which would exempt teachers from mutual recognition in the hope that eventually other States would introduce registration or that a national teachers registration system may be set up. That would be set up due to the pressure of the States that already have it.

I am told by Parliamentary Counsel that it is simply not possible to amend the Bill to grant such an exemption, so we have a system, supported by a major South Australian union, which protects teacher standards, not just for industrial reasons but also for very good, sound educational reasons, and we will give it away. That is where the simplicity of this legislation is so terribly dangerous. I suppose it could be understandable, if one wanted to see conspiracies: it is known that the Labor Party does not believe in States and as such ceding power from State Governments is the way to go. One has to accept that either that is the reason for it or that there was not sufficient thought put into it, and that it is a form of arrogance.

The Hon. Anne Levy: That is why in Victoria, New South Wales, Tasmania and the Northern Territory they are all Labor plots!

The Hon. M.J. ELLIOTT: Western Australia is refusing to do it; the Victorians have not gone the whole way and in fact I understand that at least it has put a sunset clause into its legislation. I did not say the whole thing was a Labor plot. I said that I can understand why the Labor Party itself in the first instance was keen for it to happen.

The Hon. K.T. Griffin: A majority of Labor Premiers at the time agreed to it.

The Hon. M.J. ELLIOTT: I made the observation that the first time this legislation almost went through in this Parliament quickly, but when it arrived in the Upper House a few Liberal members took a closer look. It looked like a fairly innocuous Bill which had some sound principles behind it. I have acknowledged from the beginning that we should be aiming at trying to set national standards. It is very hard to oppose that. It was only when people started to realise precisely what some of the implications were—and I have alluded to a few of them already—that alarm bells rang. At the last moment the Liberal Party made a decision which I believe was the correct one, a decision which the Liberal Party in Western Australia has come to, and I suspect from what I am hearing from Victoria that there are regrets from over there in terms of what has happened.

I think the simplicity of the Bill fooled some people. I find it quite interesting that this Parliament has time and again refused to cede powers to the Executive. We tend to insist that things be done by regulation so we can continue to keep purview over various standards and so on under various legislation, yet this legislation is ceding power to Executives in other States. That is effectively what it is doing. If in other States the Executive is setting a standard that will become our standard as well, that is an interesting notion. I am disappointed that what I think is happening now is that the Liberal Party has been unable to stand up to a campaign from the *Advertiser* which does not have the resources itself to analyse legislation but which does it repeatedly. It gets sold a pup. The *Advertiser* runs a bit of a line and criticises the Liberal Party, the Liberal Party goes to water and then starts reversing a decision which I believe was a correct one. It is not the first time they have done it and it will probably not be the last.

It was not my intention to speak at great length, because I addressed this Bill on a previous occasion. I support the concept of trying to set national standards. I believe this Bill is the wrong way to do it and that it is a major mistake; that this Parliament has now given up the capacity to set standards in some areas where from time to time it may wish to do so. Never again could we pass CFC-type legislation or set standards in areas we should be setting, because this Mutual Recognition Bill will not allow it to happen. That is a grave disappointment and a grave mistake. The Democrats oppose the Bill.

The Hon. T.G. ROBERTS: I did not rise to add to the contributions being made to the first Bill; I just assumed that the majority of the House would accept the proposition of mutual recognition and accept its strengths and weaknesses. The strengths are that mutual recognition offers a lot of opportunities for uniformity of standards, conditions and qualifications and perhaps, if you look at it in a negative light, the weaknesses are that the lowest common denominator becomes the standard. It is my view that if the State of South Australia cannot argue its case in all the forums regarding mutual recognition across the board, it means the democratic processes have slowed down and have been aborted to a point where the States' rights are not recognised at the Federal level in relation to a lot of matters that we are trying to address. I

would have accepted opposition from members opposite and perhaps from the Democrats a position of amending to allow the Bill in its original form to pass with some suggested amendments that took into account their concerns—

The Hon. M.J. Elliott: It can't be amended; Parliamentary Counsel tell us we can't amend it the way we want to.

The Hon. T.G. ROBERTS: —but at least a contribution in support of the principles of recognition. I have heard arguments in relation to standards and goals that States have to achieve. I think the Opposition itself has changed its position, because supporters on its own side have recognised that for Australia to become a uniform trading nation we have to have uniform recognition of mutual rights and standards and to be able to sell Australia as a trading nation with at least some uniformity of purpose about how it achieves its goals of manufacturing standards, education standards and its delivery processes. There may be a case for differing standards at some levels in relation to foodstuffs.

It may be that the presentation for sale of different qualities of food in some forms will be permitted, and it may be that some standards are lowered, but hopefully the standards we are talking about are in relation to international best practice, and the ability to maintain this State's standing with respect to the rest of the nation will be uniformly carried along and no impediments will be put in the way. I would have thought that, given that the Hon. Mr Gilfillan is standing for a seat in a cosmopolitan and internationally constituted seat, his contribution would have looked for an international best practice rather than a States' rights approach to Australian standards.

Unfortunately, what we have and what we had in the presentation of the arguments on the original Bill was the lowest common denominator argument of States' rights versus the federalist argument of Big Brother. In my view, if one cannot stitch together a relationship between the States and the Federal Government around the argument of standards to present goods and services internationally, one has lost the argument, because the State, on the inability of its programs and being unable to present itself within international best practice trade arguments, will be excluded from presenting itself for exports.

The Hon. M.J. Elliott interjecting:

The Hon. T.G. ROBERTS: If you are looking at inferior standards for international best practice, it will not happen, and that is what I am saying: you will exclude yourself from the main arguments of the game. The States that need to bring themselves up to international best practice are South Australia, Tasmania and, to some extent, Victoria, but we do not have to accept any of the arguments from other States that try to lower standards for either national consumption or national production.

The arguments that are being presented appear to be aimed at a culture cringe, if you like, on behalf of South Australians: that we will be unable to argue either national best practice or standards or international best practice or standards. In my view, if we have a competent Government, a competent Opposition and a competent Democrat team in the political arena, those arguments will be able to be put together at State and Federal levels so that we can argue on behalf of this State that we can place ourselves in an international trading arena with international best practice and national standards that allow us to proceed.

The arguments really start with some of the problems that have existed nationally in education. I am arguing for uniformity of standards in education because if children move interstate—it is not only children from overseas moving into one State for education, but children moving across borders—in many cases children's standards or education programs are set back 12 months.

The Hon. R.I. Lucas: You've got close contact with SAIT.

The Hon. T.G. ROBERTS: SAIT has its own problems in relation to what it sees as outcomes in mutual recognition.

The Hon. R.I. Lucas: Do you agree with your close contact in SAIT?

The Hon. T.G. ROBERTS: I have a partner who argues a position, but I am sure that SAIT is capable of arguing for mutual recognition and uniformity of standards either in curriculum or in standards of education for teachers registration. Teachers registration has always been an argument amongst SAIT. I think the time has come for both the Opposition and the Government to put their heads together and become a uniform voice in the national arena so that the arguments can be placed best to bring about mutual recognition and a uniformity of views. If we do not, then small will be beautiful. The position of the Democrats in relation to development will be the uniform position. I am sure that there is a place in the political argument for both small is beautiful and uniformity. I would certainly ask the Democrats to look at national standards, uniformity of views and mutual recognition as goals to be achieved rather than to be argued against and resisted.

The Hon. M.S. FELEPPA secured the adjournment of the debate.

ENVIRONMENT PROTECTION BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 359.)

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): In closing the second reading debate, I want to indicate that the Government welcomes the support of both the Liberal Party and the Australian Democrats for this Bill, which is certainly a most important initiative. As a number of honourable members have pointed out, the Bill is important in that it is establishing a South Australian Environment Protection Authority and setting out its objectives including, for the first time, principles of ecologically sustainable development. That is a real first.

The Bill is also taking an integrated approach to pollution and waste management through policies and a single integrated licensing system. Also, it is directed towards preventing pollution at the source and minimising waste.

Comparisons were made by various honourable members with comparable legislation interstate. I should like to point out that New South Wales does not yet have integrated environmental protection legislation; it still has separate Acts dealing with air, water and waste. Queensland is currently preparing new legislation and is keeping in touch with our innovations. Tasmania is in the same position.

The South Australian Bill is indeed the most comprehensive and innovative legislation on environmental protection in Australia, and it sets the scene for a constructive and positive approach with industry in this State for the benefit of the whole South Australian environment. The Government welcomes the support of industry and environment groups in this State for the legislation.

I should now like to deal with some of the matters raised by honourable members in their second reading speeches. A

number of honourable members have misunderstood the relationship of the Bill with other Acts of this Parliament, particularly the three indenture Acts specified in clause 7(3). The Kimberly-Clark pulp mill at Millicent and the Roxby Downs mine at Olympic Dam are not exempted from this Bill, as several honourable members have claimed.

Rather, the Bill is subject to any specific provisions of those indenture Acts relating to environmental protection. For example, in the case of Kimberly-Clark there are certain discharge rights to Lake Bonney. In the case of Olympic Dam, there are special provisions about noise limits at the mine. In other respects, the companies will be subject to this Bill when it becomes an Act. They are not exempt from its requirements.

The reasons why the Stony Point indenture is not dealt with in the same way are that, first, Santos did not seek any special reference to its indenture. This specifically results from Santos.

Secondly, the Stony Point indenture requires Santos to comply with State environment protection law and standards as set from time to time, so that they are covered by it.

The Hon. Mike Elliott asked about the likely committee structure for the Environment Protection Act. The Bill provides flexibility for the EPA and the Minister to determine the appropriate specialist committee structure to support their responsibilities under the Bill. The needs and priorities for attention change over time. The excellent work undertaken in recent years by the members of the Waste Management Commission and the Clean Air Advisory Committee have provided a sound foundation for the progress made in those areas in the past decade.

More recently the EPC and its Marine Environment Protection Committee have laid the groundwork for the advances in marine pollution reduction, which will see the quality of marine waters along the metropolitan coastline and in the gulfs improve in coming years. While the Government considers it would be inappropriate and short-sighted to specify in the Bill itself the EPA specialist committee structure, I can give Parliament an assurance that a series of specialist committees to pursue priority issues and to advise the EPA is envisaged.

I can also give an undertaking that in the early years of the EPA's operations we envisage that specialist advisory committees will operate in the areas of water quality including marine inland and storm water quality; waste minimisation and kerb-side recycling; contaminated sites; and air quality, particularly relating to motor vehicle emissions.

A number of members asked about the procedure for parliamentary scrutiny of environment protection policies and about national environment protection measures. The provisions for parliamentary scrutiny of EP policies are identical with those found acceptable by Parliament in May of this year for the Development Act. So, there is no change. They include reference of policies to the Environment, Resources and Development Committee of the Parliament; and power for the committee to suggest amendments and to object to policies, in which case either House of Parliament may disallow a policy. So, there is no difference from what was accepted by this Parliament for the Development Act.

In the same way that environmental protection policies may impose legal requirements and restrictions, development plans under that Act certainly affect legal rights and obligations and impose limitations on development rights. It is difficult to see why members were satisfied with the provisions for parliamentary scrutiny in May and are now questioning identical provisions in this Bill.

The Government is firmly committed to the inter-governmental agreement on the environment and the development of national environment protection measures under schedule 4 of that agreement. National measures will benefit industry nation-wide. They will mean that baseline environmental standards and guidelines will be applied across the nation and each State retains the right to have more stringent requirements where special circumstances require it.

The Commonwealth, each State and Territory will be represented on the national body developing those national measures, and an extensive consultative process will be followed. The complementary Commonwealth and State Bills to give effect to the agreement for national environment protection measures are currently being finalised and will come to this Parliament for consideration in the new year. In the meantime, South Australia is represented on the working party developing the complementary Commonwealth State Bills.

Clause 29 of the Environment Protection Bill has been considered by the Commonwealth State working party and the other States and Territories, including those with Liberal Governments. They see the South Australian model as an effective means of meeting the obligations under schedule 4 of the inter-governmental agreement. All these people are looking to the South Australian Parliament as a test case on how States and Territories will meet those obligations.

Without a commitment from the various jurisdictions to implement national measures there will be no national measures, and I point out that those are not lowest common denominator environmental measures; they are arrived at by a two-thirds majority vote at the national Ministerial Council.

The fact that this Bill spells out how national environment protection measures in line with the State's agreement will be met in our own environmental protection regime will, I hope, be welcomed by all members.

Several members queried the Bill's provisions for exemptions under clause 38. Current Acts have a range of provisions for exemptions. With some exemptions, such as section 5(4) of the Marine Environment Protection Act and section 81(1) of the Water Resources Act, where exemptions are by way of regulation, most exemptions can be granted under current Acts without any public notice or opportunity for public comment and without any criteria for the exercise of the discretion vested in the Minister or other relevant authority.

The Clean Air Act allows the Minister to give exemptions from prescribed standards in relation to air pollution and excessive odour by notice in writing addressed to the person. That is in sections 32(3) and 33(4). No public input is provided for and the conditions are at the discretion of the Minister. Some 6 000 ozone exemptions are currently in operation.

The Noise Control Act also empowers the Minister to issue exemptions in sections 11 and 13. Again, there is no public process, and conditions are at the discretion of the Minister. There is a requirement of the Minister to publish a copy of the notice in the *Gazette*. Noise exemptions are in place for particular industries and events, for example, concerts.

Section 35 of the Waste Management Act empowers the Waste Management Commission to issue exemptions by notice in writing or publication in the *Gazette*. Exemptions

under this Bill are opened up to public scrutiny. Public notice is required, except in the case of the thousands of ozone exemptions. The EPA must consider applications for exemptions. The policies can limit the scope of exemptions. Conditions, including time limits, can be imposed. The aim is to bring activities into compliance by environment improvement programs, for example, so that ongoing exemptions are not required.

Under this Bill the situation with exemptions will be quite transparent and open to public comment compared with the range of exemption provisions in the laws being replaced by this Bill.

It will be a much more open procedure. Various questions have been raised about powers of authorised officers. I can state that the powers are unexceptional. In relation to the rights of third parties to seek civil remedies under the Bill, it is not correct for the Conservation Council to say that a major shift has been made in this area. Clause 105(7) provides for a general right of persons whose interests are affected by contraventions of this Bill (or who would otherwise have standing) to pursue a remedy to have access to the Environment, Resources and Development Court to have their case decided.

Access for persons who would have a common law standing to pursue a remedy gives a very broad right of access to the court. There are certain limitations, however, on common law standing, which restricts persons without a special interest from having access to the court. In recent years the common law rights for standing in environmental actions have been extended somewhat, so that organisations like the Australian Conservation Foundation and the Conservation Council of South Australia may be able to establish a special interest, depending on the circumstances of the case.

Current Environment Protection Acts, which this Bill will replace, have no statutory provisions allowing any third party to take court action to ensure compliance with those Acts. Only common law rights apply, which would mean a difficult and expensive exercise in the Supreme Court or District Court. Interstate Environment Protection Acts, with the exception of the New South Wales Acts, including the Environmental Offences and Penalties Act, also make no statutory provision for a person to have the right to enforce the law. The Environment Protection Authority has a public responsibility in administering and enforcing this Bill.

The Environment Protection Authority will be expected to take effective action to ensure that the public interest in protecting the environment is upheld. The Hon. Mr Elliott and other members dealt with the various matters of the relationship of the Bill with the Development Act, including, first, the referral of development applications to the Environment Protection Authority, and powers of direction; secondly, the rights of third party appeal and consideration of EPA matters on appeal; and, thirdly, referral of environmental impact statements to the EPA. These matters are addressed by amendments which the Government intends to move and which are on file.

The Conservation Council is correct in pointing out that various prescribed activities of environmental significance under this Bill may not be open to third party appeals. The statement by the Minister in the House of Assembly indicated that most activities in schedule 1 of this Bill would be category 3 developments. The Minister was wrongly advised on that point, although until the developmental regulations determining categories 1, 2 and 3 are settled it is not possible to be definitive. However, it is the case that category 3 applications under the Development Act will be subject to third party appeals.

All development applications involving a schedule 1 activity must be referred to the EPA, which will have the power to give directions, including refusal of the application. Many developments will be in appropriate zones under the Development Plan and hence will not have third party appeal rights from local residents, commercial competitors or public interest groups. It is seen as appropriate that the Development Act and development regulations are the guiding criteria of when third party appeals are allowed by defining what is in category 3. To do otherwise would undermine the certainty that is provided by the State zoning system.

Interstate Environment Protection Acts are generally consistent with the current South Australian position and the provisions of this Bill. The exception is in Victoria, where section 33B of the Environment Protection Act provides that persons who have made submissions on licence applications have a right of appeal if their interests are unreasonably affected or if the resulting level of pollution would contravene State environment protection policies. Adoption of the Conservation Council position would put South Australia significantly out of step with the other States.

In summary, it is not proposed to undermine the degree of certainty built into the Development Act whereby a development in an appropriate zone will not be subject to third party rights of appeal. Whether the development is a category 3 development leading to third party appeal rights will depend on the relevant Development Plan and the development regulations.

Finally, the Hon. Mr Elliott has claimed that the EPA will be starved of resources to support its important responsibilities. On the contrary: as part of the package of measures relating to establishment of the EPA, the Government responsibly first decided how the EPA's programs would be financed and staffed.

Additional financing by way of a small levy on petrol franchise fees was announced in the 1992 State budget and has been implemented, with those additional funds being provided by Treasury to the department for the Office of the EPA programs. The 1992 decisions enable the Office of the EPA to recruit 13 new officers for priority positions, so that the EPA is one of the important sectors of the Public Service to be expanding the scope of its programs. The recruitment process is proceeding throughout this current financial year.

Other matters raised by members can be dealt with during the Committee stage. I am delighted that all Parties are supporting this most important Government Bill.

Bill read a second time.

SOUTHERN POWER AND WATER BILL

Adjourned debate on second reading.

(Continued from 26 August. Page 311.)

The Hon. R.I. LUCAS (Leader of the Opposition): The Liberal Party's position on the Southern Power and Water legislation is that we still remain to be convinced about the advisability of the merger between ETSA and the E&WS. However, we are prepared to give those advocates of the merger the opportunity to provide the compelling evidence that they maintain exists to ensure support for such a merger. To that end, we have indicated, through our various spokespersons on this issue in another place, our support for the idea of a select committee. We were unsuccessful in establishing

a select committee in the House of Assembly. In the Legislative Council we will be supporting the establishment of a select committee on this Bill and on the idea of a merger. We are pleased to see that the Australian Democrats have now indicated that they, too, are prepared to support a select committee on this issue. The Hon. Mr Elliott has, indeed, given notice of a motion for a select committee at the end of the second reading stage of this debate.

As this Bill is likely to go to a select committee, during my second reading contribution I do not intend to spend an inordinate amount of time on the detail of the legislation. Important issues will need to be considered by this Chamber in relation to various provisions in the legislation. Some of those matters were touched upon in another place but a number of other issues, of course, have been raised in the intervening period, and those issues will need to be considered, in my view, by the select committee and then subsequently by members in this Chamber. I suppose the focus for the debate on the Southern Power and Water legislation has been the overriding question of whether significant and substantial cost savings can be achieved by such a merger. Therefore, I intend to express some thoughts and views in relation to the key issue of the question of savings that might or might not be achieved by a merger of ETSA and the E&WS.

In considering the possibility of a merger between ETSA and the E&WS, I think we ought to do so in the light of world trends in business and in statutory trading enterprises. Those trends are evident not only in overseas countries but also in other States in Australia; in particular, I refer to changes that have been evident in Victoria and in New South Wales under new administrations, and my colleague the Hon. Mr Davis has indicated that similar trends may soon develop in Western Australia under the new Liberal legislation.

An honourable member interjecting:

The Hon. R.I. LUCAS: I always rely on my friend and colleague the Hon. Mr Davis on matters financial. At least in relation to world-wide trends and the trends in New South Wales and Victoria, there is no doubting that Governments, authorities and businesses have generally been moving towards the notion and the philosophy of smaller cost units which are wholly accountable for costs within their sector of an operation. So, the notion of bigger is better certainly has not been the prevailing trend in business and in trading enterprises throughout the world in recent years. The fact that this merger moves against that trend, is not of itself, in my view, anyway, a reason to vote against the legislation. However, I believe it does issue a note of caution to members in this Chamber and, indeed, to supporters of the merger. It issues a note of caution that, before we proceed down this path, we ought to be convinced that there is overwhelming evidence in relation to the supposed benefits and attractions of such a merger to justify moving against what is in my view a sensible trend throughout most of the western world.

The Liberal Party view, as has been expressed by its spokespersons in another place, is that that overwhelming evidence has not yet been produced by the Government, the Minister, the senior bureaucrats or those other advocates who have been urging support for the merger. As I said at the outset, we are prepared to enter into the discussion of a select committee with an open mind to listen to those who would advocate such a merger to see whether or not we, together with the other members of the committee obviously, can be convinced that there is overwhelming evidence in particular that substantial savings can be achieved solely through this vehicle of a merger. If that evidence can be produced, I believe, as one member of the Liberal Party, that the Liberal Party would need to review its thinking on this issue.

Regarding the key question of claim savings, it is worthwhile tracing the history of the various claims that have already be made in relation to the extent of possible savings by the merger of ETSA and the E&WS. The first figure that was provided to the Liberal Party and publicly by senior bureaucrats and by various Government spokespersons was that such a merger would lead to a saving of $30 million. Soon after that we were advised that the savings had moved to a level of approximately $50 million. Then in the Strategic Savings Potential document, which is an unsigned document produced by a person or persons unknown within an agency or agencies unknown (but which I presume are ETSA and the E&WS) we have the following estimate of savings. On page 3 of that unsigned document, it is stated:

> 1.2 Finding
>
> Anticipated gross potential savings for a present budget based on 1993-94 are estimated to reach the range of $55 million to $111 million per annum in 1995-96.

Certainly that is an extraordinarily wide estimate of potential savings—a variation of 100 per cent with a lower limit of $55 million to an upper limit of $111 million. I think that was the peak, at least the publicly acknowledged peak anyway (if I can use that phrase in relation to ETSA), of the estimate of savings that might be accomplished.

The Hon. R.R. Roberts: You are not talking about an E&WS leak?

The Hon. R.I. LUCAS: I am not talking about J tariffs or anything like that. The peak of the estimate of savings was $111 million per annum, but now that upper estimate of $111 million has been clawed back, in the most recent documentation—the Ernst and Young consultancy of August 1993, Review of Strategic Savings—to $56 million per annum. I will refer to the Ernst and Young consultancy later. Those estimates of $30 million, $50 million, $111 million and then $56 million make clear that it has been difficult for people, even those advocating and urging support for the merger, to get a handle on the possible savings that might be achieved by such a merger.

Equally on the other side a wide variety of claims have been made by various people opposing the merger as to what the savings and, indeed, the costs might be. The Liberal Party was provided with a document which reviewed the Strategic Savings Potential document. I have a copy of that document—the ETSA and E&WS Merger Strategic Savings Potential—which is a report produced by a person known but unnamed from within ETSA, who went through that Strategic Savings Potential document and made a variety of comments, mostly critical, about it.

Again, the claim in this counter opinion, if I can put it that way, was that, in fact, rather than saving money the total costs of the merger would be, in effect, $136.4 million—I love the degree of exactness on the part of the consultants in relation to estimates of savings and benefits, down to $400 000—with an extra operating cost of $40 million per annum. There have been other claims, too, that perhaps it would be revenue neutral; there would be some one-off costs and that, in effect, the extra benefits of the merger would be balanced by the extra costs involved and, in the end, it would all become revenue neutral. Equally, I do not know how this particular person has produced the counter opinion, and I therefore in my humble view as one member of this Chamber I would not be urging all members to accept that as the word

of God on this particular issue and that that is the last word in relation to the true costs and benefits of the merger of ETSA and E&WS. It is a view, and if that person wants to present evidence to a select committee, then I am sure the members of the select committee would equally be prepared to listen to that particular person and equally place under some scrutiny the claims in relation to extra costs that that person claims will be involved in relation to the merger.

As with all these things, I suspect that the true position is probably somewhere in between and it really is a question of at which end of the continuum is the true situation. Is it closer to the Government's claim that there are to be significant savings, perhaps closer to $56 million, or is it at the other end of the continuum and closer to being revenue neutral? If so, then why go through all this heartache if there is not to be a significant cost saving as a result of the merger? I guess the opponents of this merger have in general terms claimed two things—and they have claimed many things. In summary, they have claimed, first, that under close examination all of these claimed savings are a mirage and therefore are not to be believed. Secondly, they have claimed that any savings that could possibly be achieved by a merger could be achieved without the merger. I have to say that I am not sure that those two claims are entirely consistent with each other.

I guess one could say that there is at least some common ground—that perhaps the savings may well be smaller than that claimed by the State Government and the proponents of the merger, but that, secondly, they may be achieved without having to go through the process of this merger. I want first to consider the Minister's claim in another place that the savings cannot be achieved without going through this merger. The Minister, in his response in another place, sought to indicate a number of reasons as to why savings could not be achieved if we were to maintain a separate ETSA and a separate E&WS. One line of argument used by the Minister of Public Infrastructure was as follows:

> It is important to stress that we are dealing with a department and a statutory authority rather than with two departments. It is a great deal easier to combine either functions or parts of the entire lot of two departments, which are after all under direct ministerial control, than to combine a statutory authority and a department. By definition a statutory authority will have legal constraints as to its operations.
>
> For instance, the ETSA board is compelled to pursue the interests of ETSA above all else, unless directed by the Minister. In any case, the ETSA Board is limited by the powers it has under the Act.

Without developing the whole of the Minister's argument, it can be simply summarised best by saying that ETSA under its legislation is required to do certain things but the E&WS is a Government department and, therefore, there is a bit more flexibility in relation to its operations. The Minister argues that ETSA has got to look after its own interests and that would prevent certain examples of cooperation that might be deemed to be sensible by the Minister and the State of South Australia between ETSA and the E&WS. That argument does not carry much weight, certainly not with me. If there were to be a process which said that we will achieve the savings whilst maintaining the separateness of the two organisations and we have a problem with the ETSA Act, surely the simple process would be for the Minister and the Government of the day to amend the ETSA Act and bring to Parliament amendments to the ETSA Act to ensure that the interests not only of the ETSA organisation but the interests of the State and of cooperation between ETSA and the E&WS were taken into account in the operations of ETSA by its own board.

That was not a convincing rebuttal of the view that we should consider maintaining a separate organisation. The Minister then went on to talk about practical difficulties as well as legal ones and said:

> If there were competing priorities for resources, there would be no recourse, short of going to the Minister and asking him to make a determination. For instance, if one organisation's computer pay run crashed and the other had urgent supply orders being processed, for what would the available computer space be used?

Frankly, that is a silly argument. Equally, one could argue the example of what happens when a computer crashes if you bring the two organisations together. The Minister concedes later in the debate that he does not intend for at least the short to medium term to bring the computer systems and networks of ETSA and the E&WS together. One reason he cannot do that is because the Government is locked into a $38 million medium term contract with the computer supplier to the E&WS and there is no financial sense in doing so from the Government's point of view. The contract obviously ensures that the Government cannot try to end that arrangement and bring the computer networks together in the short term.

So, the Minister indicates that the two computer networks are to continue even if the Government brings ETSA and the E&WS together in the one organisation. Therefore, this argument that one particular pay run crashes and the other has urgent supply orders to be processed and so what would the available computer space be used for is not really an argument either for or against the merger, in my opinion. Whoever thought that argument up for the Minister ought to go back to the drawing board. If it was the Minister, perhaps he ought to rely on other examples being prepared for him to try to back the argument that he was developing. They were really the only two attempts by the Minister to indicate why this Parliament or a Government could not consider or should not consider trying to achieve the savings through maintaining two separate organisations.

In relation to that, the Liberal Party view would be that that ought to be an option for consideration by the select committee in relation to its examination of this Bill and the potential savings that might emanate from a potential merger. We ought not consider only the potential savings from the merger—we ought to also look at the possibility that most, if not all, of those savings might be achieved by maintaining two separate organisations. Again, on this occasion this evening I do not intend to lock myself in concrete on any particular view on that issue. If I participated in a select committee with a relatively open mind on that issue, I would remain to be convinced one way or another as to whether or not the same savings can be achieved by maintaining separate organisations or indeed by merging the two.

I turn now to the question of a merged organisation and the potential effects on the wage costs of that organisation, as this has been an issue of some controversy in another place and in some of the correspondence and submissions that I have received on the legislation. The Strategic Savings Potential document which, as I have said, was produced by someone within ETSA or the E&WS states on page five:

> There may be some costs associated with possible salary differentials between ETSA and E&WS employees. It is assumed that these will be offset in the context of enterprise bargaining and other industrial arrangements.

As you would probably know, Mr Acting President, with your strong union representation background, this issue is a matter of great interest to the employees of ETSA and the E&WS.

The situation has developed because of the different cultures and the different backgrounds whereby ETSA is a

statutory authority and the E&WS is a Government department. I am advised that, in some classifications, the take home pay of workers within the statutory authority—that is, ETSA—can be up to $100 per week higher than the equivalent worker within the E&WS. I am not saying that is the case for all equivalent occupations within ETSA and the E&WS, but I am advised that it can go as high as up to $100 per week. Certainly, in many cases, it exceeds $50 per week differential between ETSA and the E&WS.

Obviously, there is some concern from ETSA employees that maybe the merging of the two organisations will see some lowering of the wages and benefits that ETSA employees have previously enjoyed. From the E&WS workers view point there may well be some light on the horizon and they may well envisage some levelling upwards, if I can use that phrase, in relation to their take home pay to bring them to the equivalent salary level of the equivalent occupation within ETSA. There may well be a view also from within Government that a lifting of wage costs through such a process would be a matter of some concern to Government, because that would be a significant additional cost to Government. I quote from the Minister of Public Infrastructure in another place who, on 24 August, said:

> It would be untenable in the long term to have employees working together on different rates and conditions, and more so when it comes to enterprise bargaining. Indeed there will be some difficulties in trying to merge these two organisations.

So, the Minister makes it quite clear that it would be untenable for these ETSA and E&WS employees to be working side by side within the one merged organisation whilst earning or receiving different salary and wage levels. Later that day the Minister indicated that he had indeed written to the unions involved and had already given an undertaking to the employees. The Minister quotes from a letter that he had already written to the unions as follows:

> My previous commitment to maintain existing terms and conditions for current employees will be met.

Then he goes on to say that the negotiations with respect to the terms and conditions of employment to be applied will have to be conducted on the basis that no additional costs will be incurred by the corporation in employing those workers. The Minister has given the commitment to the unions and representatives of unions, in particular to ETSA, that no existing employee will lose wage and salary benefits as a result of the merger. He is also saying that it would be untenable for employees to work side by side in the one organisation on different wages and salary levels.

The natural joining together of those two commitments by the Minister of Public Infrastructure is that in any merger there has to be a significant increase in pay and salary levels for E&WS workers. The natural corollary of that is that a significant additional cost will have to be considered in relation to this merger. Again, there are varying estimates as to what that cost might be. The Liberal Party spokespersons in another place believe, on their advice, that the figure could go as high as an extra $20 million as a result of that levelling upwards of the wage and salary levels. The Minister's advisers have obviously told him that it is much lower, at 'only' $6 million. It is obviously a significant sum of money and, again, the select committee will have to try to get to the bottom of that issue.

The Minister seeks to explain away that additional wages and salary cost by saying that it does not have to be taken into account, because that will be achieved only through productivity savings by the employees. Members know that the most common way of achieving productivity savings of that order will require further substantial voluntary separation packages or certainly a cut-back in staff numbers and job losses within the merged organisation, Southern Power and Water. One of the concerns I have in the various analyses that have been done, even by Ernst and Young, is that an element of double accounting has gone on within those calculations.

I will turn to the Ernst and Young consultancy in a moment, but I will summarise it now. The Ernst and Young consultancy goes through all the areas of the work force within Southern Power and Water, recommends the number of full time equivalent positions that can be removed from various areas and comes to a total number of 714 full time positions to be removed and an estimate of the total savings that can be achieved by that.

If the Minister is also to be arguing, as he is, that this extra $6 million or $20 million worth of wage costs—which are on the other side of the ledger—will have to be achieved by productivity gains, that is, further job losses, there is some degree of double counting going on within the various analyses that are being done on the potential savings for the merging of ETSA and E&WS. There is double counting and, as a result of that, the potential and claimed savings by the proponents of the merger and by Ernst and Young will need to be reduced by that amount.

Finally, I turn to consider in little detail the Ernst and Young consultancy and the claimed savings. As did the Hon. Mike Elliott in Question Time some weeks ago, I want to again place on the record the disclaimer made by the consultants for Ernst and Young at the back of their particular report. It is worthwhile placing it on the record again. In the big box headed 'Disclaimer', the following appears:

> Ernst and Young have prepared this report and based their opinions on information and assumptions provided to us by the client E&WS/ETSA. Neither Ernst and Young nor any member or any employee of Ernst and Young accepts any responsibility for any decisions made by E&WS/ETSA based upon Ernst and Young's interpretation of data provided to it by E&WS/ETSA. Ernst and Young's opinions are provided in good faith and in the belief that such statements and opinions are not false or misleading. Ernst and Young reserves the right to vary its opinion should additional information become available after the date of this report.

I make no criticism of Ernst and Young for that. They were on a short-term consultancy—I think it was 250 man hours—and there was no way that on such a short-term consultancy that they would be able to go into the bowels of the organisation and produce this information for themselves. Sensibly, therefore, they have covered their professional reputations pretty tidily by indicating, 'Well, basically what we have been able to do is work from the information that is being provided for us by employees of ETSA and E&WS.' So, I make no criticism of the consultants for Ernst and Young. I suspect that I might know them, although I do not know, as they do not sign their document.

It is important in considering the claimed savings that we do bear that in mind, because there are occasionally consultancies that are given enough money to go in depth into the bowels of the organisation and line by line, section by section, look into those areas and make their own independent assessments of what savings might be achieved. For example, I understand the study that was done by McKinseys into the Department of Agriculture, at least in some parts, involved that degree of detail and that sort of assessment by the outside consultant of the potential departmental work force savings.

In considering the claimed savings of this merger, it is worthwhile considering three or four of those areas to get a

feel for the degree of accuracy or otherwise of the various estimates that have been made.

The first one relates to the internal audit function. The Ernst and Young document states that in the combined organisations there are 14 full-time equivalents in internal audit and that under the merger requirements there would be only nine and the potential savings as a result of the merger would be five full-time internal audit staff. As members will know, worldwide there has been a trend for ensuring that internal audit processes in big businesses and trading enterprises, such as the ETSAs of this world, are made stronger rather than weaker.

In the debate in another place it is interesting that when this issue was prodded and probed by the shadow Treasurer the view that was being put forward by the shadow Treasurer was that an internal audit of only nine full-time equivalents might not be the appropriate size for the new merged organisation. However, the Minister of Public Infrastructure said:

> All I can point out to him is that when I got these results I felt surprised, and I did double check and that information was put to me.

He then went on to say:

> It makes no sense to me, either. So, if they come to me after the merger—

that is, the internal audit people—

> and say to me, 'This is one area where we need five extra people or two extra people,' or whatever, provided that they can at that stage put forward a reasonable case, I would be willing to listen, because, as I said, that is one area that surprised me.

It is fair to say that the Minister of Public Infrastructure in another life was Chairman of the old Public Accounts Committee, which produced a report on this issue, so at least he had some experience in relation to the requirements of the internal audit functions of trading enterprises and other agencies. The Minister is conceding, at least on this issue and perhaps on others that he has not yet put on the record, that he does not necessarily accept that it is sensible to go down the path recommended in this area for cost savings.

There are one or two examples such as that which would be of interest to you, Mr Acting President, as well as to other members. The proposed virtual halving of the number of persons involved in occupational health and safety issues in the E&WS Department and ETSA is one potential area of saving. Again, that issue has raised eyebrows within Government circles and certainly within the unions that have been involved and a number of others. I guess that issue will have to be considered in further detail in the select committee at another stage.

There are two other areas which are worthy of consideration at this stage. One is information technology. It is claimed that the largest chunk of the $56 million will come from savings in information technology. The savings there will be $17 million: $7 million in staff savings and $10 million in annual capital savings.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Not just the JIS. They have not heard of computer systems in Motor Vehicles, Hospitals, the Education Department—virtually every sector in which this Government has been involved. I take with a grain of salt the notion that there are potential savings of $17 million in information technology. Again, I remain to be convinced. Let us see whether the overwhelming evidence can be produced. But the record regarding computers and information technology (to use the general term) has been a very sorry one in relation to public administration in the past 10 to 20 years or so. Certainly, if one looks at the Ernst and Young figures, one sees that again there is very little detail in relation to how those savings are to be achieved and what the effects will be regarding the merging of the two operations.

There is a table which highlights the number of full-time equivalents that will be cut back and an estimate of the potential savings if those full-time equivalents are removed, but in relation to claimed savings in various areas you always end up with a whole series of excuses which are made or reasons which are given as to why the savings were never achieved or sometimes why the costs are higher—the machines did not do what they were intended to do; the networking did not work; and the software requirements which were intended to do a certain thing in the end did not do that so they had to be further refined and reviewed. All that costs money.

Again, there has been a litany of disasters in this area and, as I said, we ought to be extraordinarily wary of accepting at face value the fact that, just because a figure of $17.26 million—a very precise figure indeed—is listed as the savings for information technology, that will be the end result of a merged organisation. I say that in particular, given this locked-in contract that the E&WS has for its $38 million computer; there are not compatible networks between the E&WS and ETSA; and the Government even now concedes that they will have to continue with, in effect, the separate networks, although the Government intends to bring the two together. It acknowledges that in bringing the two together in the one location there are potential salary savings, but whether or not it is $17.64 million is another matter.

The next big chunk of money that is intended to be saved is some $9.28 million in supply savings, and it is interesting to look at the calculations by Ernst and Young. This is just a table of inventory savings, pre-merger and merged organisations, and it states that the inventory specific assumption is that 25 per cent has been used to reflect inventory holding costings and the supply inventory savings will be $2 million. There will be material savings of $6 million and labour savings of $1.28 million, giving a total saving of $9.28 million in this area. Again, advice has been provided to the Liberal Party which questions whether or not that level of saving can be achieved in that area.

A range of other questions could be raised about the Ernst and Young report, but I do not intend this evening to go into those. They will be matters, in my view, that will be better left to be explored by the select committee, if it is established by this Chamber.

In concluding, I place on the record again the view that it should be up to the select committee to establish, and by way of taking evidence not just from the persons who have been involved so far. In my view, if we are looking at potential savings in the information technology section of Southern Power and Water, the select committee ought to be talking to the people involved in information technology within both organisations and to one or two experts in the area. If one is looking at the other area of savings, for example in relation to material supply, again the select committee ought to be talking to the people involved in that side of the business of ETSA and the E&WS.

It certainly would not be my view that the select committee could do its job properly by having from either or both organisations one person who could come along and go through a similar exercise as the Ernst and Young consultancy document. I believe we need to go behind the claimed

savings, and the select committee will need to check for itself whether or not these claimed savings are real. I indicate the Liberal Party's support for this Bill and the question of the merger to be referred to a select committee.

The Hon. M.J. ELLIOTT: It is not my intention to speak at great length on this matter because it is certain that it will go to a select committee, where there will be ample opportunity to explore the detail during its deliberations. I would like to make a couple of comments by way of overview. When the Government first announced its intention to merge ETSA and the E&WS it would be fair to say that the Democrats were sceptical about the claim that there would be savings, and we had some concern about the merger for other reasons as well. For a long time we have believed that a merger of ETSA and SAGASCO in South Australia would make an enormous amount of sense—two energy bodies coming together, but putting together ETSA and the E&WS—

The Hon. L.H. Davis: They are going the opposite way in Western Australia—they are segregating electricity and gas.

The Hon. M.J. ELLIOTT: Nevertheless, we have grave doubts about the merger of ETSA and the E&WS. Our position has been and continues to be that, if the Government were able to demonstrate that significant savings could be achieved by this merger which were not able to be achieved in other ways, we would support a merger. The uncritical reporting in South Australia of the merger has been of some concern. The *Advertiser* in particular has quite happily trotted out the figures the Government has produced and failed at any time to look behind them.

The first official meeting the Democrats had with the Government in relation to the merger was on Friday 30 July. The meeting, which had been arranged for some time, was intended to put the case for the merger. We were presented with a document entitled 'ETSA and E&WS Merger Benefits'. I have not done a precise count of words, but the document contained less than 500 words and had three tables of figures. It was a document quite plainly taken off of overhead transparencies. The reaction of the Democrats to this presentation document was, 'Well, that is pretty interesting but how did you get the numbers?'

We had three bureaucrats sitting with us, and I expected them to reach over to their briefcases, pull out larger folders and say, 'This is how we derived the figures.' They did not do that. I thought that was mightily strange. I am not sure what was in the briefcases, but I would have thought the supporting data for these merger benefits would have been in their briefcases.

The Hon. L.H. Davis: They had a cut lunch.

The Hon. M.J. ELLIOTT: I think they must have. I am not quite sure what else. We were surprised, and suggested to them that they ought to go away and come back with the data to justify these claims. We expected the meeting to be on the Monday, but by other sources I know that the weekend was spent writing another document. It was quite plain that the document was not ready for the Monday so the meeting was put off until Tuesday. On Tuesday we were given a document with the words, 'Draft' in red print, 'Strategic savings potential—E&WS merger', which went to a little more detail. It went to 16 pages and certainly had a lot more words in it. It probably had a couple of thousand words. Again, it really did not identify where the savings were. Again, the question was posed: How were these figures derived? Can you give us a clear indication? Again, they must have only had cut lunches in their brief cases, because they did not reach for their bags to pull out the supporting documentation.

Later that day, on Tuesday 3 August, we met the Minister and by then, after discussion with him, I was fully convinced that in fact the background material did not exist. In fact, the Minister and Cabinet had approved a merger on the basis of the first document, a document that contained less than 500 words and a couple of tables. If other documentation existed, they should have been able to produce it by then. Again, we challenged them to produce the data which backed up the claimed benefits. They did not produce that data or any data for quite some weeks.

In fact, it was not until I think Tuesday 24 August that publicly the Government released the Ernst and Young report. I understand that it was on Wednesday 18 August that Ernst and Young were commissioned, but they did not start working on that until Friday, and finished on Saturday. They spent a day and a half producing the Ernst and Young report, so as to the guesstimate of 250 hours, I am not sure where the Hon. Mr Lucas got his figures from.

The Hon. R.I. Lucas: A very generous—

The Hon. M.J. ELLIOTT: It may have been generous.

The Hon. Diana Laidlaw: Did they get paid for this exercise?

The Hon. M.J. ELLIOTT: I asked the question, but it has not been answered. I suspect that the answer may not be forthcoming, although the select committee may be able to get it. I, like the Hon. Mr Lucas, do not wish to cast insinuations in relation to Ernst and Young. I read out the disclaimer during Question Time some weeks ago that the Hon. Mr Lucas read out just a moment ago. But it is quite clear to me that the Ernst and Young report is not an examination of the savings in a real sense by Ernst and Young. What Ernst and Young have done is to add up the numbers that have been given to them. It is an independent adding up exercise, not an independent analysis.

The Hon. Diana Laidlaw interjecting:

The Hon. M.J. ELLIOTT: Yes, as long as I had the calculator handy. The media rather unfortunately picked up this independent report and uncritically reported savings of $55 million to $110 million. It is fine for them to pick up those sorts of claims, but I still had questions in my mind.

What I will say about the Ernst and Young report is that for the first time—and this is close to three weeks after the first meeting with the senior bureaucrats—there was an identification as to precisely where the savings would be. For the first time, we had something which was capable of analysis. However, even the Ernst and Young report said that the number of staff within a particular section could be cut from X to Y and therefore so many dollars could be saved, but it does not explain how they justify the cut from X to Y.

I, like the Liberal Party, have received a number of submissions from various people inside the department, inside ETSA, or close to either of them, which very much put into question the data that was being produced. I do not believe that I was in a position to say which one was right or which one was wrong, but one submission I received, one that Mr Dale Baker read into the House of Assembly *Hansard* and it may have been quoted from in part by the Hon. Mr Lucas here today, suggests, in response to the second report, 'Strategic savings potential, ETSA—E&WS merger', that the merger could lead to a cost of $136 million and extra operating costs of $40 million per annum.

Frankly, I doubt that figure, but the report produced by this person was every bit as comprehensive as the report that the ETSA/E&WS Department merger team was producing. Who is right and who is wrong is not something that one will pick up simply by reading the two documents. I believe that we are now in a position where we will need to go to a select committee and put both claims under scrutiny, as well as the claims of others that I have received. I do not think there is any great benefit to be achieved by trying to examine them further during either the second reading or the Committee stage of the Bill in this place.

So, the Democrats are moving that at the end of the second reading stage this go to a select committee. If the select committee finds that there are significant savings that cannot be achieved in other ways, we will support the legislation. If those savings cannot be demonstrated, then we will not support the Bill.

The Hon. PETER DUNN: I have just a brief contribution on a slightly different basis. Let me say at the outset that if it can be proved that there is $50 million, $40 million or $20 million to be saved per year, as I have always been a bit careful with money, I think I would have to support it. But the proof is not quite there, and that is why I am supporting a select committee. I want to attack it from a slightly different angle. I have had some contact with rural people, particularly those who at this moment supply and distribute power around the bush. Before I go into that in more detail, it would be very unfortunate if some of these rural communities were to lose their rural subsidy. That subsidy is significant.

According to the Auditor-General's Report, for instance, the South Australian Government has funded pensioner concessions—and I am using this only as a comparison—of $9.443 million, a very considerable concession in a year, and I guess some of that is in the country. But I am more interested in the subsidy to off grid suppliers, those who are not connected to the grid system that we traditionally know and use in the metropolitan area and most of the area that is incorporated in this State. That subsidy is $4.639 million. Should that be lost, it would mean that rural communities would have a very significant cost impost put on them in places like those areas that are supplied or subsidised by the Outback Areas Trust.

Generally, the power is supplied by a firm called Cowell Electric Supply Company, which has installed the generating units and distribution systems in places like Yunta, Oodnadatta, Marla, Marree and Penong. It is important that those small communities have power. The Cowell Electric Supply Company also put the power generating system into Coober Pedy, subsequently taken over by ETSA and run quite successfully by it. But it does receive a considerable subsidy and it is necessary.

In Coober Pedy there is a wind generating plant—and if ever there was a disaster, that is it. Why put a wind generating plant where there is no wind? I would have thought you would put it down on the coast somewhere, where there was a bit of wind, but it was stuck up in Coober Pedy where half the year it is dead calm, particularly at night, so it is not a particularly successful operation.

The Outback Areas Trust assists, as does the Government, so the subsidies for those people are considerable, but if they did not have that assistance the power bills would be much higher. The Aboriginal communities also receive subsidies. Within the past few years the communities in the Pitjantjatjara lands and in the Maralinga Tjarutja lands have had their power supplied by ETSA. I was in those areas recently and I noted some new and sophisticated generating systems. I would not like to see the subsidies to those areas cut to such a degree that people have to pay exorbitant fees for power, because a lot of subsidies are put into this city, whether in the form of arts, roads or transport; they all seem to receive considerable subsidies.

One of the things that country people look for is the generation of 240-watt power: it brings city living into the country. I have said before in this Council that in the one year, I think it was 1974, I received a nice bitumen road and power. If I had to make a choice I would have chosen power, because with power you can have freezers, refrigeration, welding machinery and heavy electrical machinery on the property, with consequent advantages.

At the moment, the Cowell Electric Supply Company supplies power to Iron Knob, where iron ore is mined for Whyalla and other places. Its situation is unique in that it buys the power from BHP and supplies and distributes it to Iron Knob and also, I think, to Iron Baron. Under this Bill, the Cowell Electric Company would have some difficulty, because under clause 13 the corporation has the following functions:

> In relation to electricity-
> (i) to generate, transmit, supply and purchase electricity within and beyond the State.

In other words, it is the only body that can do that. That would seem to me to exclude a firm such as the Cowell Electric Supply Company. That same company was recently asked to supply power to Andamooka. It intended to purchase the power from Roxby Downs, install a transmission line to Andamooka, some 25 miles away, and distribute it around the town. I note with interest that recently Western Mining Corporation signed a contract with ETSA, for the next 20 years I think, to have cheaper power and to pick up the increase in the size of the operations that will take place at Roxby Downs. I do not know whether there will be enough power to be able to supply power through the Cowell Electric Supply Company to Andamooka. That is yet to be proved. I hope not: I hope that ETSA can supply enough power for that operation.

Most of these problems may be brought about by this Bill because of the interconnection agreement. I note that the Minister has some discretion under the Bill in that ETSA would look favourably upon a company such as the Cowell Electric Supply Company, which has a long history in this State of supplying SWER (single wire earth return) lines. In fact, the company has offered, as I understand it, to run all the electrical distribution on Eyre Peninsula. I do not know the details of that offer, but I know that it has made the offer and I understand that it was cheaper than power being provided at this moment by ETSA.

However, they are just some of the queries and questions involved, and I have spoken to the principals in the Cowell Electric Supply Company and suggested to them that, if a select committee is set up, they should present their case. I just highlight a few of those effects, as they have not been referred to in the debate, but they are important. I spend most of my time in those areas. Those people are entitled to a good, cheap, power supply system, as are the people within this city. For those reasons, I support the setting up of a select committee.

The Southern and Power Water Bill would have been better named the 'WETSA Bill', a combination of E&WS and ETSA. An electrician will say that the mixture of electricity

and water do not go down well together; you can get quite a shock out of that. This Bill is probably in for a bit of a shock, and we will determine how large or small that shock is only if we put it to a select committee and let us go quickly through what is a very big operation. There is more than $1 billion income from the combining of these two bodies, and that is a big corporation in anybody's language. There is no better solution than a select committee, or perhaps the Bill could have been referred to a standing committee of the Parliament. But under these conditions, a select committee appears to be the way to go. That is probably the right thing to do at the moment. For those reasons, I support the Bill.

The Hon. L.H. DAVIS secured the adjournment of the debate.

GOVERNMENT MANAGEMENT AND EMPLOYMENT ACT REGULATIONS

Adjourned debate on motion of Hon. R.I. Lucas:

That the various regulations under the Government Management and Employment Act made on 24 June 1993 and laid on the table of this Council on 3 August 1993 be disallowed.

(Continued from 4 August. Page 28.)

The Hon. M.S. FELEPPA: I simply wish to add a few words to this debate. I say from the outset that I do not support the motion, the reason being that this morning at a meeting of the Legislative Review Committee we resolved to hold the motion on these regulations, because we considered that it is necessary to have a further investigation to satisfy our views.

That is the reason why I cannot support this motion. It is as simple as that.

The Hon. R.I. LUCAS (Leader of the Opposition): In closing the debate, I thank the Hon. Mr Feleppa for his contribution. I understand his position. The Liberal Party's position has been quite clear on this particular issue and, in fact, the Government—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: If the honourable member wants to delay this I will entertain that delay for as long as you want. The Liberal Party's position on this issue has been quite clear, and in fact if the Hon. Ms Pickles speaks to her Minister she will find that the Government has now come to support the Liberal Party's position. The Liberal Party is moving to disallow this regulation, the Public Service Association supports that disallowance, and the Australian Democrats support the disallowance of this particular regulation. We made a recommendation that the new cut-off for the removal of appeal rights should be at the executive level 1. The Government has now accepted that position and we have now been told for some three or four weeks that the Government will be introducing a new regulation to that effect. Mr President, it is a simple matter. This regulation should be disallowed and I would urge members to support the motion.

The Council divided on the motion:

AYES (7)

Davis, L. H.	Dunn, H. P. K.
Irwin, J. C.	Laidlaw, D. V.
Lucas, R. I. (teller)	Schaefer, C. V.
Stefani, J. F.	

NOES (6)

Feleppa, M. S.	Levy, J. A. W. (teller)
Pickles, C. A.	Roberts, R. R.
Roberts, T. G.	Weatherill, G.

PAIRS

Burdett, J. C.	Crothers, T.
Griffin, K .T.	Sumner, C. J.
Pfitzner, B. S. L.	Wiese, B. J.

Majority of 1 for the Ayes.

Motion thus carried

ESTIMATES COMMITTEES

A message was received from the House of Assembly requesting that the Legislative Council give permission to the Attorney-General (Hon. C.J. Sumner), the Minister of Transport Development (Hon. B.J. Wiese) and the Minister for the Arts and Cultural Heritage (Hon. J.A.W. Levy), members of the Legislative Council, to attend and give evidence before the Estimates Committees of the House of Assembly on the Appropriation Bill.

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

That the Attorney-General, the Minister of Transport Development, and the Minister for the Arts and Cultural Heritage have leave to attend and give evidence before the Estimates Committees of the House of Assembly on the Appropriation Bill, if they think fit.

Motion carried.

ADJOURNMENT

At 12.12 a.m. the Council adjourned until Thursday 9 September at 2.15 p.m.