## HOUSE OF ASSEMBLY

Tuesday 22 October 1985

**The SPEAKER (Hon. T.M. McRae)** took the Chair at 2 p.m. and read prayers.

### CRIMES (CONFISCATION OF PROFITS) BILL

His Excellency the Governor, by message, recommended to the House of Assembly the appropriation of such amounts of money as might be required for the purposes mentioned in the Bill.

### QUESTIONS

**The SPEAKER:** I direct that written answers to the following questions on the Notice Paper, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos. 109, 110, 112, 148, 166, 178, 180, 188, 195, 201, 204, 213, 214, 219, 224, 226, 231, and 234; and I direct that the following answer to a question without notice be distributed and printed in *Hansard*.

### PORT LINCOLN TAFE COLLEGE

In reply to **Mr BLACKER** (18 September).

**The Hon. LYNN ARNOLD:** The Tertiary Education Commission has not finalised the 1986 grants as yet in respect of individual capital projects. However, the total TAFEC capital funds incorporated in the budget recommendations to the Government clearly indicate that construction funds should be available for the Eyre Peninsula project in 1986. The project team is currently proceeding to the following program:

Complete documentation—20 December 1985
Tender call—10 January 1986
Tender close—7 February 1986
Construction start—3 March 1986

During the construction period, which is expected to last approximately 18 months, the college will have to remain operational. To this end the college is currently pursuing two options with regard to the provision of temporary accommodation. One option is to relocate some transportable buildings on to another site in Port Lincoln. Another is to seek suitable leased accommodation, with a combination of both options being the most likely. It is hoped that the educational program offered by the college during this period will not be significantly reduced as a consequence.

### PETITION: PORT AUGUSTA BOTANIC GARDEN

A petition signed by 244 residents of South Australia praying that the House urge the Government to establish an arid lands botanic garden at Port Augusta was presented by the Hon. G.F. Keneally.

Petition received.

### PETITION: CRIME

A petition signed by 1 294 residents of South Australia praying that the House legislate to increase the penalties for crime, provide greater resources to the police, and reject the automatic release of prisoners was presented by Mr Olsen.

Petition received

### PETITION: TEACHER POLICY ON HOMOSEXUALITY

A petition signed by 50 residents of South Australia praying that the House oppose the South Australian Institute of Teachers policy on teaching homosexuality within State schools was presented by the Hon. H. Allison.

Petition received.

### PETITION: ELECTRICITY TARIFFS

A petition signed by 170 residents of South Australia praying that the House support the objection to continual increases in electricity tariffs and call for an inquiry into the financial management of the Electricity Trust was presented by Mr Becker.

Petition received.

### PETITION: POKER MACHINES

A petition signed by 32 residents of South Australia praying that the House legislate to permit the use of poker machines in South Australia was presented by Mr Becker.

Petition received.

### PETITION: CRAIGBURN FARM

A petition signed by 35 residents of South Australia praying that the House urge the Government to purchase Craigburn Farm land, north of Sturt River, and retain it as open space was presented by the Hon. D.C. Brown.

Petition received.

### PETITION: RANGES CHILD CARE CENTRE

A petition signed by 233 residents of South Australia praying that the House urge the Government to purchase and operate the Ranges Child-care Centre as a community based child-care centre was presented by Mr S.G. Evans.

Petition received.

### PETITION: HALLETT COVE BEACH

A petition signed by 105 residents of South Australia praying that the House urge the Coast Protection Board to include Hallett Cove beach in the sand replenishment program was presented by Mr Mathwin.

Petition received.

### PAPERS TABLED

The following papers were laid on the table:

By the Minister for the Arts (Hon. J.C. Bannon)—

*Pursuant to Statute—*

South Australian Museum Board—Report, 1984-85.

By the Minister for Environment and Planning (Hon. D.J. Hopgood)—

*Pursuant to Statute—*

Coast Protection Act 1972—Regulations—Identity Cards for Wardens.
Planning Act 1982—Crown Development Report by South Australian Planning Commission on proposed 66 kV transmission line, Salisbury to Elizabeth South.

By the Minister of Lands (Hon. R.K. Abbott)—

*Pursuant to Statute—*

Lands—Advances to Settlers Act 1930—Return, 1984-85.
Real Property Act 1886—Regulations—Conveyancing.

By the Minister of Education (Hon. Lynn Arnold)—

*Pursuant to Statute—*

Fisheries Act 1982—Regulations.
Port Broughton—Fisherman Bay Netting.
Lakes and Coorong Fishery—Licences.
Fish Processors—Tuna.
Marine Scale Fishery—Licences.

By the Minister of Transport (Hon. G.F. Keneally)—

*Pursuant to Statute—*

Local Government Act 1934—Regulations—Long Service Leave.
Local Government Finance Authority—Report, 1984-85.
Outback Areas Community Development Trust—Report, 1984-85.
Charitable Funds, Commissioners of—Report, 1984-85.
Highways Department—Report, 1984-85.

By the Minister of Recreation and Sport (Hon. J.W. Slater)—

*Pursuant to Statute—*

Recreation and Sport, Department of—Report, 1984-85.

By the Minister of Community Welfare (Hon. G.J. Crafter)—

*Pursuant to Statute—*

Rules of Court—Local and District Criminal Court—
Associations Incorporation Act 1985—Appeals.
Building Societies Act 1975—Regulations—New Banks.
Legal Services Commission—Report, 1984-85.

## OMBUDSMAN

**The Hon. J.C. BANNON (Premier and Treasurer):** I seek leave to make a statement.

Leave granted.

**The Hon. J.C. BANNON:** On Friday 18 October 1985 the State Ombudsman, Ms Mary Beasley, tendered to the Hon. P. Morris, MHR, Minister for Aviation, her resignation as a director of the Board of Qantas. The resignation took place following inquiries being made by Qantas and the Federal Government in respect of a claim by her for a rebate for overseas travel for Susan Mitchell.

On Wednesday 16 October 1985, I issued a press statement detailing the actions undertaken by the Government following allegations involving Ms Mary Beasley, and referred to the investigations, of which I had been advised earlier, by Qantas and the Federal Government. I was requested by the Federal Government not to disclose the nature of the allegations until inquiries were completed because there were legal matters involved. When these allegations became public I sent a telex to the Hon. P. Morris, MHR, Minister for Aviation, requesting that he make available to the South Australian Government a full report on the inquiry by the Federal Government as soon as practicable. A copy of this telex was tabled in the Legislative Council on 16 October 1985.

Further, on 16 October 1985, at my request, the Attorney-General made a statement to the Legislative Council in which he made it clear that until the report of the Federal Government was received it was not appropriate to take further action in the matter. On 18 October 1985 the Minister for Aviation advised me by telex of the resignation of Ms Beasley, and advised that the federal Attorney-General had been fully consulted on the matter and had advised that on the information available the question of any breach of Commonwealth law did not arise.

The Minister for Aviation stated that, in the light of the Federal Attorney-General's advice and Ms Beasley's resignation, he could see no grounds for further action in this matter. That may have been an appropriate attitude with respect to Ms Beasley's directorship with Qantas, but it does not relieve the State Government of its responsibilities in respect of the position of Ombudsman.

Accordingly, on Friday 18 October 1985, the Attorney-General again attempted by telephone to seek from the Commonwealth more detail than the scanty information so far provided by that Government. That request was declined by the Commonwealth on the basis that the matter was concluded as far as the Commonwealth was concerned, and that correspondence between the Minister, Qantas and the Ombudsman was private and confidential.

Despite further representations made by the Attorney-General to the federal Attorney-General, the Federal Government declined to provide the documentation requested. On Monday 21 October 1985, on instructions from me, the Attorney-General sent a telex to the Minister for Aviation referring to the examination being undertaken by the Solicitor-General, Mr M. Gray, QC, on matters arising consequential upon her resignation in so far as they may affect her position as Ombudsman. No response had been received to that telex by mid afternoon and a further request for documentation was then made by an officer of the Crown Solicitor's Office to the office of the Minister for Aviation. A telex from the Minister for Aviation was finally received at 5.30 p.m. yesterday, declining to make documentation available to the State Government.

In addition to all of the above attempts to obtain a report from the Commonwealth, efforts were made at the same time to obtain relevant documentation from Qantas, and from the solicitors acting for Ms Mary Beasley, Johnston, Withers, McCusker and Co. In relation to Qantas, an officer of the Crown Solicitor's Office sought on Friday afternoon 18 October 1985, by telephone, Qantas approval to the release of all the documentation held by Qantas relevant to Ms Beasley's claim for overseas travel. In addition, a telex was sent late on the same afternoon to the Chairman of Qantas seeking copies of the relevant Qantas guidelines to entitlement for directors relevant to overseas travel, and copies of any general forms that need to be completed or certified in respect of such overseas travel and any information or documents which might assist in the inquiries.

In relation to those requests, the legal adviser for Qantas indicated that Qantas would carefully consider the request, but that he would need to seek instructions from the Qantas executive. The legal adviser indicated that, subject to instructions, Qantas would have no objection if the relevant documents were obtained from the solicitors for Ms Beasley. Concurrently, on Friday afternoon 18 October 1985 a request was made by telephone by an officer of the Crown Solicitor's Office to Paul Heywood-Smith, the solicitor from Johnston, Withers, McCusker and Co. representing Ms Beasley, for the release of documents relating to the allegations that had been made in respect of her position on the Board of Qantas.

Negotiations and discussions in respect of the release of relevant correspondence continued to take place on Friday night 18 October, Saturday 19 October and Sunday 20 October 1985 between an officer of the Crown Solicitor's Office, Qantas legal advisers, and Mr Heywood-Smith.

On the morning of Monday 21 October 1985, a letter from the Crown Solicitor was delivered to Johnston, Withers, McCusker and Co. confirming that the relevant documents were still sought as a matter of urgency. Overlapping

that request, a letter was sent by Johnston, Withers, McCusker and Co. to the Attorney-General, furnishing certain material which I propose to table shortly.

On the basis of the material provided by Ms Beasley's solicitors, and of Ms Beasley's public statement, and of the telex of the Minister for Aviation dated 18 October 1985, the Solicitor-General prepared a memorandum of advice, which I also propose to table. The Solicitor-General relied upon certain opinions of other eminent counsel, and copies of those opinions will also be tabled.

I now table all the relevant documentation pertaining to the above matters. I table the following documents:

1. The opinion of the Solicitor-General dated 21 October 1985, annexed to which are the following documents:
   (i) Statement of M.C. Beasley dated 17 October 1985.
   (ii) Telex dated 18 October 1985 from the Hon. P. Morris, Minister for Aviation, to the Premier.
   (iii) Letter dated 19 October from Johnston, Withers, McCusker and Co. to the Attorney-General, attached to which were the following documents:
      *(a)* Letter from L.J. Fisk, Corporate Secretary of Qantas, dated 9 October 1985, to Paul Heywood-Smith.
      *(b)* Letter dated 22 August 1983 from the Chairman to all Directors relating (among other things) to Directors' entitlements on travel generally.
      *(c)* Letter dated 6 October 1983 from the Chairman to all Directors advising of travel entitlements of near relatives of single Directors (parents, brothers and sisters).
      *(d)* Letters dated 20 October and 2 December 1983 from the Assistant Corporate Secretary to Ms Beasley, and travel application for overseas trip which commenced on 25 December 1983.
      *(e)* Letter dated 18 July 1984 from the Assistant Corporate Secretary to Ms Beasley, and travel application for overseas trip which commenced on 27 September 1984.
      *(f)* Travel application for overseas trip which commenced on 29 August 1985.
      *(g)* Memorandum dated 8 October 1985 from the Corporate Secretary to the Chairman detailing fares relating to Miss Mitchell's three overseas trips.
   (iv) Opinion of Dr Gavan Griffith, Commonwealth Solicitor-General, dated 24 February 1984.
   (v) Opinion of Ian Temby, QC, Director of Public Prosecutions, dated 15 February 1985.
   (vi) Opinion of Mr C.W. Pincus, QC, dated 14 May 1984.

2. Telex dated 16 October 1985 from Hon. J.C. Bannon, Premier, to Hon. P. Morris, Minister for Aviation.

3. Telex from Hon. P. Morris, Minister for Aviation, to the Premier.

4. Telex dated 18 October 1985 from P.A. Heywood-Smith to the Premier, seeking the opportunity to peruse the report of the Solicitor-General.

5. Telex dated 18 October 1985 from Kym Kelly, Crown Solicitor's Office, to the Chairman of Qantas.

6. Letter dated 21 October 1985 from Crown Solicitor's Office to Johnston, Withers, McCusker and Co.

7. Telex dated 21 October 1985 from C.J. Sumner, Attorney-General, to Hon. P. Morris, Minister for Aviation.

8. Telex dated 21 October 1985 from Hon. P. Morris, Minister for Aviation, to C.J. Sumner, Attorney-General.

9. Letter from C.J. Sumner to Hon. K.T. Griffin dated 21 October 1985.

I turn now to the opinion of the Solicitor-General dated 21 October 1985. In summary that opinion advises that:

1. Where either the Parliament addresses for removal or the Governor is advised to suspend the Ombudsman from office, it must be on the grounds of incompetence or misbehaviour.

2. Misbehaviour in matters outside the discharge of the duties of an office must be an act in breach of the general law of such a quality as to indicate that the person is unfit for that office.

3. Upon the available material, and in particular that, at present, there is no material available which rebuts Ms Beasley's assertion that she believed that she had an entitlement to claim a rebate for Ms Mitchell, there is no breach of the general law.

4. In the Solicitor-General's opinion he does not regard the available material as sufficient to amount to grounds of misbehaviour within section 10 of the Ombudsman Act 1972.

As the Attorney-General's letter to Hon. K.T. Griffin dated 21 October 1985 (now tabled) indicates, the Attorney-General made available copies of the Solicitor-General's opinion and supporting documentation to Hon. K.T. Griffin on Monday night of 21 October 1985, and fully briefed Mr Griffin in relation to that opinion and to matters arising from it in the presence of the Solicitor-General and Mr K. Kelly, Assistant Crown Solicitor in the Crown Solicitor's Office. The opinion and documentation was also provided today to the Hon. Lance Milne, to Mr N. Peterson, MP, and to Mr Martyn Evans, MP.

The question now to be resolved is for the Parliament to consider the material now before it and to determine the future course of action in respect of the Ombudsman's position. This morning the Leader of the Opposition, the shadow Attorney-General, and the Attorney-General met to further discuss the matter. It was agreed that a statement should be made and that all relevant documents should be tabled. Following discussions, it was agreed also that at this point in time further information was needed to enable the Parliament to properly consider the matter.

The conclusion that has been arrived at is that further inquiries must be made. The shadow Attorney-General and the Attorney-General have been asked to consider the nature of those further inquiries and the mechanisms by which they might be carried out.

The question of whether Ms Beasley should be requested by the Parliament to stand aside pending these inquiries is one that Parliament will need to address following further discussions between the Attorney-General and the shadow Attorney-General. The Attorney-General made it clear to the Parliament last week, when these allegations were first raised in another place, that the Government wished this matter to be dealt with properly, in accordance with the law, and in a manner acceptable to the whole Parliament.

The Government, in the very short time that has been available (effectively two working days), has made what inquiries it could to obtain relevant information. The Government took the view that it was imperative that some report of the matters be produced to the Parliament on its resumption today. The Government, however, believes that further inquiries are necessary which were not able to be completed in the short time available to it before Parliament resumed. I also point out that, as the telexes which I have tabled indicate, our inquiries have been hampered by the lack of information available from Commonwealth sources.

**Mr OLSEN (Leader of the Opposition):** I seek leave to make a statement.

**The SPEAKER:** In the unusual circumstances, leave is granted.

**Mr OLSEN:** The Opposition welcomes the indication in the Premier's statement of Government action to get to the bottom of this matter and agreement to table all relevant documents in the House today. I understand from my discussions with the Premier earlier this afternoon that certain action is now being taken to protect the status and integrity of the office of Ombudsman and to ensure that all relevant information is made available to allow the Government and the Parliament to make decisions on the future of the Ombudsman.

I note in saying this that, in a statement he made last Friday, the Premier said that the Opposition's actions in this matter were aimed not at solving it, but at making political capital. I trust the fact that the Government is now preparing to take action which the Opposition has been urging ever since this matter became public almost a week ago will cause the Premier to further reflect on that statement.

Early this afternoon I submitted to the Premier a letter outlining the Opposition's view about the manner in which this matter should be further dealt with. This letter is based on the following facts: the Solicitor-General's opinion to the Government yesterday is qualified because it is based on insufficient information; the Federal Government has not provided any report to the South Australian Government on the matter; and the question of Ms Beasley's declarations to Qantas relating to the status of Miss Mitchell requires further clarification because there is no evidence yet available that Qantas approved a rebate for Miss Mitchell in the way claimed by Ms Beasley. I now propose to disclose to the House the contents of my letter to the Premier. It is as follows:

I have considered the documents and information supplied to the Opposition last night by the Attorney-General. In considering its approach to this matter since allegations about the Ombudsman first became known to us and subsequently, when they were made public by the media, the Opposition has had only one objective: to maintain the status and integrity of the office of Ombudsman. Accordingly, we are concerned about the qualified nature of the Solicitor-General's opinion in this matter.

I refer to the following statements of the Solicitor in his memorandum of advice to you [the Premier] yesterday:

1. . . . there is no material available to me which rebuts Ms Beasley's assertion that she believed that she had an entitlement to claim a rebate for Miss Mitchell.
2. Ms Beasley could, of course, be guilty of a criminal offence or an offence against the Companies Code (see in particular section 229 of the Companies Code) but, in my opinion, the material which I have does not disclose such a breach.
3. It follows that I do not regard the material as sufficient to amount to grounds of misbehaviour within section 10 of the Ombudsman Act 1972.

You will note that in each of the above three references, the Solicitor has qualified his opinion by reference to the material available to him, yet it is clear from the other information supplied to the Opposition last night that the Government so far has had difficulty in obtaining all relevant material to allow a fair, objective and responsible assessment of this matter.

I am particularly concerned about the suggestion in Mr Heywood-Smith's letter to the Attorney-General of October that the Federal Minister for Aviation declined to provide information and documentation sought by the Attorney. Further, in a telex to the Federal Minister dated 16 October, you called for a 'full report on the situation', but Mr Morris advised the Attorney-General by telex yesterday that 'there is no report'. In these circumstances, I do not believe that your Government can be satisfied that it has received the full cooperation of the Commonwealth in seeking all relevant information, or that your Government has done enough itself to obtain that information.

With the possibility of there being breaches of the Companies Code and of the criminal law, I would have thought that, regardless of the office which a person holds or the status of that person, it would be incumbent on the Government of the day to insist upon a full and independent investigation to get all of the facts. In view of this, I am surprised that neither your Government nor the Commonwealth Government appears to have undertaken so far such an investigation which the matter requires. You would be aware that last Friday I telexed the Federal Minister of Aviation seeking answers to 14 specific questions. The Federal Minister refused to provide any further information, and I therefore believe the only course now available is for you to press the Prime Minister for the further necessary information and use such other avenues as may be available to fully investigate the matter. The question of Ms Beasley's declarations to Qantas relating to the status of Miss Mitchell requires further clarifcation.

The travel entitlements available to Ms Beasley as a Director of Qantas were set out in a letter to all Directors from the Chairman of Qantas dated 22 August 1983. That letter limited rebates of the type Ms Beasley claimed for Miss Mitchell to spouses of Directors. However, in a further letter to all Directors dated 6 October 1983, the Chairman sought to clarify the position of entitlements of 'near relatives of single directors'. It stated 'Parents, brothers and sisters may accompany single directors on the one trip per annum vacation travel on the basis of 80 per cent rebate on the application fare'. Within a fortnight the Assistant Corporate Secretary of Qantas wrote to Ms Beasley asking her to substantiate as correct information provided by Ms Beasley in a claim for concessional travel for Miss Mitchell. The information provided to the Opposition last night included three forms signed by Ms Beasley in which she designated Miss Mitchell as her sister.

Of further relevance in considering Ms Beasley's claim that she had 'verbal confirmation' from the then Chief Executive Officer of Qantas that 'it was in the spirit of the guidelines that Ms Mitchell have the benefit of the rebate' is the provision in the Chairman's letter of 22 August for clarification of the guidelines. Section D of the Chairman's letter, entitled 'General', states:

> Any matters not covered in the foregoing, e.g. exceptional circumstances, may be raised by a Director and will be considered by a subcommittee of the Board consisting of the Chairman, the Vice-Chairman and one other Director.

Apparently Ms Beasley did not seek to clarify her situation through this means, and it is reasonable to ask why she did not do so, rather than seek 'verbal confirmation' from the then Chief Executive Officer . . . The Chairman's guidelines for entitlements also required the Chairman to approve all travel arrangements for Directors. I believe your Government also must establish whether, in approving Ms Beasley's arrangments, the Chairman was aware of any 'verbal confirmation' by the then Chief Executive Director of Miss Mitchell's entitlement to a rebate.

The forms Ms Beasley signed to obtain rebates for Miss Mitchell stated quite clearly that her signature was to be regarded as 'a personal affidavit' and that, amongst other things, in any application for travel for a relative, the relationship shown was to be 'true and accurate'. In designating Miss Mitchell as her 'sister' Ms Beasley therefore submitted a false 'personal affidavit'. While the Solicitor-General has stated that there is no material available to him 'which rebuts Ms Beasley's assertion that she believed she had an entitlement to claim a rebate for Ms Mitchell', equally there is no evidence yet available that this entitlement was approved by the Chairman of Qantas, who had the ultimate responsibility for giving such approval, knowing that it was based on a false personal affidavit.

This is the crucial point which must be clarified beyond doubt because, until it is, there remains the possibility, according to the Solicitor-General, that Ms Beasley could be guilty of a criminal offence or an offence against the Companies Code. This is a cloud which cannot be allowed to remain above the office of Ombudsman, and your Government now has a direct responsibility and duty to seek through the Commonwealth, or other sources, this further clarification. If it is the case that the Chairman of Qantas knowingly accepted a false personal affidavit as coming within the spirit of the company's travel entitlement guidelines for directors, then that is a matter the Chairman should be asked to confirm so that your Government and, ultimately, the Parliament can further consider the position of the Ombudsman in that light.

The Ombudsman is in a position of independence where often she has to test the word of one person against another and has access to confidential files in departments, statutory bodies and local government bodies. In these circumstances, no doubt must remain about the word of such a high public office holder of the State. In the meantime, the Opposition is of the view that your Government should ask Ms Beasley to step aside while these matters are clarified. The Solicitor-General's opinion makes it clear that the initiative for any suspension of the Ombudsman remains with the Government and, while I believe that Ms Beasley should first be asked to stand aside, her suspension should be given serious consideration if she refuses to step aside.

I express my continuing concern about a distinct reluctance on the part of the Commonwealth and your Government to get to the bottom of this matter. Had some of the questions which remain to be resolved been raised with Ms Beasley when these allegations first became known to you and the Commonwealth,

it is possible that this matter could have been cleared up before now. I am also seriously disturbed at the admission by the Federal Minister of Aviation in his telex to the Attorney-General . . . that there has been no Commonwealth report on this matter.

## WITHDRAWAL OF PAPER

**The Hon. G.J. CRAFTER (Minister of Community Welfare):** On Thursday 10 October, a Rule of Court under the Supreme Court Act 1935, relating to the Companies (South Australia) Code was incorrectly tabled. I therefore seek leave to withdraw that paper.

Leave granted.

## PUBLIC WORKS COMMITEE REPORTS

**The SPEAKER** laid on the table the following final report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence:

Mobilong Medium Security Male Prison

**The SPEAKER** laid on the table the following report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence:

West Beach Marine Research Laboratory—Stage 1.

**The SPEAKER** laid on the table the following interim reports by the Parliamentary Standing Committee on Public Works:

Adelaide Childrens Hospital—Stage IV Redevelopment—(Phase I),

Hallett Cove School (Construction),

Roxby Downs (Education Complex and Government Offices),

Ordered that reports be printed.

## QUESTION TIME

**The Hon. D.J. HOPGOOD (Deputy Premier):** I move:

That the time for asking questions be extended to 3.25 p.m.

Motion carried.

## OMBUDSMAN

**Mr OLSEN:** Will the Premier, as a matter of priority, ask the Prime Minister to instruct the Federal Minister for Civil Aviation now to cooperate with the State Government to clarify the position of the South Australian Ombudsman? On 16 October, the Premier sent a telex to the Federal Minister seeking a full report of the situation as soon as practicable. The Attorney-General also asked the Federal Minister for information and documents that would help inquiries.

Yesterday, the Attorney-General received a response from the Federal Minister stating that, as the Ombudsman (Ms Beasley) had resigned from her position on the Qantas Board, the matter had not been pursued and 'there is no report'. The Premier, the Government and the Parliament cannot accept this position, and I ask the Premier whether he will now ask the Prime Minister to intervene to ensure that the State has more cooperation from the Commonwealth.

**The Hon. J.C. BANNON:** That may become necessary. I agree with the Opposition, and share its concern about the fact, that the Commonwealth has not seen fit to provide the information that has been requested. I guess that the Commonwealth considers that the matter has been resolved by the resignation of Ms Beasley and by the Commonwealth Attorney-General's advice that no legal breach has been committed. Therefore, the Commonwealth's reaction to our request for further and more detailed information is that the matter is not subject to further investigation: it has been resolved. Clearly, as my statement earlier today indicated, further inquiries are necessary.

True, much of the relevant information that we were seeking has been supplied by Ms Beasley's solicitors. If members examine the material tabled today, they will see that certain things such as appropriate forms and letters are contained in that information. I do not believe that that is satisfactory. The Attorney-General is pursuing the question, and discussions are being held with his opposite number to determine how those inquiries might be advanced.

## TEACHING STAFF

**Mr KLUNDER:** Can the Minister of Education indicate if any provision will be made to assist those schools which, due to major decreases in student population, find themselves losing a large proportion of their teaching staff? During 16 of the 18 years I spent as a teacher, I organised school timetables in a total of five schools, and I can therefore speak with some authority on the problems caused by changing teaching numbers regarding the curricula offered by schools. Indeed, I can feel a great deal of sympathy for the plight of the Modbury High School, which stands to lose 6.6 teachers due to a large anticipated decrease in student enrolment. I know that other members, including the members for Florey and Albert Park, have expressed their concern to me and feel the same way about schools caught in this situation.

Perhaps I can give the House just one example of the problems that such a decrease in staff can cause, although I hasten to indicate that this example is a hypothetical one, as I have no wish to parade individual case histories before the House. The problem with a decreasing enrolment and the subsequent loss of teachers is that the school program has to be curtailed but that the freedom to manoeuvre is in fact severely limited for the Deputy Principal, who prepares the timetables. If the school teaches a language, that language often produces uneconomic classes at senior level, for instance, a matriculation class of six or even fewer students.

However, it is not possible to cut out the teaching of that language at the senior level, as by offering the language to year 8 students either an explicit or implied promise has been made to continue teaching those students up to and including matriculation. While it is possible to cut out that language at year 8, this often weakens the competitive position of the school vis-a-vis other schools in the neighbourhood, and in any case the teacher of the subject may not be able to teach another subject and may not be able to teach in neighbouring schools. Here, then, is an example where the program cannot be cut but the teachers still have to be displaced.

The House will appreciate that the example I have given may be only one of 20 such problems that the senior management of the school will have to consider in trying to cope with a major reduction in its staff and student numbers. I therefore ask the Minister if he is able to inform the House of any method by which the most serious of such situations can be ameliorated.

**The Hon. LYNN ARNOLD:** Yes, I can certainly give the honourable member some advice on this matter—advice that I am sure will be of interest to many members, including the member for Henley Beach, who has also expressed concern about the matter of displacements involving schools in his area.

With respect to the general situation, I have asked the Acting Director-General to provide me with an analysis of the curriculum impact that will take place on all those secondary schools that are likely to have a significant reduction in staff due to proposed displacements. The situation is not significant with respect to primary schools, because none of the primary schools in the State are proposed to have displacements of the same proportion as is proposed next year for secondary schools.

I have asked him, therefore, for that analysis of the curriculum impact, and I am waiting for a report on that matter. I have already indicated to him that it will be my intention to cushion, as far as possible, serious impact upon the curricula in any school. Until I have that report I am not able to specifically advise what the situation will be in relation to individual schools. However, with respect to Modbury High School, which I know is a matter of concern to the member for Newland, I have some information that I wish to table for the honourable member. Indeed, rather than going through it in detail, I have a table that details the staffing, student enrolments and estimates for 1985 and 1986. It is a statistical table and I seek leave to have it inserted in *Hansard* without my reading it.

Leave granted.

STAFFING, STUDENT ENROLMENTS AND ESTIMATES

| YEAR | STUDENTS | STAFF (FTE) | PTR | COMMENTS |
|---|---|---|---|---|
| 1985 | 1022 (Est. 8/84) | 72.4 (inc. 2.3 Neg.) | 14.1 | First estimate accepted by all as previous year's enrolment compatible. |
| | —This estimate then kept under constant review by Superintendent (Staffing) by ring every 2 weeks, to seek updated estimates.<br>—Principal adamant, Area Office no reason to suspect. | | | |
| Feb. '85 | 971 (real) | | | Drop unexpected |
| Feb. 28 '85 | 953 (real) | | | Further drop in real enrolments of 18 unexpected. |
| | —Drops of this order are corrected for by changing staff at a rate of about 16:1 | | | |
| Strategies | 1022 — 971 = —51 ÷ 16 | = 3 teachers to go | | |
| | —This was achieved by redirecting 2 teachers new to school from the outset to other schools.<br>—0.4 was achieved in bits and pieces of savings AND<br>0.6 was left over target to help cushion the effect. | | | |
| Feb. '85 | 971 | 70.0 | 13.87 | Better ratio |
| | —By the end of Feb. (28th 1985) the additional loss of 18 should have produced another displacement. School left untouched so curriculum continuity maintained. | | | |
| Feb./March | 953 | 70.0 | 13.6 | Better ratio |
| | —School undisturbed.<br>—Was warned in July by Superintendent that they were now some 3.6 over entitlement. | | | |
| 1986 | 833 (Est. 8/85) | | | Area Office thought it too low and negotiated an upward estimate to: |
| | 856 | 65.8 (inc. 3.3 Neg.) | 13.0 | Still better |
| | —Recall from the 72.4 of Feb. 1985 to Feb. 86 (Est.)<br>Staff change is 72.4 — 65.8 = 6.6 of which 3.6 relate to previous year and 3 can be attributed to new year. | | | |
| | —The negotiable was raised to 3.3, much higher than average to help the decline. | | | |
| | Negotiable staff provided for | | | |
| | Tutorial Centre | 0.5 | | Because these programs are hard to maintain—everything else can be managed. |
| | Work Experience | 0.5 | | |
| | Computing | 0.5 | | All of these fractions are greater than the average share for such programs. |
| | Senior Life Skills | 0.5 | | |
| | Special Education | 0.8 | | |
| | Equal Opportunities | 0.5 | | |

**The Hon. LYNN ARNOLD:** That table shows that already some cushioning has been taking place at Modbury High School. With respect to 1985, the cushioning was of the order of one full-time person above at the start of the year, reaching about three positions above at about mid-year. For next year it is proposed that the staffing, even at the 6.6

figure, is one above the formula for staffing entitlement for that school.

In addition, there is the proposal to provide extra negotiable staffing for that school above what is normally the case for schools. Indeed, I can say that the negotiable staff that will be provided in 1986 target in on the very areas that the school raised as a matter of concern in a leaflet that has been circulated. The school indicates there that, among other things there are concerns that the subjects taught at the school should improve children's employment opportunities, skills in relating to other people, ability to understand themselves, and incentive to continue with their education.

I might just mention that the negotiable staff, in addition to the formula staff, will be in the tutorial centre, work experience, computing, senior life skills, special education, and equal opportunities—all of which quite clearly target that objective. So, the school is getting a better deal than the average in that respect.

I repeat the point: Modbury and any other school having a significant cutback proposed in staff will be the subject of analysis by the department which I will then further analyse to determine what special cushioning effect should take place. As to the principle of displacements generally, I make the point that displacements have taken place for a long time. It is certainly not a new situation in 1985. They have taken place for many years. It is always a matter of concern for schools, and I understand and appreciate the anxiety that it causes in school staff when they must determine what positions should no longer continue in the school.

I ask members to consider the options. One option, of course, is to have no displacements. If one has no displacements, then in fact one has no salaries available to meet the needs of growing schools or the initiatives that we want to put in place for the needs of education of our children right across the system.

Also, of course, considerable inequities can occur. If, for example, a school that falls from 950 to 850 students is to maintain the staffing relevant to 950 students, it would be better staffed than the school that stayed on a figure of 850. Is that equitable? Surely, one could understand that the school with 850 students would then come back to me and say, 'Well, since you are maintaining that school at a figure of 100 over, why not maintain us, too, by giving us extra staff as if we had that 100 extra students?' Clearly, as a cost proposal that would not be possible. Indeed, we have calculated what the cost impact would be if we had no displacements in the system and if we put in extra staff to other schools to enable them to be as equitably treated: the cost would be something in the order of $18 million a year.

It is not a simple question, and never has been. It always does cause anxiety in school communities. I understand that. I am concerned that we minimise the effect as far as possible, and endeavour to maintain programs. When I have the report from the department I will be looking closely not just at the matter in relation to the school referred to by the honourable member but also at matters relating to other schools that have been brought to my attention by other members in this place.

## OMBUDSMAN

**The Hon. E.R. GOLDSWORTHY:** Will the Premier confirm that any initiative to stand aside or suspend the Ombudsman must come from the Government, and not the Parliament. The Bannon Government appointed the Ombudsman, and there is provision under section 9 of the Ombudsman Act to allow the Ombudsman to delegate all her powers and thus effectively stand aside.

Section 10 refers to suspension and, in his opinion yesterday, the Solicitor-General made it clear that any action to suspend the Ombudsman must first come from the Government. In his statement to the House, the Premier said that it was for Parliament to determine whether the Ombudsman should be stood aside or suspended. However, under sections 9 and 10 of the Ombudsman Act, it is clearly the Government which must take the initiative either to ask the Ombudsman—

**The SPEAKER:** Order! I ask the Deputy Leader to resume his seat. I am concerned at the way in which this question is proceeding, because it is a specifically listed inadmissible question in Erskine May's *Parliamentary Practice*, referring to asking of any Minister an opinion as to the meaning of sections of an Act of Parliament or to give advice or directions as to a personal opinion which that Minister may hold.

Even if we take it one step further, as I was trying to give it the widest ambit possible (as I try to do) and consider that it was not that question being asked but that the effect of the question was something like, 'What is the Government's policy in relation to the sections of the Act?', in my opinion even that becomes inadmissible under previous Speakers' rulings and the reference that I have given the honourable member. One way of tackling this matter is to ask the honourable member to bring his question forward as it may be possible, without delaying the House, to get to the substance of the matter that he is seeking.

**The Hon. E.R. GOLDSWORTHY:** I am happy to do that. The question simply points out quite clearly what the law of the State says, but if that is what is required then I will concur.

## FAMILY COURT JUDGES

**Mr MAYES:** Will the Minister of Community Welfare ask the Attorney-General to make representations to the federal Attorney-General for the appointment of additional Family Court judges to the South Australian bench? I have been approached by several constituents who are practising solicitors in the Family Court and who are concerned about the current situation in that court, with the number of judges available on the South Australian bench.

They are concerned about delays that people face in relation to both standard and complicated cases that go before the Family Court. They are concerned, also, about the extension of grieving that this causes in a family break-up. I am advised by these solicitors that a complicated matter can wait over 12 months and that more standard matters wait from eight to 12 months. This is of concern to most members of the Parliament, I am sure, and certainly to my constituents who come into contact with the Family Court.

**The Hon. G.J. CRAFTER:** I thank the honourable member for his question, which raises a most important matter in the community—a matter of some moment. There is discussion in the community about the Family Court jurisdiction. I am aware of the very substantial workload of judges in that jurisdiction as it does affect the work of the Department for Community Welfare, my department. I will be pleased to ask the Attorney-General to make the representations requested by the honourable member.

## OMBUDSMAN

**The SPEAKER:** I rule that the Deputy Leader's question in its present form is out of order. On the other hand, if the question is rephrased along the lines of the Govern-

ment's taking an initiative or some action under that section, then that would be allowable.

**The Hon. E.R. GOLDSWORTHY:** Thank you, Sir. I will ask my rephrased question. Will the Government take the initiative under section 10 of the Ombudsman Act to stand aside or suspend the Ombudsman? There is provision under section 9 of the Act to allow the Ombudsman to delegate all her powers and thus effectively stand aside. As I said earlier, the Bannon Government appointed the present Ombudsman.

Section 10 of the Ombudsman Act refers to suspension. In his opinion given yesterday the Solicitor-General made it clear that any action to suspend the Ombudsman must first come from the Government. In his statement to the House the Premier said that it was for the Parliament to determine whether the Ombudsman should be stood aside or suspended. However, under sections 9 and 10 of the Ombudsman Act it is clearly the Government that must take the initiative either to ask the Ombudsman to delegate all her powers, or to recommend to the Governor that she be suspended. I ask the Premier whether the Government will take this initiative and whether he will correct the misinformation contained in his statement this afternoon?

**The Hon. J.C. BANNON:** There are two procedures here that should not be mixed together. I think that the Deputy Leader is showing the usual slackness in reading and properly interpreting Statutes which is unfortunately often the case with members opposite. One can excuse them: there is no member there who can advise them directly on legal issues, because none of them is qualified so to do.

One would have thought that, with the experience in this place that the honourable member has had in some 15 years, he would have improved more than he has in terms of statutory interpretation. That is worth clarifying right from the beginning. Two different aspects are involved. The question of suspension is, as the honourable member points out, covered under section 10 of the Act. The statement that I tabled today and the opinion of the Solicitor-General make it quite clear why the Government could not contemplate taking such action.

The Solicitor-General's view, with all the problems which that has and which are conceded in the statements that have been made, nonetheless make it clear that to exercise such a suspension, would be to do so at the risk of legal action making it null and void. I did not say, as the Deputy Leader suggested, that the Government was not able to suspend—I know very well that we can. We do have that power, but that power can be exercised only in certain specific instances. We have taken the appropriate advice, and those instances do not at present apply. Whether further information will alter the situation is one of the things that we are investigating. So, that covers the question of suspension and why the Government quite properly has not taken that course of action.

The second aspect is not covered under section 9, and this is relevant to the Ombudsman's standing aside. Clearly, the Ombudsman could, of her own motion, stand aside, and it is open for her to do so if she so chooses. Equally, I guess one could say that a request could be made to the Ombudsman to so stand aside. Again, we have covered this in our statement. The independence of the Ombudsman from Executive direction is very important indeed.

I suggest, that certainly in a situation where a suspension is warranted, a Government could in fact take that course of action, as it is open to it. In terms of standing aside, the Government could very well be criticised very vociferously by members opposite if we undertook, of our own motion, to make that request because immediately we are making an Executive request—it cannot be an instruction—to the Ombudsman which could be impugned as being a threat to the independence of that office.

At all times, although the distinction is hard to explain to the broader community, the Government has been very conscious of that question of independence of the Ombudsman, and it has been a great pity to see, for the purposes of cheap political point scoring, members opposite suddenly forgetting all they had said in lofty sentiments expressed as recently as the 1983 debate on that very matter. They attacked this Government for supposedly interfering with the sacred independence of the Ombudsman. Lots of lofty sentiments were expressed. Come this issue and the sudden desire to exploit it and, without compunction or cavil, they have reversed all their previous statements and are demanding that the Government do the very things that they said previously were not possible.

We have maintained a consistent line throughout this matter. We have handled it properly and have involved the Opposition, and through it the Parliament, in the decisions that were made. I refer to my statements in which I made the point—and the rather muddled thinking of the Deputy Leader, confusing these two decisions of suspension and standing aside, has obviously led him into error in his question. I will quote again what I said:

> The question of whether Ms Beasley should be requested by the Parliament to stand aside pending these inquiries is one that Parliament will need to address following further discussions between the Attorney-General in another place and the shadow Attorney-General.

That was agreed as being the appropriate course of action on this question, and that is where we stand. Finally, I am not sure what relevance it has in the question for the Deputy Leader to stress, with considerable heavy emphasis and looks to match, that the present Ombudsman was appointed by this Government. Indeed she was, and at the time the appointment was universally hailed as being a very appropriate appointment.

Ms Beasley was recognised as having all the requisite skills and abilities to handle the job of Ombudsman. It was widely regarded in the community: it attracted national attention as the first time that a woman had been placed in this position, and it had the support of the Opposition. So, the question of the appointment of Ms Beasley is not one on which to cast aspersions in this way. The current situation is most unfortunate. It has to be dealt with properly within the procedures protecting the office of Ombudsman and its independence, and protecting the rights of Ms Beasley. However, the sort of innuendo suggested by members opposite that in some way the original appointment was wrong or improper is to be rejected totally.

**The Hon. E.R. Goldsworthy:** 'Parliamentary appointment', you said. You know damn well you appointed her.

**The SPEAKER:** Order!

**The Hon. MICHAEL WILSON:** Will the Premier urgently seek to ascertain from the Chairman of Qantas (Mr Leslie) whether Ms Beasley obtained the correct written approvals to undertake certain travel arrangements? Were those approvals given under the guidelines laid down by the Chairman?

**The Hon. J.C. BANNON:** These questions were obviously prepared prior to the meeting between myself and the Leader and the statement that has been made. Perhaps the honourable member should have been briefed on that by his Leader. He has asked me about whether certain inquiries could be made: it has been agreed that certain inquiries should be made.

My colleague in another place and his opposite number in the Opposition are in fact looking at the ways and means in which these inquiries can be undertaken. However, I draw the honourable member's attention to the documents

that have been tabled. He will find there the Qantas rules set out—that is, the memorandum to directors setting out their entitlements—and he will also find copies of the forms covering that travel filled in and signed by Ms Beasley.

Quite clearly, the documentary support of what has happened—the incident itself—is contained there in those papers supplied by Ms Beasley's solicitors. What follows from that is how one interprets them and what approvals had been given, either explicitly or tacitly. Those matters are under investigation at the moment and are being pursued.

## EMPLOYMENT

**Mrs APPLEBY:** Will the Premier inform the House how South Australia's employment level stands relative to the rest of Australia? Employment levels are of concern to all South Australians. With improvements in our regional economy, the growth of the housing and construction industry and the attractions of worldwide events such as the Grand Prix, one would expect some reflection in higher State employment levels. I am sure all members would be interested in any information regarding our current employment situation.

**The Hon. J.C. BANNON:** I thank the honourable member for her question, because this vital area deserves some fairly close attention. The employment picture in this State is extremely pleasing at the moment and is showing very encouraging indicators. On the unemployment side, I might add that we are not so satisfied. Although in fact unemployment has fallen sharply during the past year, it still remains at high levels. In part, this is explicable by the higher participation rate—certainly in the latest figures. The unemployment situation is still not satisfactory, but look at the employment side.

Our growth rate exceeds the national increase. More than 20 000 jobs have been created in the past year alone—a significant number. In this context, I refer members to a half-yearly report on the South Australian economy, published by the Centre for South Australian Economic Studies. This is a joint program of the University of Adelaide and Flinders University.

This report has been given fairly sparse publicity, I guess partly because it shows some very positive good news, which does not seem to appear very much to the publicity organs of media in this State. However, it is good news, and it is worth honourable members being made aware of it. The report found that the past year's strong growth in South Australia represented 'the first decisive break with the pattern of sluggishness evident in the State economy since mid 1977'. The report also stated that overall employment levels had remained stuck over these years in the narrow range of 540 000 to 560 000, but the centre reported that its seasonally adjusted estimates of recent employment levels indicated that South Australia had now broken through into the 580 000 job range.

There is a new competitiveness in the State's industrial and primary bases. The automobile industry has experienced its best year for a decade. The report states:

> After a bleak start to the 1980s, when the South Australian economy performed significantly worse than the national average, the past two years has seen good growth return us to the national fold.

That is encouraging. That report is not just an isolated example: it has been backed up by a survey of South Australian industry that has been prepared by the South Australian Chamber of Commerce and Industry and the State Bank. The survey provides a good illustration of job growth in this State. In the June quarter of 1985, employment by respondents was up by 3.5 per cent on the previous year, and only 10 per cent and 15 per cent of respondents expected lower sales or employment during the coming year. Over 40 per cent expected higher capital expenditure.

That trend has also been reflected in job vacancy rates, which have shown a substantial improvement. August 1985 newspaper advertisement job vacancy figures were at a higher level than any recorded since the winter of 1984. The report of the Centre for Economic Studies states that South Australia's labour market appears to be out-performing the national average in the pace of labour market recovery.

*Mr Ashenden interjecting:*

**The Hon. J.C. BANNON:** I know that this is not pleasant news for the member for Todd. Indeed, it is a great pity that the honourable member and his colleagues have pitched their bid for office on undermining the South Australian economy. If they had chosen instead to concentrate on the positives and thereby make an effective contribution, they would be in less trouble than they are. It is outrageous that members like the member who is interjecting have in fact pitched their whole struggle for political survival on the undermining and putting down of South Australia. These are the facts and figures. Three years ago, this economy was in a dreadful state, on all the indications, and that is the difference. The report states that employment growth in South Australia was the best for the decade. In contrast to the misleading claims by the Opposition about high growth in the public sector, the report states:

> The recovery has been a private sector phenomenon to a much greater extent than has been the case for the nation as a whole. Public sector . . . employment in South Australia fell by 1 per cent during the year to March, while Australia-wide it rose by 1.9 per cent over the same period.

Therefore, while we have maintained our essential or public sector services and general employment levels, the main growth has been in the private sector, which has responded to the economic environment that we have helped create.

## OMBUDSMAN

**The Hon. D.C. BROWN:** Has the Premier discussed the Ombudsman's position with Ms Beasley in recent days? If he has, when did that discussion take place and what was the outcome? In the *Advertiser* of 18 October, the Premier is quoted as saying that he would discuss the situation with Ms Beasley once the Solicitor-General's opinion had been received.

**The Hon. J.C. BANNON:** No, I have not. Contact with Ms Beasley is being handled through her solicitors, which is the appropriate way in which to handle matters in these circumstances. We have received the Solicitor-General's report (I tabled that today), but in the light of discussions that we have had with the Leader of the Opposition and the shadow Attorney-General, together with the course of action that we propose, it would not be appropriate at this stage to speak to Ms Beasley directly. Indeed, I would certainly want to avoid any implication, in the light of those discussions, that I was trying in some way to get around the course of action that we proposed on behalf of the Parliament. Naturally, if it becomes appropriate, I will do so. It is essential that Ms Beasley be given every opportunity to respond to any allegation or statement made on this matter, and that opportunity will be afforded.

## KANGAROO ISLAND FERRY

**Mr WHITTEN:** Does the Minister of Marine think that it would be tragic for the people of South Australia if the

Government 'inflicted' its proposed new ferry on the Kangaroo Island service? My question is prompted by the outburst from the Mayor of Kingscote (Mr Cordes), who says that the Government should ' think again' before building a new ferry to service Kangaroo Island. In the *Advertiser*, on 19 October, under the heading 'Proposed new ferry for KI would be tragic for island, says Mayor', a report states:

It would be tragic for SA if the Government 'inflicted on the people of Kangaroo Island' the new ferry it had ordered for the Outer Harbor-KI service, the Mayor of Kingscote, Mr N. Cordes, has told the Premier, Mr Bannon. In a telex plea to Mr Bannon, he asked the Government to 'think again' before going ahead with a vessel he said would fail to meet KI's total transport needs.

Mr Cordes, who sent the telex on Thursday, said yesterday people had told him the proposed $11.7 m vessel would be 'an absolute disgrace' and 'a disaster'. It had been described as underpowered and it had been said there would be berthing difficulties in heavy weather, particularly at Kingscote. In speaking out, he was going against the majority view of the KI Transport Committee, headed by the Deputy Mayor, Mr J. Meakins.

**The Hon. R.K. ABBOTT:** I thank the honourable member for his question. At the outset, I must say that I was amazed, to say the least, to read those comments by the Mayor of Kingscote. Obviously, he would never be satisfied, no matter what recommendation was made or what the design of the vessel for the new Kangaroo Island service was to be. The Government's aim is to provide an efficient freight carrying passenger service to Kangaroo Island, and the Department of Marine and Harbors formed a representative design committee including representatives from Kangaroo Island.

The Mayor of Kingscote suggested that the vessel could be built overseas. Obviously, he is not interested in promoting employment in South Australia. Let me put the State Government's point of view. The Government supports South Australia and we are trying to build up employment here, whereas obviously the Mayor of Kingscote has no interest in that aspect. The Government is putting South Australia first and, if we can build that vessel in South Australia, it will create about 200 jobs.

It will also improve South Australia's chances of winning the submarine contract, which would provide many more hundreds of jobs. We are also conscious of the costs involved and the taxpayers' money that has been spent on supporting the Kangaroo Island service over many years. We could build a *QE II* for Mr Neville Cordes if that is what he would like, but costs to the community are involved and must be taken into account. It would seem to me that Mr Cordes is being entirely selfish and acting in his own self-interests. He is out of step with most of the islanders and entirely at odds with the design committee's report. This is yet another example of the instant expert who is all too ready to criticise and condemn without considering the proper foundation for the recommendations on the replacement of the *Troubridge*.

## BICYCLE LANES

**Mr ASHENDEN:** Will the Minister of Transport review the present laws relating to bicycle lanes on defined carriageways? I have been approached by constituents who have pointed out to me some apparent anomalies regarding laws relating to bicycle lanes.

Before proceeding with the detail of the representations, I would indicate to the Minister my support for any provisions that can be made to make the lot of the cyclist easier and safer, provided that at the same time these do not impinge upon the welfare of others.

However, there are difficulties at present because 'cheap fixes' rather than bicycle lanes being separated from the actual roadway have been implemented in some instances, and I would use two examples in my own electorate. With the recent widening and upgrading of North-East Road and Grand Junction Road, bicycle lanes have been provided on the roadway adjacent to the kerb. The bicycle lanes on Grand Junction Road run the full length of the upgraded section in my electorate. This means that parking is illegal along that entire stretch of Grand Junction Road on both sides of the road.

Constituents have complained that friends cannot park their vehicles in front of homes when visiting, and small business owners in the 'strip' shopping centres are also seriously disadvantaged. I have received many complaints from them about loss of trade. Additionally, many motorists are not aware that parking is illegal, and I am getting a steadily increasing number of irate motorists who are receiving $25 traffic infringement notices issued by police officers.

The situation on North-East Road is even more complicated. There, the bicycle lanes are placed outside specifically designed parking bays on one side and adjacent to the kerb on the other. It is illegal for motorists to cross a bicycle lane to park in the clearly defined parking areas, and also illegal for them to park over the bicycle lane on the other side. Would the Minister therefore have the Government amend the existing law to enable bicycle lanes to be crossed with care, legally, when a motorist wishes to park in defined bays?

Additionally, could such parking bays always be provided when bicycle lanes are developed to ensure that the virtual 24-hour clearway conditions of Grand Junction Road and North-East Road are not repeated, and could such bays be added along Grand Junction Road and the northern side of North-East Road so that parking can be legally resumed? Finally, could signs also be erected along existing bicycle lanes until parking bays are provided, clearly stating that parking is illegal so that motorists who are unaware of the present law (and there are many) do not unwittingly break the law and incur fines?

**The Hon. G.F. KENEALLY:** I thank the honourable member for his question, and I acknowledge his concern for the welfare and well-being of cyclists in his electorate and in other north-east areas. His question is not dissimilar to a request I received from the member for Newland: indeed, it broadly addresses the same issues raised in that request. I will obtain a report as quickly as possible and will bring it down for the honourable member in the Parliament.

## SCHOOLS CURRICULA

**Mr PETERSON:** My question is supplementary to the one asked by the member for Newland. I wish to draw to the attention of the Minister of Education an individual case. If a school scheduled to lose staff under the Education Department's displacement policy finds that courses will have to be deleted because of insufficient teachers and the school cannot or will not decide on the courses to be denied to students, how will the decision be reached as to which courses are to be removed?

In my electorate Taperoo High School has been instructed to remove 4.9 staff. If these teachers go, it will not be possible to provide the current curriculum which consists of over 230 courses. These courses have been developed with the full knowledge and consent of the Education Department and in fact Taperoo High School's curriculum is recognised by the department and the majority of the State's secondary schools as outstanding. The school has a national reputation in the areas of curriculum structure, development and timetabling and the structural innovations have been and are being adopted by dozens of schools.

These advances in education were achieved without any additional cost to or special recognition from the Education Department.

Education Department and Commonwealth policies encourage diversity and differentiation in the curriculum, but the staffing formula followed works directly against the provision of these elements. Can the Minister indicate which areas of the curriculum should be deleted by a school that finds itself in the position of courses having to be deleted?

**The Hon. LYNN ARNOLD:** As I indicated to the member for Newland with respect to the school mentioned by him, and also bearing in mind the concerns expressed to me by the member for Albert Park and the member for Henley Beach, I am asking the department to provide me with a report of the likely curriculum impact with respect to each school where there will be a significant proposal to displace staff. I say 'proposal', because the final figures may not be anywhere near as great owing to voluntary retirements, transfers, applications for leave, etc.

The experience over previous years indicates the figures that are now being talked about are the worst option figures. In relation to Taperoo High School, the 1985 estimate for enrolments was 700 and for 1986 the estimate is 640, which is a decline of some 60 students, resulting in a proposal to remove 4.4 salaries from that school. As I understand it, the 1985 staffing of the school was 58.5, and the 1986 staffing is 54.1. They are the figures that I have available. That decline of 4.4 in the staff numbers would still result in an improved pupil-teacher ratio for the school.

I note the concerns raised by the member for Semaphore, and I have given the undertaking that we will examine every situation where there is likely to be a severe curriculum impact. If there is a severe curriculum impact, we will do what we can to cushion that. What is the answer to the question put by a school that does not have an enrolment decline and ends up with student numbers that are at the lower level equivalent to what the school will now get for 1986? Should it be then entitled to ask for extra staff that the other school is able to keep, even though it has experienced a decline of 50, 60 or 100? That is a pertinent question that has a cost to it. It may have a valid answer: yes, you put the extra staff in; but, as I have said, the cost in 1986 would be of the order of $18 million. That is the point that needs to be considered.

Even though we as a Government have maintained teacher numbers and even though there has been a decline from 1982 to 1986 of some 16 000 students in our education system, those extra salaries have been targeted in a number of areas to improve educational conditions throughout all our schools in South Australia. Class sizes are smaller in this State in secondary and primary schools compared to what they were in 1982. More effort is spent on retraining teachers in servicing to meet new curriculum demands, including the aspect of changing technology. For example, resource centre staffing in primary schools is much better than it was previously and special programs also have been targeted that otherwise could not have been developed.

Special education is a vital area needing further development in this State. Aboriginal education, multicultural education and many other areas that I will not mention now have all been possible because we have maintained teacher numbers and, as enrolments declined, we have deployed staff to those programs. That is precisely what will happen with the 250 liberated positions, as we refer to them, that take place because of enrolment decline between now and the beginning of next year. They will be redeployed in educational programs supporting what is happening in the schools of this State and Taperoo High School nonetheless than any other school will therefore benefit consequentially by the improvement of the education system in South Australia.

A specific point raised by the honourable member was what happens if the school does not cooperate: I would strongly regret that situation, and I would have to say that it would indicate a lack of willingness to participate in a procedure that was agreed between the Education Department and the union representing teachers in this State, the Institute of Teachers, whereby there are set processes that have to be followed with respect to displacement. Other schools in this State are following these procedures. I am not saying that they are happy or not anxious about it, because they are anxious, and I am not saying that they are not sending letters of concern to me, because they are, but they are doing what has been agreed a number of years ago by the union and by the department.

It would be sad if one school in this State chose to opt out of that jointly agreed arrangement between the union and the department. If a school does not decide to denote any teacher position as eligible for displacement then, under the guidelines that have been laid down as a result of those union and department discussions some years ago, guideline number 4.6 is put in place. That guideline states that the Superintendent of Staffing for the area then nominates a position that shall be displaced in that school. That is not a happy situation. It is always preferable for the school to work it out in its own processes, and many schools over a number of years have done that.

I sincerely hope that Taperoo High School will do exactly the same as that. I repeat the point that, when I get from the Acting Director-General the report which I am expecting today or tomorrow, we will have a close examination of severe curriculum impact, and if cushioning needs to be done we will do whatever is possible.

## QUESTION ON NOTICE

**Mr BECKER:** Will the Premier say when the answer to question on notice No. 177 will be provided to the House, and what is the reason for the delay?

**The Hon. J.C. BANNON:** That will be provided as soon as all the appropriate information can be collated. It is not an easy question to answer, quite frankly, because it requires—

*Members interjecting:*

**The Hon. J.C. BANNON:** This is so with many of the honourable member's questions, not because of one not being prepared to put all the time, energy and work into obtaining information (which is there in departments, and so on) but to do it really has to be judged in terms of the priorities of resources. This is a thing that I find very interesting. The honourable member claims that he is something of a watchdog of waste and mismanagement in the public sector. He has said on Public Accounts Committees, and so on, that this or that must be properly investigated—and quite rightly, I am not disputing that, nor am I disputing the right of members to put on notice whatever questions they like. However, the fact is that the member for Hanson has loaded the Notice Paper with all sorts of questions that require enormous resources to answer them. We could look across the whole range.

I would suggest that in some instances one could wonder what on earth, apart from idle or simple curiosity, could be the reason for the honourable member's wanting the Government to expend all these public resources tracking down this great range of information: there they are, page after page. We are doing our best to respond to the honourable member's questions. I would say that millions of words in the answers have been churned out to the honourable mem-

ber over the past couple of years, and we will continue to do so.

**The SPEAKER:** I call the honourable member for Albert Park, and draw his attention to the time.

## NORTH TERRACE TRAFFIC

**Mr HAMILTON:** Will the Minister of Transport investigate the possibilities of reducing the traffic bottlenecks that occur on North Terrace, specifically between Morphett Street bridge and King William Street? A number of my constituents have stated that they have experienced delays along North Terrace during certain times of the day, and have suggested that traffic flows could be increased by the use of point duty police officers near the Adelaide Railway Station and the North Terrace-King William Road intersection. Moreover, my constituents have stated that they are aware that motorists can reasonably expect some delays because of the redevelopment that is occurring at and opposite the Adelaide Railway Station, but they would appreciate any reduction in the delays that currently occur.

**The Hon. G.F. KENEALLY:** I am pleased that the honourable member pointed out in his question that the ASER development being undertaken and that which is occurring across the road at what I think used to be called the black hole are developments which are very much in the interest of South Australia. However, they will have some effect on the traffic flow on North Terrace. I am not aware of any unreasonable delays as a result of those developments, although I appreciate that some will occur.

As a result of the honourable member's question on behalf of his constituents I will discuss this matter with the Adelaide City Council, which has certain responsibilities in relation to major roads within the city square. I shall also discuss the matter with my colleague the Minister of Emergency Services to see what the police believe ought to be done in terms of improved traffic flow and whether that can be effected. Further, I will discuss the matter with the Highways Department and the Road Traffic Board which have expertise in such matters. If improvements to the traffic flow can be effected by decisions of the Government or the Adelaide City Council, I shall seek to find and implement them. I thank the honourable member for his question, and assure him that this matter will be treated with the utmost urgency. The people who have experienced what they regard as unreasonably long delays can be assured that what action can be taken will be taken.

**The SPEAKER:** Order! The time allotted for questions has expired.

## PERSONAL EXPLANATION: PRESS REPORT

**Mr M.J. EVANS (Elizabeth):** I seek leave to make a personal explanation.

Leave granted.

**Mr M.J. EVANS:** I claim to have been misrepresented in an article on page 1 of the *Advertiser* of today's date. The article referring to the member for Semaphore and me implies, and I quote, 'They seemed to be divided on their approach yesterday.' This is in relation to the matter of the Ombudsman. The article seems to imply that in some way I was unsure of my position on this important matter. This position has since been repeated in the *News* of today's date, in what is obviously simply a pick-up of the *Advertiser* article, without any consultation with me. The article goes on to speculate on the consequences in this House of the possibility that I would support the Government in opposing the dismissal of the Ombudsman, assuming that to be the case, and that the member for Semaphore would vote with the Opposition, assuming that they were to demand her removal.

I make clear to the House that, in relation to the reporter who contacted me yesterday about this matter, I advised him that I considered that a proposal for the removal of the Ombudsman, were it to come before this House, would mean that members would be acting in what amounted to a *quasi*-judicial fashion in making their judgment as to whether or not the petition for the removal of the Ombudsman should be adopted. Accordingly, I explained that it would be quite inappropriate for me at this stage to express a clear view before I had studied all the relevant material as well as the Ombudsman's reply to any charge that might be raised against her. Any other course of action, in my personal view, would be an abrogation of my responsibility to act in a judicial manner in relation to this matter.

My view in relation to this issue has been confirmed by the material now before the Parliament, and in particular the opinion of the Solicitor-General. Any speculation about a possible 'division' between the member for Semaphore and me is just that—ill-informed speculation. I have formed certain views on this serious matter and these views will no doubt be refined or possibly even revised during the course of the next few days as further information becomes available. I consider it most unfortunate that the *Advertiser*, and now the *News*, have chosen to regard my position in this matter as being in some way indecisive or different from that of the member for Semaphore. My personal views will be made known in the strongest possible terms at the appropriate time and in this Parliament.

## LEAVE OF ABSENCE: CLERK OF THE HOUSE OF ASSEMBLY

**The Hon. D.J. HOPGOOD (Deputy Premier):** I move:

That one week's leave be granted to the Clerk of the House of Assembly on account of absence on Commonwealth Parliamentary Association business.

Motion carried.

**The SPEAKER:** During the Clerk's absence and under Standing Order 30, his duties will be performed by the Clerk Assistant, and I have appointed the Second Clerk Assistant to carry out the duties of Clerk Assistant and Sergeant-at-Arms.

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**The SPEAKER:** Call on the business of the day.

## MENTAL HEALTH ACT AMENDMENT BILL

Second reading.

**The Hon. G.F. KENEALLY (Minister of Transport):** I move:

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

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

Leave granted.

### Explanation of Bill

The purpose of this Bill is to clarify the law in relation to consent for medical or dental procedures performed on mentally ill or mentally handicapped persons. It is intended to clarify the law in four main areas—consent in relation to mentally ill or mentally handicapped minors and adults,

consent to psychiatric treatment, consent to sterilization and termination of pregnancy and consent to emergency procedures carried out on persons unable to consent.

As honourable members may be aware, a similar Bill was introduced into the Legislative Council in December 1984, and was, on the motion of the Minister of Health, referred to a select committee, in order that parents and other interested parties could have the opportunity to put their views forward.

Parliament was prorogued on 20th June, 1985 but the committee was empowered to sit during the recess and beyond to complete its deliberations. The original Bill, of course, lapsed due to the prorogation and the committee recommended that a new Bill incorporating its recommendations be introduced. The Bill before honourable members today reflects the select committee's recommendations.

The Bill, as was its forerunner, is based on the recommendations of the Working Party on Consent to Treatment and the Bright Committee on the Law and Persons with Handicaps.

Both the Bright Committee and the Working Party on Consent to Treatment noted that there were many situations where a person's mental incapacity meant that he or she was unable to give a valid consent to treatment. In those situations, particularly in the case of adults, there was often no one else with clear authority to consent on behalf of that person.

Both reports saw the Guardianship Board as playing an important role in clarifying such authorities, and recommended that the board be empowered in some situations to authorize others to consent to treatment on behalf of persons unable to give an informed consent, whether or not such persons were under the guardianship of the board. The select committee supported that principle.

Perhaps the most controversial issue involving consent to treatment is sterilization. It is evident that sterilization of mentally handicapped persons does occur even though they have no capacity to consent. Those who purport to consent on their behalf have doubtful legal ability to do so in the case of minors, and none at all when they turn eighteen. As the late Sir Charles Bright stated in the introduction to chapter 5 of the Second Bright Report on the Law and Persons with Handicaps:

> Sterilization, both of children and adults, certainly appears to have occurred without a clear knowledge of the law relating to sterilization, which casts doubt on the right of a parent or careprovider to consent to non-therapeutic sterilization on behalf of another. And it seems clear that such action is often taken to relieve parents or careproviders of concern for the future, rather than for the benefit of the person involved.

This has been a matter of concern to the Guardianship Board, which has been called upon to consider whether persons have the capacity to consent to sterilization without clear power to make decisions in this area.

Both the Bright Committee and the Working Party on Consent to Treatment considered that the board should have clear power in this area, and that it should not be able to delegate such a significant decision.

In relation to termination of pregnancy, during drafting of the original Bill, and taking account of Crown Law advice, it was considered that termination of pregnancy should be dealt with in the same manner as sterilization.

The select committee was made aware that some parents of intellectually disabled persons did not fully agree that the Guardianship Board should make decisions regarding sterilization and termination, and saw it as taking away their rights. In fact, the law at present does not provide them with any clear legal rights in respect of adults.

The select committee, however, considered that the legal right of a person over 16 to consent to treatment should not be taken away or assumed by another person unless the matter had been considered in an objective, impartial forum.

The Bill therefore provides, as did the original Bill, that sterilization and termination of pregnancy are not to be carried out without the consent of the Guardianship Board on persons suffering from mental illness or mental handicap, and who are, by reason of that illness or handicap, incapable of giving effective consent.

In instances where in the opinion of the board sterilization is not therapeutically necessary, the board must take a number of specific factors into account before it gives consent. It must be satisfied, for instance, that there is no likelihood of the person acquiring the capacity to give effective consent, that the person is capable of procreation, that no other method of contraception would be effective, and in the case of a woman there is no other way of dealing with problems associated with menstruation.

In relation to termination of pregnancy, the board must be satisfied that such termination would not constitute an offence under the Criminal Law Consolidation Act and there is no likelihood of the person gaining the capacity to give effective consent within the time available for the safe carrying out of a termination.

It should be noted that the board is unable to delegate power to consent to sterilization or termination of pregnancy.

The select committee was concerned to reassure parents and has recommended several amendments to strengthen the involvement of parents. Firstly, it is made clear that parents can initiate applications to the board. Secondly, parents are given the opportunity to appear before the board when it is determining an application for either a sterilization or termination procedure. (The earlier Bill had provided this right only in relation to sterilization.) Some discretion is, however, left with the board in not involving parents where it would be inappropriate in the best interests of the person.

Thirdly, an appeal is made available to parents against decisions of the board concerning sterilization or termination procedures. The appeal is to the Mental Health Review Tribunal, and is to be made within two working days of the board's determination for a termination procedure and one month for a sterilization procedure.

The decision of the board will have no force until the expiration of the period during which an appeal may be lodged, and in the case where an appeal has been lodged, until the appeal has been determined. The decision of the tribunal in these two matters may not be appealed against. Both the board and tribunal must deal with matters relating to termination of pregnancy as expeditiously as possible.

As was the case in the original Bill, this Bill ties in with the Consent to Medical and Dental Procedures Act 1985.

In relation to a person under 16 years of age, the Bill provides that a parent can consent to medical or dental procedures for a mentally ill or mentally handicapped person (except sterilization or termination of pregnancy for which consent can only be provided by the Guardianship Board).

In relation to persons of or above 16 years, the Guardianship Board can provide consent for all medical and dental procedures including sterilization and termination of pregnancy. Applications may be made by a medical practitioner or dentist proposing to carry out a procedure, a parent of a person or any other person whom the board considers has a proper interest in the matter.

There is power for the board to delegate its power of consent (except in relation to sterilization or termination of pregnancy and except to a person directly involved in carrying out the procedure). It is anticipated that, for example, the person in charge of an institution may carry that dele-

gation for routine procedures. This would ensure that proper consent can be provided for persons in the absence of a Guardianship Board hearing.

In relation to emergency situations, the Bill follows the Consent to Medical and Dental Procedures Act 1985 and allows treatment in an emergency where two medical practicioners agree that the procedure is necessary to meet imminent risk to the person's life or health and is not contrary to any clearly stated refusal of treatment.

In relation to psychiatric treatment, the Bill proposes to clarify who can consent to certain psychiatric treatments upon a patient.

The present Mental Health Act sets out certain consent procedures for specified categories of psychiatric treatment for example, psychosurgery and electroconvulsive therapy, in relation to patients under detention orders in approved hospitals. This Bill extends the application of the consent procedures to cover any patient anywhere.

In other words, the consent protection will apply whether a person is a detained patient in an approved hospital or whether a person is a voluntary patient in an approved hospital or elsewhere.

In addition, the question of who consents to such treatment is rationalized, in light of the proposal to involve the Guardianship Board in this area.

An important inclusion by the select committee is the increase in penalties for an indictable offence from $2 000 (or one year's imprisonment) to $5 000 (or one year's imprisonment). The undertaking of prescribed psychiatric treatment without proper consent constitutes an indictable offence, as does the carrying out of a termination or sterilization procedure without the consent of the board (except in an emergency).

I believe that it is important for the dignity of mentally ill and handicapped persons that the rights of others to make decisions on their behalf be soundly based in law. This Bill achieves that purpose.

I am aware, as I have indicated, that some parents of mentally ill and mentally handicapped people opposed the legislation. In order to afford them the opportunity to express their views and in the hope that the matter would be dealt with in a bipartisan fashion, the select committee was set up to consider the implications of the Bill. I believe it has made sound decisions based upon consideration of the many submissions it received from interested persons and groups in the community.

The select committee recognized that the Bill enters a new area of legislation. In order to assess the impact of the legislation, a clause has been inserted requiring the Minister of Health to review the operation of Part IVA after the expiration of two years from its commencement and report to Parliament.

In addition the Government will ensure that there is a delay of three months before the legislation is brought into force to enable education and preparation for its introduction to occur.

Clauses 1 and 2 are formal.

Clause 3 defines "consent", "dental procedure", "medical procedure" and "parent" in the same terms as the Consent to Medical and Dental Procedures Act passed earlier this year. Other necessary definitions are provided, including a definition of "sterilization procedure" as being any procedure that results, or is likely to result, in the patient being infertile.

Clause 4 amends a heading.

Clause 5 amends the provision that currently places restrictions on psychosurgery and shock treatment of patients detained in approved mental hospitals. Firstly, the provision is widened to cover the voluntary patient as well as the detained patient, and is widened to cover patients in any hospital, whether an approved hospital or not. The question of consent to psychiatric treatment must be dealt with in respect of all patients, no matter how their original admission to hospital came about, and no matter which hospital they are being treated in. Secondly, the question of who consents to such treatment is rationalized, in light of the proposal to involve the Guardianship Board in this area. If the person is capable of giving consent (whatever his age), then his consent must be given before the procedure in question can be carried out. If he is not so capable, then a parent's consent must be obtained if the patient is under sixteen, and the Board's consent if he is sixteen or more. This provision has effect notwithstanding the later provisions dealing generally with consent to medical treatment. A person who contravenes this section will be guilty of an offence carrying a penalty of a fine not exceeding $5 000 or imprisonment for a term not exceeding one year (see section 49 of the Act).

Clause 6 inserts a new Part that provides a code for the consent to medical and dental treatment of mentally incapacitated persons. New section 28a provides that the Part applies to such persons. New section 28b provides that the consent of a parent is effective in respect of treatment of a mentally incapacitated person under sixteen years of age, except that a parent cannot consent to the carrying out of a sterilization or abortion on his child, no matter what the age of the child is. The consent of the Board is effective in respect of sterilization or abortion, providing the consent is given in accordance with the Act. The consent of the Board is similarly effective for all medical and dental procedures carried out on mentally incapacitated adults (i.e. persons of or over sixteen years of age). The board's consent to a procedure may only be sought by the relevant medical practitioner or dentist, a parent or any other person who has a proper interest in the matter. New section 28c creates an indictable offence where a medical practitioner carries out a sterilization or abortion without the consent of the Board (except in situations of emergency). The penalty for such an offence is $5 000 or one year's imprisonment.

New section 28d sets out the basic steps to be taken by the board in determining an application for consent to carrying out a sterilization or abortion. The patient must, if it is practicable to do so, be given an opportunity to be heard. A parent must also be given such an opportunity, except where the parent cannot be found, or where it is not practicable to give the parent such an opportunity or where it would not be in the best interests of the patient to do so. Other persons who satisfy the board that they have a proper interest in the matter must be heard. The wishes of the patient must be considered, and the board must bear in mind the object of keeping interference with the person's rights to a minimum. Applications relating to abortions must be dealt with speedily. New section 28e deals with consent to sterilization. If the board is satisfied that the proposed procedure is therapeutically necessary, it may give its consent. If it is not so satisfied, it may give its consent only if it is satisfied that the person is permanently mentally incapacitated, is capable of procreation and is either sexually active and no form of contraception would be workable or, in the case of a woman, cessation of her menstruation would be in her best interests and would be the only viable way of dealing with the problems associated with her menstruation. The board must also have no knowledge of any refusal given by the person in respect of the procedure while the person was capable of giving consent. A consent is suspended until any appeal is determined.

New section 28f deals with consent to termination of pregnancy. If the board is satisfied that the carrying out of the procedure would not constitute an offence under the Criminal Law Consolidation Act, and that the woman is

likely to acquire the mental capacity to consent during the period in which she may safely be aborted, then the board may give its consent. Again, the board must have no knowledge of any refusal given by the woman while she had the mental capacity to consent and the board's consent is suspended pending the determination of any appeal to the tribunal. New section 28g provides for emergency treatment of mentally incapacitated persons. This provision is similar to the relevant provisions in the Consent to Medical and Dental Procedures Act. If there is imminent risk to a person's life or health in the opinion of two medical practitioners, or of one medical practitioner where it is not practicable to get a second opinion, then the person is deemed to have effectively consented to the carrying out of the procedure. Where the person is under sixteen and the procedure is not a sterilization or abortion, a parent must be contacted if possible, but the procedure can be carried out with impunity despite the refusal or failure of the parent to give consent.

New section 28h enables the board to delegate its power of consent, except in relation to a sterilization or abortion. A delegation may not be made to a medical practitioner or dentist who is likely to participate in carrying out the medical or dental procedure. New section 28i provides that the consent of the board or its delegate must be in writing. A document purporting to be a written consent is conclusive proof of the consent and of the validity of the consent, thus protecting the medical practitioner who has no means of ascertaining whether the board has complied with all the provisions of the Act in giving its consent. Provision is also made for evidence of a delegation by the board. New section 28j provides that the requirements of this Part are in addition to those of any other enactment (e.g. the Transplantation and Anatomy Act). New section 28k requires the Minister to have the operation of this new Part reviewed after two years and to table the resulting report in both Houses of Parliament.

Clause 7 amends the appeal provision. Any determination made by the board on an application for its consent to a sterilization or abortion may be appealed against by the person on whom the procedure is to be carried out, a parent of the person or any other person who has a proper interest in the matter. An appeal that relates to a proposed abortion must be commenced within two working day's of the board making its determination. All other appeals must be lodged within one month. The Tribunal must give priority to any appeal relating to an abortion.

Clause 8 provides that a decision of the Tribunal on an appeal relating to a sterilization or abortion may not be appealed against.

Clause 9 increases the penalty for an indictable offence from $2 000 to $5 000. Up to one year's imprisonment is, of course, still an available penalty.

**The Hon. B.C. EASTICK** secured the adjournment of the debate.

## PARLIAMENTARY SUPERANNUATION ACT AMENDMENT BILL

(Adjourned debate on second reading.)
(Continued from 19 September. Page 1067.)

**The Hon. B.C. EASTICK (Light):** The Opposition supports the Bill, which makes a number of necessary amendments to the Parliamentary Superannuation Act, especially as they relate to the double dipping that has occurred recently with movements from one Parliament to another.

The Bill provides for five major amendments that seek to correct future double dipping and ensure proper reporting procedures to the Parliament. It also corrects two special cases where sitting members may be disadvantaged in future upon retirement.

We support the requirements that trustees report annually on or before 30 September to the Treasurer, as it reflects the desirability of accountability to Parliament and hence to the electors, and has been a deficiency in the conduct of the Act over many years. We also support a correction of the situation where a member who has held certain offices during his time in Parliament may have paid into the scheme in accordance with those offices but at some time after holding such office the salary level of the office has been reduced. Such a situation may result in a retiring member being disadvantaged because, although he has contributed at the higher level, the scheme formerly ruled that superannuation benefits be paid at the salary level of that office at the time that the member retires.

We agree with the correction of instances of double dipping, particularly highlighted by recent events when a member from this place sought election and was successful in moving to the House of Representatives. New section 19(1) reduces the pension payable by the amount of salary that the pensioner receives if he occupies a prescribed office or position. I would like clarification from the Minister as to the exact meaning of the term 'prescribed office' in the Bill as it should perhaps be more clearly defined as 'membership of another Parliament'. This is not clear in new section 19(7). Nevertheless, the clause provides for a far more comprehensive treatment of double dipping and is supported in its totality.

I turn now to the question of disallowing the commutation of a pension while a member pensioner who has retired from the South Australian Parliament and has been elected to another Parliament is in receipt of or entitled to superannuation from another Parliament. This move is also supported, as this is a valid point and one which, again, avoids double dipping.

The Opposition supports clause 10 which relates to a situation where a court of disputed returns may declare a former member who has lost his seat in a general election to be duly elected, or where a former member is re-elected in a subsequent by-election following a court decision declaring the prior election result void. However, I question the Government on one aspect of this matter in relation to a situation which might occur if a sitting member attains the six-year requirment for pension purposes shortly after a general election but a court of disputed returns declares the result void and the member is subsequently defeated; that is, the general election result is reversed.

For the purposes of calculating eligibility under the six year qualifying period, when is that period deemed to have been reached? Is it when the member was effectively elected, or when the member is determined by a court not to have been elected resulting in a loss of tenure from the earlier date (although with the experience of this Parliament in the past the person having been stated to be elected at the election does receive his remuneration immediately from the day of the election)?

On that basis, I suspect that one might answer the question oneself, but I believe that it is necessary to be quite clear, for the purpose of the Parliamentary Superannuation Fund, that if an election is deemed to have failed, even after a person has been duly given notice of having been elected and he did qualify before the court determination was made for his six years of service, that that six years would be guaranteed. He would, of course, have continued to pay or been called upon to pay for the superannuation

relating to that period of time. With those comments, the Opposition supports the Bill.

**The Hon. D.J. HOPGOOD (Deputy Premier):** I thank the honourable member for his support of this measure. In relation to the second of the two matters that he has raised, I have not yet had a chance to get specific advice. It is a fairly technical matter. It may be helpful if he raises it in the context of the specific clause, and I will then get whatever advice is immediately available.

In relation to new section 19(1), the member asked whether it would be more appropriate if we talked about a 'member of another Parliament' rather than 'prescribed office'. This, as I understand it, merely retains the verbiage that exists in the present Act with the prescription taking place in the normal way. If the honourable member wants to pursue that matter further in Committee we may be able to get a closer definition of it.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

**Mr BECKER:** Subclause (3) of this clause provides that section 10*(c)* and *(d)* will be deemed to have come into operation on 1 July 1979. I take it that that section relates to one of the beneficiaries under this new legislation. Superannuation is something very personal and any person enjoying the benefits of employment today seeks some form of security. If they cannot obtain security then they look for something to back-up that lack of ultimate security in their employment. Therefore, superannuation becomes quite valuable to most people who are prepared to contribute to it.

Members of Parliament pay approximately 11½ per cent of their salary plus any other parliamentary salary received, so it does not come cheaply. I question the real principle of our having to backdate this legislation to 1 July 1979. I have always believed firmly in the principle of opposing retrospectivity. I am opposed to retrospectivity so far as it affects the community and the taxpayers of this State. I believe that I have to be consistent in opposing retrospectivity as outlined in this clause. Will the Minister explain who will benefit from this and why it is deemed necessary to use this date?

**The Hon. D.J. HOPGOOD:** I need do no more in relation to the specific question that the honourable member raises than point him to the second reading explanation which appears in *Hansard* and in which it is made perfectly clear that this relates to the 1980 by-election in the seat of Norwood. The retrospective operation provision will ensure that the present member for Norwood benefits from this amendment. That matter was made perfectly clear when the legislation was introduced.

I am sure it is possible to make a distinction between retrospectivity that penalises individuals on the one hand and retrospectivity that provides a benefit which, all things being equal, that person should have received. I would have thought that I need do no more in respect of that matter than to direct the honourable member's attention to the report of the Court of Disputed Returns on that occasion. I am not sharing new knowledge with the Committee—that was all made clear to the House when the second reading explanation was given—

**Mr BECKER:** The second reading explanation stated:

> The Bill seeks to correct the situation by granting notional service in respect of the period of time that the member was unable to resume his seat. Contributions covering the period are to be paid to the fund and any benefits paid, if any, to the member must be repaid to the fund. The amendment makes the change retrospective to 1 July 1979 to cover a case which arose in 1979.

That was the September 1979 election, if I remember rightly. So, going back to 1 July is a little wider than September. There are certain points in this—it provides for notional service for somebody who was defeated at the September 1979 election, irrespective of what decision was taken after that event.

Let us also look at the situation with a by-election being held in February or March 1980, when the climate was not the same as it was in September 1979. We could argue all day, irrespective of the judgment, as to whether the political climate in September 1979 was exactly the same as that which existed at the time of the by-election in 1980. Will the Minister say how this can be adjusted if the member who was defeated in the 1979 election was not paid between September 1979 and the February 1980 by-election? How could a notional adjustment be made if that member was not paid? If he did not earn any money how could he make a contribution?

**The Hon. D.J. HOPGOOD:** That is predicated against the assumption that the election of the other person, Mr Webster, as I recall, was valid. In fact, the court found that it was invalid and that Mr Crafter had been, as it were, invalidly defeated as a result of that election. The difference in political climate between the end of 1979 and early 1980 really makes no difference to the overall situation. The position is as was found by the Court of Disputed Returns. We are now, in effect, fixing up that anomaly.

The other point that has to be made is that the member for Norwood will be making a contribution in respect of that period when it is now deemed that he was in effect the member. So, the broader aspects of the Act—the 11.5 per cent or whatever is the technical amount—is or will be satisfied. If that has not yet occurred it is because the Parliament has not yet spoken on the matter and there is no final resolution on what is before us. When that has been resolved (that is what the Government would hope, as it is putting the measure before the Committee), an adjustment will be made.

**The Hon. P.B. ARNOLD:** In that case, if Mr Crafter was deemed to be the member, did the Government seek a refund from Mr Webster?

**The Hon. D.J. HOPGOOD:** I am advised that Mr Webster was given a refund of the contribution paid during that period.

**The Hon. P.B. ARNOLD:** That was not the question—I asked whether Mr Webster was requested to refund the money that he was paid as a member of Parliament, as the Government is claiming that he was not a member of Parliament and that, in fact, Mr Crafter was the member. We cannot have two members in the one seat.

**The Hon. D.J. HOPGOOD:** I have no information about that. I do not think it is really pertinent to the debate before us.

**Mr BECKER:** It is vital as far as I am concerned and should be of great concern to the taxpayers of this State, although it will not be as it will not be reported. We are passing legislation to enable a member of Parliament to make a contribution to the superannuation fund for the time that he was not here. It is unfortunate that the tribunal decided that he was illegally defeated, but the point is that that is history.

*The Hon. P.B. Arnold interjecting:*

**Mr BECKER:** Yes, we cannot have two members of Parliament at the same time, as the member for Chaffey is now interpreting the clause. I also interpret it that way, to some degree. I want to know how a member of Parliament—in this case the Minister of Community Welfare (Mr Crafter)—can make a payment on a salary that he did not receive. Has he been compensated for that period during

which he was not the member, namely, from September to the by-election? Was some compensation paid to him?

**The Hon. D.J. HOPGOOD:** The answer is 'No'. I do not know that I can help honourable members very much more than I have already helped them. If honourable members are suggesting that the Government should send an account to Mr Webster—wherever he might be—requesting a refund of salary for that period, that is a strange and novel way to proceed. We are endeavouring to ensure that, during the period when it can be cogently argued in law that Mr Crafter was a member of this place (and this was subsequently underwritten by the electors of Norwood, but that is another matter), at least the matter of superannuation has been resolved. To go further and suggest, as it were, that Mr Webster refund that money and that Mr Crafter get it instead would be a rather novel avenue down which to run. The Government is not suggesting that. The Government does not think that it is pertinent to go down that track, but it does think that it is reasonable, in the light of all the circumstances, including particularly the decision of the Court of Disputed Returns, that what we are doing here now be done.

**The Hon. B.C. EASTICK:** We must accept that there is the presumption that the person who was elected at the end of the election was a member until the result of that election was upset and that therefore any benefits accruing will remain with that person. I genuinely believe that to be the case in relation to Mr Webster. Although earlier representations were made that the period of time that a former member was out of the House should be considered as a period for the payment of an income, this was denied and, to my knowledge, has continued to be denied. One would have to presume that, to reap the benefit of the provision made in the alteration to the Act, at least 11.5 per cent of the salary that would have been earned, had that person been a member of the House, would be a necessary payment to be made into the scheme to allow him to benefit from the retrospective benefit. That is a reasonable presumption and an alteration which, if not provided for in the Bill that we are considering, ought to be taken.

I do not think it is necessary; I think it is there. We find that for a period, in the sense of superannuation benefit, two persons occupying the one seat are involved. Invariably, it is only a short period. I think that the Court of Disputed Returns was determined inside three months. It is an aberration of that particular election, and it is open to members on both sides of the political spectrum to seek respite. Having given due consideration, as a former trustee of the Parliamentary Superannuation Act, to the Bill currently before the House, I believe that the majority of people would look upon that as a reasonable action on the part of the trustees.

Clause passed.

Clauses 3 to 5 passed.

Clause 6—'Repeal of section 19 and substitution of new section.'

**The Hon. B.C. EASTICK:** When responding to the second reading, and using someone else's notes prepared for the occasion, I referred to clause 19(7), but in fact there was no such clause. I believe that it was a misprint in the document that was made available to me. Although there is no clause 19(7) in the original, there is a provision relating to prescribed office or position. We find that two prescribed offices are identified in the Bill. In 1978 there was an alteration to the Act when a prescribed office was determined for the Parliamentary Superannuation Act. It provides:

'Prescribed office' means an office or position in respect of which additional salary is payable.

That related to section 5 of the principal Act, as inserted by Act 112 of 1978, which was assented to on 7 December 1978.

In this case, we are giving a further definition of 'prescribed office' although it refers to 'prescribed office or position'. The question raised by the respondent to the Bill should perhaps be more clearly defined because of the double dipping aspects in relation to service in another Parliament. Has the Government any reason for somewhat confusing the position by having two interpretations of 'prescribed office' in the one Act?

**The Hon. D.J. HOPGOOD:** I accept that there would appear, on first view, to be some confusion in drafting here. However, it is important to understand that clause 6 does not address only the matter of a person coming from another Parliament into this Parliament. Clause 7 addresses very specifically the matter of a person moving from our superannuation scheme to the Commonwealth parliamentary superannuation scheme. Clause 6 looks at traffic in the other direction—not only from the Commonwealth but also from the Judiciary or other such areas where pension schemes operate that are not dissimilar to the one that is operated to the benefit of the members of this Parliament. That is the reason for using the broader term, rather than the narrower term which the honourable member more or less canvassed in his second reading speech.

If there was some other way of providing a verbiage which might get around this, well and good, but I assume that the prescription would only be by the normal course of subordinate legislation, and that subordinate legislation would, of course, make clear exactly what we were talking about. So, I do not lack sympathy with the honourable member's suggestion, but I think that any alternative to what we have here would certainly have to be broader in scope than simply referring to a member of another Parliament.

**Mr BECKER:** How many former members of State Parliament who then went to the Commonwealth Parliament are now in receipt of a small superannuation benefit, and how many are likely to be in receipt of superannuation? I take it that this clause prevents double dipping where a member could retire from this Parliament, take the maximum lump sum to which he is entitled, leave behind a small pension, go across to the Commonwealth Parliament and start up again. I imagine that this clause stops that. However, I believe that there may be previous members of State Parliament who have gone on to the federal scene or who may have retired but who are also drawing pensions from the State and Commonwealth parliamentary superannuation schemes.

**The Hon. D.J. HOPGOOD:** Having taken advice on this matter, I think the only situation in which this could arise would relate to the Deputy Governor. Regarding movement from one jurisdiction to another, the traffic tends to be in the other direction. As this stage, I cannot think of any member of State Parliament who has been in the Commonwealth Parliament; nor can I think of any member of State Parliament who has moved from another jurisdiction—in the sense in which I have been using that term—from the Commonwealth or State Judiciary, for example, to the State Parliament.

So, what is important about clause 6 (and this relates also to the consequential clause, namely, clause 9) is that it is not something that has been raised in respect of a particular problem, which is what clause 7 canvasses, as does the previous clause that we have been discussing (clause 2).

Also, as I recall, a further clause relates to Mr DeGaris in another place. Those clauses have become known in the parlance of this place as being the 'so-and-so clause', with reference to the particular individual concerned. However, here the matter of double dipping relates to the general

principle at issue rather than a specific problem relating to a specific individual.

**Mr BECKER:** I agree: it virtually complements Commonwealth legislation to stop the double dipping in relation to superannuation. It stops someone getting the better of both Parliaments.

**The Hon. D.J. HOPGOOD:** I understand that discussions are being held with the Commonwealth to determine whether complementary legislation is required. In this case, it is important that we get our own house in order.

Clause passed.

Clauses 7 to 9 passed.

Clause 10—'Provisions as to previous service.'

**Mr BECKER:** I take it that this clause makes it possible for beneficiaries under the legislation to receive additional superannuation. Again, the principle of making the legislation retrospective to 1968 does not impress me. Indeed, I am cross that we must support this provision in order to get the Bill passed. I should like to know what it will cost the fund in terms of payments to the two main beneficiaries. How much is it expected that each will receive? I ask this question especially as one member is about to retire.

**The Hon. D.J. HOPGOOD:** I do not have that information with me but it can be obtained for the honourable member.

**The Hon. B.C. EASTICK:** I cite the case of the present member for Norwood and seek to ascertain the position that would apply in the event of any irregularities that existed through no fault of the member deemed to have been elected. Would the Government meet that person's superannuation entitlement? The Opposition would regard anyone actually responsible for perpetrating such irregularities as being ineligible.

**The Hon. D.J. HOPGOOD:** There is no problem about the policy that would be applied by the Government. Further, the statutory entitlement is clear. This Government would certainly not interfere with that entitlement in the circumstances outlined by the honourable member.

Clause passed.

Clause 11 and title passed.

**The Hon. D.J. HOPGOOD (Deputy Premier):** I move:

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

**Mr BECKER (Hanson):** I wish to place on record my objection to the two main amendments in the Bill, because I believe that two members, unfairly, will benefit considerably from those amendments. I understand that one member will benefit by about $1 000 a year as a result of the back dating of the legislation and that, in superannuation terms, the other member will gain by 1 per cent on his final contribution, which will mean about five months at 2 per cent of his Parliamentary salary as defined by the Act. That could be worth between $300 and $400 a year to that member as well. I have always opposed retrospectivity, and to ask members to support the operation of this Bill back to 1968 does little credit to politicians in the eyes of the community.

Bill read a third time and passed.

## AUSTRALIA ACTS (REQUEST) BILL

Adjourned debate on second reading.

(Continued from 10 October. Page 1275.)

**The Hon. H. ALLISON (Mount Gambier):** As has been stated during the second reading debate in another place, this Bill is probably the most important constitutional legislation introduced into State Parliament since Foundation.

**Mr BECKER:** Mr Speaker, I draw your attention to the state of the House. I must do this, because the poor Minister has not one Government member in the Chamber to second his motions.

*A quorum having been formed:*

**The Hon. H. ALLISON:** The surprising feature is that, although this legislation has been discussed by Prime Ministers, by State Premiers, and by others over the past several years, only recently was the final draft of the Bill introduced in South Australia. Even then, we seemed to be trying to enact the legislation rather hurriedly. There has, in fact, been little or no consultation with leading legislative figures in this State. Indeed, the Opposition heard about the legislation and received it only when it was introduced in another place. I do not believe that there would have been much consultation with leading figures in the South Australian legal profession.

Apparently, the Government has a deadline to meet, either here or in the United Kingdom: it has a set timetable. During the later stages of the debate, can the Minister in charge of the legislation advise members of his timetable and say whether in fact South Australia is the only State that has almost finalised legislation, or whether other States have passed legislation so that the Commonwealth Bill can then be introduced and passed in order to meet some Commonwealth-United Kingdom timetable? As I say, it seems that South Australia has been hurried through this legislation and I would like to hear from the Minister the reason why.

As to the implications of this Bill, after consultation with a number of people around Australia and elsewhere, I find that there is a considerable amount of emotional if not factual opposition, and that seems to arise from the fact that this is one more step down the road towards alienating the Commonwealth of Australia and the Australian States from the United Kingdom. Whatever the Federal and State socialist Governments may believe, from the number of petitions that have been received in my office with regard to the national anthem, the retention of the flag, antipathy towards the possiblity of Australia becoming a republic, and the emotion generated by such suggestions, I know that many people in Australia feel that moves are being made too quickly to take Australia away from United Kingdom influence or association.

However, in this instance, with regard to the removal of the Privy Council from its current position as final arbiter in matters of legal appeal in Australia, the Liberal Party supports the legislation. I note that in the second reading explanation which was handed to the Leader and myself a few days ago there is some reassurance given on the first page. The Attorney-General emphasises at the outset that nothing in the legislation will impair the constitutional position of Her Majesty the Queen in the Government of each State and the Commonwealth of Australia. He says:

> On the contrary, as will appear later, the effect of the legislation will be to bring the Crown closer to the people and Governments of this nation since the Queen, instead of being formally advised on State matters by United Kingdom Ministers, will be advised by State Premiers.

He then goes on to say that most of these measures are to be effected by legislation to be enacted by the State, the Commonwealth and the United Kingdom Parliaments, the form of which has been agreed to by all Governments. As I said earlier, we are not quite sure why this Bill has to go through in such a hurry, because although there has been consultation over the preceding years at Premier and Prime Minister level, and between Attorneys-General, nevertheless this Bill really has been before the two Houses for a very short period, giving little opportunity for consultation with

the public. However, the legislation has passed in another place and is now before us for debate.

Essentially, this Bill deals with the abolition of appeal to the Privy Council in London. It means that Australia will not be controlled any further by external decisions. Also, it removes legislative restraints on States that will be able to legislate more broadly than at present. Another factor with which it deals is the appointment of State Governors. The appointment of State Governors is referred to in the second reading explanation, but in the legislation itself that matter does not appear to be dealt with. It probably does not need to be referred to, but it is a reference to the fact that essentially State Governors will not be appointed through negotiations between the Prime Minister and a Minister of Her Majesty's Government in the United Kingdom, but in future will be dealt with by direct negotiation and agreement between the Premier of the State and Her Majesty the Queen.

The second reading explanation refers also to the awarding of imperial honours. Again, that is a matter that does not appear to be part of the legislation, but it will be part of that tie between the State and Her Majesty. In that regard, too, the Premier of the day first has the option of deciding whether to double the opportunity of rewarding people within his or her State by allowing not only Australian but also imperial honours to be presented.

*Mr Klunder interjecting:*

**The Hon. H. ALLISON:** There are a few of us around—as long as the honourable member spells 'Sir' S-i-r and not c-u-r. As a former teacher I have no doubt that he would spell it correctly. I thank the honourable member for his solicitations, but nevertheless I have raised the matter for no selfish purpose. I raised it simply because, as a representative of an electorate, I have often bemoaned the fact that I would have only half the opportunity of commending or recommending people in my electorate for honours as a result of the State Government's decision to no longer seek honours from Her Majesty. I believe that that is a retrograde step, because there are many people in the community who would not really mind from whom the honour came. It is really the status behind even an Australian or imperial honour and the recognition that it gives for fine service that is important, but that is a philosophical point of view and Labor Governments across Australia have chosen not to commend people for recognition by Her Majesty.

The State legislation will enable the Federal Government, by request, to enact legislation on behalf of all States as well as itself and to then enact certain legislation defined in the schedules to the Bill. I understand that that legislation will be enacted in London some time next year. That may be the reason for the deadline being set to quickly push this Bill through.

I notice that requests and consents are to be not only by Parliament but also by Governments. I would ask the Minister to elaborate on the apparent subtle differentiation between 'Parliament' and 'Government'. Is there in fact a reason for requests being made by either instead of simply by Parliaments? I do not believe that the Attorney-General in another place answered that question that was raised during the debate in that place.

However, I commend the shadow Attorney-General (Hon. K.T. Griffin) for the diligent research he put into the Opposition's argument in another place, work which was recognised by the Attorney-General, who acknowledged the substance of the questions asked.

I do not propose to canvass all those questions during this debate, but I inform the House that a number of questions were raised and were satisfactorily resolved. Among those were the establishment of the position concerning the States Constitution Act following the passage of this Bill and the enactment of federal and United Kingdom legislation. A question was raised concerning how the ultimate federal and United Kingdom legislation would impact upon State legislation. It will no longer require, for example, Bills to be reserved for the Queen's assent rather than assent by State Governors.

Another question was whether appeals to the Privy Council have in fact increased over the past 12 to 18 months. We did of course enact legislation in South Australia to limit the statutory right of appeal to Australia's High Courts. In Opposition we believed that one logical outcome of limiting a person's or a body's statutory rights to appeal to the High Court would be that there would be a spate of appeals made to the Privy Council. We believed that that would happen, and that has happened interstate.

A couple of months ago when this matter was being debated in another place, the Attorney-General said that in South Australia there had not been a substantial increase in appeals to the Privy Council. I wonder whether over the past two months the Minister and the Attorney-General have been able to research this matter more fully and whether they can in fact allay the fears that we have that the loss of a statutory right of appeal to the High Court will not seriously affect the rights of all Australians when this legislation is passed. If there is no longer any recourse to the Privy Council, what happens at High Court level? Has that matter been redressed and, if not, will it be redressed so that Australians do have a statutory right of appeal to their High Court? It would appear to be an anomaly if that right is not given following the removal of the Privy Council appeals.

Another question concerned the possible cushioning of the provisions in what is largely considered to be an obsolete section 74 in the Federal Constitution. The Hon. K.T. Griffin during his debate noted that the Merchant Shipping Act, as it related to the *Joseph Verco* sinking, and the collision of the Chinese vessel the *Wuzhou*, certainly had some application and that the Merchant Shipping Act and the United Kingdom Interpretation Act were closely related, and he asked how would they would be affected by the present legislation. The Opposition referred to the United Kingdom Interpretation Act because, by definition under that Act, South Australia is still a British possession.

Another question which was raised concerned State Governments. As I have said, Her Majesty the Queen will now accept a recommendation from State Premiers, with the federal Prime Minister and the United Kingdom Ministers no longer acting as intermediaries in a matter.

The question of removal of fetters, of restrictions, on the power of the States to legislate repugnantly, that is, against legislation of the United Kingdom Government, and also to legislate extra-territorially is raised by this legislation. The implication behind the removal of these fetters may be examined at a later date, but the Opposition assumes that there will be some provisions which can be examined when the final federal and United Kingdom legislation has been passed and enacted. It is not an issue that I propose to pursue in this place.

The Liberal Party, in examining this Bill and supporting its passage through the two Houses, nevertheless maintains that protections have to be ensured for our own Constitution Act and for our basic democratic institutions. For that reason we have debated at fair length in the Legislative Council to elicit satisfactory responses from the Attorney-General. It is reassuring to many people, who probably more emotionally than factually are opposed to this and other legislative moves which have been made in State and Federal Parliaments, to know that the Queen remains the ultimate monarch, the ultimate constitutional symbol of the Crown and the monarchy in South Australia, and, at the same

time, there are provisions so that the Queen is not to be embroiled in parochial issues and that, should she happen to be in South Australia at any time when advice may be sought from her, a request for that advice would not be sprung on Her Majesty at a moment's notice, but it would be sought from her by way of advance notice being given to Her Majesty or her senior officers so that she could have a considered response ready by the time she arrived in South Australia.

There are a number of issues which appeared to be contentious when this Bill was first introduced into the Legislative Council. As I have said, to a large extent those questions have been responded to by the Attorney-General, but we would like some comment from the Minister who is in charge of the Bill in this House as to the precise reason why the legislation has to be rushed through with so little consultation possible with legal people and others in South Australia. The Opposition would also like advice as to the current state of play in other States, whether they have introduced or actually passed legislation. The situation may have changed over the past few weeks since the Bill was first introduced into this Parliament. I simply conclude my remarks by saying that the Opposition supports the legislation.

**The Hon. E.R. GOLDSWORTHY (Deputy Leader of the Opposition):** I rise to put on record some considerable doubts that I have about the legislation and about the method of appointment of judges to the High Court. Further, I question some of the decisions of that court which is to become the ultimate court of appeal in Australia, when this legislation and similar legislation around Australia passes into law.

*The Hon. G.J. Crafter interjecting:*

**The Hon. E.R. GOLDSWORTHY:** If the Minister will be patient, I will make it clear that really I am directing my remarks to the schedule to the Bill which is headed, I think, 'Termination of appeals to Her Majesty in Council'. I want to state that I am not alone in having some considerable reservations about what this Bill will accomplish. I shall quote from a speech made by Sir Charles Court, former Premier of Western Australia and, of course, well known to all of us, to the University of Western Australia at the 57th Annual Summer School this year. This speech is well worth reading. It is quite long, and I will quote only the parts which I think are germane to the legislation before us, with particular reference to the High Court. Under the heading 'The development of centralism', Sir Charles stated:

> There is a tendency in all federations to change one way or the other; for the powers to either spin towards the centre or towards the outer perimeter. One of the chief architects of the development of centralism, particularly since World War II, has been the High Court. The process started as far back as 1920 with a decision of the High Court in the Engineers Case, brilliantly argued by Sir Robert Menzies. In that case, the court upheld the proposition put forward by Menzies that the States did not have immunity from Commonwealth legislation. Under the 1928 Financial Agreement all borrowings by Commonwealth and State Governments became subject to the approval of the Loan Council. The net result was an increase in the power of the central or Commonwealth Government.
>
> The Second World War (1939-45) greatly accentuated Commonwealth central power by the huge expansion of the Commonwealth's defence power. This was a necessary concomitant of the Commonwealth's ability to conduct the war and was entirely proper and acceptable to the States at that time. But it left the Commonwealth at the end of the war with a greatly increased bureaucracy and experience and with the possession of the total income-taxing capacity. Since the Second World War the High Court has increasingly enlarged Commonwealth powers through its wide interpretation of the corporations power, the trade and commerce power, the appropriations power and others.
>
> All these were powers granted under the Constitution, but they have been given an increasingly enhanced meaning with the passing of the years, a meaning which was, of course, not within the contemplation of the founders of the Constitution.
>
> The final culmination at this stage of our history of the Commonwealth's power has been the extraordinarily enlarged meaning which has been given to the external affairs power—something that I branded some years ago as the Murphy Doctrine because of the strong advocacy of this approach by the former Federal Attorney, Lionel Murphy, now Mr Justice Murphy of the High Court.

I think that that speech was given before Mr Justice Murphy's current problems. I do not believe that there was any malice in what Sir Charles Court was saying—that is really a side issue. The speech continues:

> The Commonwealth was given power over external affairs in the Constitution and, in a series of cases, the most publicised of which was the Franklin Dam case, the power has been held to extend in a way which could never have been contemplated by the Constitution's founders to any number of matters of a domestic nature which may, in some way, be related to external affairs.

Again, in a speech well worth reading if one wants a variety of opinions on the matter, under the heading 'High Court', Sir Charles Court stated:

> When the Constitution was drawn up, the Privy Council was the final court of appeal. It was a bulwark, independent of the new Commonwealth Government. The removal of the Privy Council as the final court of appeal, which has been virtually achieved today—

and will be entirely achieved with the passing of this legislation and when the other States do likewise—

> largely on the ground of nationalism and certainly not because of any lack of ability amongst the learned members of the Judicial Committee of the Privy Council, has left the High Court as the sole arbiter of major issues between citizens and governments. And yet High Court appointments are still soley in the hands of the Commonwealth Government of the day.
>
> It is true as a result of a resolution sponsored by Western Australia at the Constitutional Convention held in Perth in 1977, provision has now been made for consultation between the Commonwealth and States over appointments.

**The Hon. G.J. Crafter:** That is how Western Australia got its—

**The Hon. E.R. GOLDSWORTHY:** Yes, I know. It further states:

> However, it is only for 'consultation' and, although this has been written into the law, consultation so far has proved inadequate and this should be rectified. Just as no man should be a judge in his own cause, so no government should appoint the judges who may decide issues between that government and other governments in a federation. As a matter of principle, there must be more secure arrangements made for the States to have a say in the appointment of High Court judges.

I entirely agree with those latter sentiments. In fact, I am rather disturbed by the tendency of governments (and we saw evidence of that by the Labor Government in South Australia) seeking to push off to the Supreme Court an interpretation of whether or not the President of the Upper House had the right to cast a deliberative vote. I deplore, and will resist, any moves which seek to push off to judicial bodies—whether it be the Supreme Court or the High Court—the responsibility for what are essentially political decisions. If the law is not clear it should be clarified by the Parliaments of the land.

I remember reading years ago a biography of Roosevelt in America, where he was having difficulty with his federal court in seeking to ratify legislation. His answer was to, over time, put 'yes' men on the court. That was stated in the biography. That disturbed me, for what confidence can one have in courts that are put there for what I consider to be base motives? That President was determined to get his way and he was essentially politicising the Supreme Court of that land. I am very concerned when we get these three/four split decisions from a High Court, appointed in this way, on matters of vital concern to the States of this nation. We have seen these four/three split decisions: the Franklin Dam case that I mentioned was one example.

**The Hon. G.J. Crafter:** Who were mentioned?

**The Hon. E.R. GOLDSWORTHY:** I am not arguing whether the three or the four were right, but in the highest court in the land it is the luck of the draw as to who was the odd man. However, that highlights either the lack of clarity in the law or at least that the interpretation of that law must be so wide that one could drive a bus through it. It is up to the people of this nation ultimately to decide those questions.

Political questions should be decided in Parliaments and, if it is not clear, it should go to constitutional referendum. If we were to take to the people of this nation the basic question of where power should reside—with the States or the Commonwealth—

**Mr S.G. Evans:** Or with the people.

**The Hon. E.R. GOLDSWORTHY:** Yes, it is ultimately a decision of the people. If we went to referendum to solve the problem there would be a great feeling in this nation against centralism.

I recall an article which, unfortunately, I could not find (even with the aid of the Library) in the *Bulletin,* and written by Charles Porter—avowedly a hair shirt conservative from Queensland. He reasons his case every bit as well as the lawyers on the other side of the Parliament. I read the article with a great deal of interest and he made no bones of what he thought of the High Court and its politicisation. I wonder that there was not some comeback, but he made perfectly clear that in his view the decisions of the High Court were a matter of grave concern. It must have been after the Franklin Dam case, as it was subsequent to that that I read it. However, I could not find the article; otherwise I would have had it written into the record today in order to put an alternative view in relation to what is happening.

*Members interjecting:*

**The Hon. E.R. GOLDSWORTHY:** Even if members opposite do not accept what I am saying, they ought to have the gumption to accept that the States should have a lot more say than they have at the moment. What does 'consultation' mean in the appointment of High Court judges? Who have we ever had appointed from South Australia to the High Court? This is not a political comment in the sense that I am criticising the Labor Party, as the Liberal Party federally does the same thing. If it wants to retire Mr Ellicott, it is suggested that it puts him on the High Court. If they want to retire Barwick or Murphy they put them on the High Court. Both political Parties federally have followed this pattern. From the State's viewpoint it is not good enough for us to be lumbered with a final court of appeal the membership of which is determined by a political Party and, in many cases, for political motives.

I am disturbed at the shakedown of opinions when we get a four/three decision—whichever way it goes—on what are essentially political questions which should be decided by the people of this nation. I share the concerns of people like Sir Charles Court in particular in his view that the march of centralism in this nation can be placed at the feet of the High Court and those who seek to use it. Labor Governments and Labor Parties have been very prone to do that. We know how the Franklin Dam case got into the High Court.

They like to shovel them off to these judicial bodies to make what are essentially political decisions. With those reservations, I approach the Bill. It is a *fait accompli;* it has been agreed by Attorneys-General around Australia. I know that we hear lectures from day to day by the Premier telling us how smart lawyers are and that there is something wrong with us because we are not all lawyers. We get a bath: I got something in Question Time today because I was not a smart-arse lawyer.

*Members interjecting:*

**The Hon. E.R. GOLDSWORTHY:** That is what the Premier said.

**Ms Lenehan:** He did not say that all.

**The Hon. E.R. GOLDSWORTHY:** That is what he meant.

**Ms Lenehan:** He did not.

**The Hon. E.R. GOLDSWORTHY:** That is what he meant. The Premier has berated us on more than one occasion because we are not like him: we are not smart lawyers. I always look askance at lawyers. I am frightened of lawyers; I make no bones about it. As with an economist, one can always get an opinion from lawyers to justify a position.

As I said to the former member for Mitcham, who is now a Supreme Court judge, 'The trouble is that they are so used to defending crooks that in these criminal cases they find it hard to understand intuitively what is the difference between right and wrong in an argument.' This is not a lawyer bashing exercise. Why do we have the jury system—because when it comes to the crunch it is the judgment of the average man in the street who hears all the evidence, weighs it up and comes to what is a sensible and fair conclusion on the facts. It does not comprise 12 smart-arsed lawyers or people who are steeped in the law. Personally, I will resist any move to get rid of the jury system.

**Mr Groom:** He's turned off the Law Society.

**The Hon. E.R. GOLDSWORTHY:** I am not: I am saying that I am frightened of lawyers. If one is in the hands of lawyers one is likely to be up for big money. Some of my friends are lawyers: I hope I still have them. However, I have great respect for the judgment of the average man in the street in this nation. Ultimately, political questions should be decided by the man in the street. If we want to muck around with the Constitution of this nation, we should refer it to the man in the street by way of referendum. So, I am proud that I am not a lawyer, despite the fact that the Premier berates me for not being one. I have strayed a little bit, quite uncharacteristically.

**The DEPUTY SPEAKER:** Order! The honourable member should not exaggerate.

**The Hon. E.R. GOLDSWORTHY:** I am not prone to exaggeration either, as you, Mr Deputy Speaker, well know. However, I have some very big question marks about this legislation and about making the High Court of Australia the final arbiter on all matters, as far as it possibly goes, in the legal arena in this country. I do not take any notice of this call to nationalism and the suggestion that we can solve our own problems, particularly where members of the High Court are selected as they are; they are political appointments, and they are increasingly being called upon to make political decisions. I deplore it.

**Mr GUNN (Eyre):** I share the concerns of the Deputy Leader of the Opposition in relation to provisions of this very detailed and complicated Bill. I doubt whether the majority of members of this place and particularly the community of South Australia have had the opportunity to study the proposal. Obviously the Government Whip has not, because he is having another meeting in the Chamber with his colleagues. The proposal is far reaching: these provisions will play a significant role in the future direction in which this country is headed.

Like my colleague, I am not a lawyer. However, I do not apologise for that at all. I am just a very humble member of this House, but I believe that a bit of common sense should apply when dealing with these matters.

*An honourable member interjecting:*

**Mr GUNN:** That is right. I am happy to make my small contribution in feeding this nation and the hungry millions. However, we are dealing with something that will greatly affect the welfare of every Australian.

I refer now to the abolition of appeals to the Privy Council. When I read the provisions of the Bill, the first point that came to my mind was the notorious attempt by the socialist Chifley Government to take over the banks. I well recall reading the autobiography of Sir Garfield Barwick whose action before the Privy Council was described as one of the most brilliant ever put before that body. He was acclaimed for his efforts.

Of course, that body saved the banks because the holding action that took place allowed the Australian people to make a judgment, and on the first opportunity that they had to make that judgment on that ill conceived and grossly improper course of action that the Government tried to inflict upon the nation that Government was thrown out of office. Colleagues of members opposite did not get back into government for 23 years, and they have not been game to try to repeat that course of action. If it had not been for that fall back area in which a completely independent and impartial body could sit in judgment on such a matter the banks would have been taken over, all powers would have been in Canberra, and we would have had only one bank in this country. Heaven help us in relation to the results that would have flowed from that decision. It was bad enough with the limited number of banks that we had until a few years ago.

Other matters will come into conflict in the relatively near future. There is no doubt that land rights will be an issue between the State and Commonwealth Governments. The action that the Commonwealth Government takes will lead to the matter being referred to the High Court—a body which is not impartial. Indeed, it is narrow. Those people are not experienced in State matters. Most of them are centralist in thinking. Therefore, they will make political decisions most of which will be contrary to the views of the overwhelming majority of the citizens of this State. The average person is opposed to any further land rights legislation. People are not happy with the current arrangements, which are in urgent need of amendment. This Government lacks the courage and guts to do that, whereas a future Government will have it. I make no apology for promoting such a course, because again yesterday I had brought to my attention the foolishness and anomalies of the Pitjantjatjara land rights legislation.

When friend Holding attempts to put in his preferred option, the matter will obviously end up in the High Court, which is a political body appointed by politicians. The question will not be put to referendum. If there was a right of appeal to the Privy Council, at least the matter would be held over until the people of this country had an opportunity to make a judgment on it.

**Mr Groom:** It was put to a referendum.

**Mr GUNN:** The honourable member is up to his usual slick lawyer tricks. That is a typical slick lawyer sort of answer that he gives. It is an absolute nonsense, and he knows it. We have been around for a while. One can catch out the elderly person in the street with those sorts of answers, but someone who has been around for a while knows full well that the land rights issue has never been put to a referendum of the people in this country. The honourable member knows that. In my judgment, it was foolish to hand over to the Commonwealth Government powers relating to certain areas that were in dispute. The land rights issue was not in question at that time.

I believe that this Bill, especially the schedule, will give the High Court even more power because its decisions will not be subject to review. Indeed, the more I read the Bill the more concerns I have about it. It is all right to say that we should be the masters of our destiny. However, the High Court consists of seven so-called learned gentlemen and, as one of them is currently subject to criminal proceedings, only six are sitting at present. Further, each State does not have the right to nominate a High Court judge. That is an anomaly. South Australia has no judge on the High Court and, while Sydney and Melbourne control the political destiny of this country, it is unlikely to have one. That is an unequal representation and a grave anomaly.

It is all right for Prime Ministers and Attorneys-General to pat themselves on the back and say, 'We will pass marvellous constitutional amendments, get the Statute of Westminster amended, and go down in history as the people who cut us off from the coat-tails of the United Kingdom'. However, at the end of the day, if a government has not done something constructive for the people of this State and nation, what does it mean? Absolutely nothing! We have done nothing to feed anyone or improve the day to day running of the country, because more power is being put into the hands of a group of people in Canberra, many of whom are out of touch with the realities of day to day living and have no idea of how their decisions will affect the average person in the street.

It is all very well to expect us to rubber stamp such a measure as this, but the longer I am in this place the more I believe that there should be greater Parliamentary scrutiny of such measures. Currently, there is in the community much discussion about the course of action that has been taken by a person who is supposed to be a Parliamentary officer. However, that person was foisted on this Parliament whether or not Parliament wanted that appointment.

There is obviously a complete anomaly in the method of appointing these independent officers, and I believe that this legislation and similar legislation should be amended so that documents must be tabled in Parliament and Parliament can decide whether or not they are suitable. It has happened in New Zealand, and it should happen here. The Government of the day can make a political decision, and it is marvellous how political activists are appointed. When they are appointed these people are supposed to be purer than Caesar's wife, but are they non-political? Parliament is hoisted with such persons, and the only way to get rid of those persons is by Parliamentary action.

Such appointees should be subjected to Parliamentary scrutiny before their appointments are confirmed. If this Bill is passed, the Commonwealth Government will bring in more and more central control over the States, and the States will be lumbered with people and not able to do anything whatsoever about it. I believe that, before such substantive matters are suddenly rushed through Parliament, the people and Parliament should be able to scrutinise them closely. It will be interesting to see how many Labor members speak on this Bill. Will the aspiring Attorney-General elect, the member for Hartley, say where he stands on this matter? From time to time the Government puts him up when it has to bat out some time. I do not know whether this measure has been put up to bat out time so that the Government can prorogue Parliament on Thursday or whenever it wants to. As far as I am concerned, the sooner the better: let us get it over and done with, so that we can change sides in this House. I hope that this legislation is further considered.

If Sir Charles Court has doubts about this matter, I value his opinion because of my knowledge of Sir Charles and his actions in the past. I believe that his views should be considered seriously. He led Western Australia well. When the Dunstan Government introduced land rights legislation, Sir Charles advised me to have nothing to do with it and he was absolutely right. Unfortunately, his advice was not taken by the incoming Liberal Government, which was caught up in the razzamatazz and did not understand what it was doing. So, now we are lumbered with this legislation, which will take much effort to correct.

I make no apology for making these comments because in my district I am the one who is lumbered with such legislation. My constituents are affected, as are all South Australians. If this Bill is passed, Holding and company will want to inflict across the nation this ridiculous legislation, and the States and the people will be lumbered with it. This legislation will go to the High Court if a dispute arises. Each and every Government puts on to the High Court people who will look after the interests of the Commonwealth and say, 'Blow the States.' At present, the Labor Party appoints High Court judges of a similar persuasion and later the Liberal Party will appoint Sydney or Melbourne Queens Counsel to look after the interests of the Commonwealth. That is wrong. This Government would be remiss if it did not make representations to get rid of these anomalies.

I do not want to delay the House, but I believe that these points are important. We have just seen the last Constitutional Convention to be held. The Deputy Prime Minister (the Commonwealth Attorney-General) got in a huff and did not like what was going on. So, he will nominate a body of unelected people who will sit in judgment on the Commonwealth Constitution. If there were ever an undemocratic decision and a farce, this must be it. If politicians genuinely want to amend the Constitution, they should throw their political ideology out the window and not try to arrogate more power to themselves.

All these arguments on the Constitution have fallen down because the Commonwealth wants to exert total power. We see Gareth Evans and others regarding themselves as legal Messiahs who want to enhance their own position. People with common sense will stand up and say, 'We have had enough of this damned nonsense. Use your sense.' If this is not done, there will be a blue whereas, if people tossed their political ideology out the window and looked at the matter practically and with common sense, genuine amendments could be made to the Commonwealth Constitution. However, I do not believe that many amendments are needed, because the Commonwealth Constitution has served the nation well, although I believe that a little more power should be given to the States on financial measures and in one or two other areas.

In this regard, it is crazy to have a State education department and a federal education department, as well as other examples of such duplication. This Bill, however, will not make it easier to get common sense because of the number of politicians and political activists involved. It is they who cause the trouble, not the Constitution itself. Therefore, I have grave reservations about this legislation. It will do nothing to help the unemployed, the underprivileged, or the average person in the street. So, I do not believe that this is an enlightened Bill. Parliament should be addressing itself to more important things. I therefore consider that we should be trying to solve some of the legislative problems that we have in this State rather than passing this Bill with its detailed and lengthy schedule.

I realise that what I say will not make much difference: the weight of numbers will be there when the vote is taken. However, in a democracy I hope that I always have the right to express my point of view. The views that I have put to the House today are those that I have come to hold over many years in this place, during which time I have had a considerable interest in constitutional matters.

I do not have legal training and I have a limited education, but I have done a great deal of research into this area and I therefore have grave reservations. My concerns are these: I believe that appointments to the High Court ought to be fair and they ought to involve people who are not there to serve a course of action. I believe that the rights of the average person in the street are paramount. In my view, the removal of these provisions will not benefit the average person in the street, because I believe there should always be a right of appeal. If one is right, one will win, but streamlining for the sake of streamlining will not benefit the average person in the street.

I am pleased to have the opportunity to make my views on this matter known, but I say to the Minister representing the Attorney-General that I hope he will respond to the matters raised by the Deputy Leader and myself. In a debate of this nature there are many other areas that one could canvass, but I will not delay the House any longer. However, I have some reservations about these provisions, and I am sorry that the average person will not have the opportunity to read them in detail.

**Mr S.G. EVANS (Fisher):** I have concerns similar to those expressed by the member for Eyre and the Deputy Leader of the Opposition. For some seven years or more I was privileged (or otherwise) to sit on the Judicature Committee of the Australian Constitution Convention. I believe that I was the only non-lawyer on that committee, whose other members included Justice King, as Chairman, Justice Murphy and Sir Lionel Bowen.

I know that those people who came from States that had a smaller population were concerned about the way High Court judges have been appointed over the years. They were concerned that States like South Australia had never had an appointment to the High Court (in fact, the person who, in the main, drafted the Constitution of the country was a South Australian, Sir Josiah Symon). That concern was expressed quite freely. In the early 1970s, the then Western Australian Labor Premier, Mr Tonkin, after the Prime Minister had spoken in debate, said words to the effect, 'Mr Prime Minister, if you keep talking in those terms as expressed today, I will have no alternative but to lead the movement for Western Australia to secede from the Commonwealth.' Those words were said with meaning.

Western Australia had learnt the lessons, and people with the same views as Premier Tonkin said that, at the time, if one lived in Western Australia it took a week to receive an answer from a telephone call to Canberra. They said that they tended to be ignored to a great degree by the powers that be in the Eastern States, Canberra in particular.

The point was also made that only the sheer wealth of Western Australia kept it in the fight within the Commonwealth, because it formed a vital part of the country's economy. As a South Australian, I am concerned that we have never had that representation on the High Court. In my view, there is no doubt that both sides of politics, right and left, have used the High Court for their own political purposes, and it is very easy to do that. If one has a long-term goal to eliminate State governments and go to regional government (and we have heard that point of view expressed by people from the other side of politics), all one has to do is gradually whittle away the power of the States, or con the States into giving away the power, and that is part of what this process is. I know that this course of action has been agreed to by conservative as well as non-conservative Attorneys throughout Australia, but you either get them to give the power away or con them into letting you have it.

If a government has its selected appointment to the High Court, when a constitutional or political matter arises it knows it has them on side and that it is another step down the path towards a particular ideology: it only has to be done step by step. However, when it comes to general issues, that government knows that those people have the capacity to make a decision that in the circumstances will be fair.

The point made by the Deputy Leader of the Opposition is vital. When there is a split decision, one can look at the date of the appointment of the judges and then get an

indication that it is something to do with political philosophy. We should not perhaps be saying these things in a Parliament—it is getting borderline—but where else can one say it? Where else can we express the concern that over the years (and I am not talking only about recent decisions) there has been a political bias in decisions relating to constitutional matters? If that is the case, and enough people believe it is the case, then we should express that concern.

I remember a person saying within the Judicature Committee of the Australian Constitutional Convention that he wanted to put in a minority report. The Chairperson of the committee, who was a QC, suggested that there was no need for a minority report on that issue. The matter being discussed involved breaking the nexus between the Senate and the House of Representatives. The person in question argued that he had to have the right to put in that minority report, and that person is now a Federal Court judge. The next day, when the then Premier of New South Wales tried to put in a minority report on that committee, that same person said, 'I cannot agree to a minority report coming from you.' When that statement was challeneged, he said, 'I am the federal Attorney-General.' I give Mr Justice King credit: being chairperson at the time, he said, 'Here, we are all equal.' That is the sort of mind some people have: they are looking for power beyond that which is desirable in a society.

I have made the point that both sides of politics have tended to make appointments, but why is it that, in the main, we have people from Victoria and New South Wales appointed to the High Court? I think only one from Western Australia, one from Tasmania and not many from Queensland have been appointed to the High Court. The reason for that is simple. Of the approximately 150 politicians in the Lower House in Canberra, between 100 and 120 come from the Eastern States, so they are all going to their cocktail parties and the legal eagle dinners in their own States and bumping into politicians and filling each other's pockets with whatever may be thought necessary. The people concerned claim that they are good fellows and look towards obtaining appointments to the High Court.

All the Government of the day has to do is pick out the ones with the right political ideology, and they can then set the program in operation to eventually bring about the desired Party political goal. The Deputy Leader referred to consultation: I sat on the committee when we argued about consultation and how the judges should be appointed. We tried to find other methods. We argued as to what age they should be and at what age they should retire, and I really think that the only reason we did not come up with a satisfactory resolution was that we were all politicians. The member for Eyre made the point that both sides of politics were trying to protect their own little nests: they were fearful that the other side might gain a point, so no satisfactory solution was found.

The measure we are passing today is not satisfactory: it is another step down the path towards centralism. I have said to some close friends and to some members of my family that, if we move much closer to centralism, the one place not to be is South Australia—especially if one owns a business, some land or property—and that they ought to get out of it in the early stages.

If the situation does evolve where there are virtually no States and we have a regional form of government, places like South Australia (even though it may not be called that at that time) will have very little say, even through the High Court. The places to go will be the States with the bigger populations. That is where the monetary wealth and opportunities would be. Some people say that that is hogwash. I hope that I live long enough to see what happens as we continue down this path to centralism.

I have no doubt that there are people in the Liberal Party who believe in centralism, although no doubt the larger percentage of people who believe this are in the Labor Party who, possibly *en bloc,* believe in central power. When the States gave away education responsibilities, for example, and said to the Commonwealth, 'We want you to take over some of the education role,' that was another step down that path. The only reason we started going down that path was that under our Constitution (and we are talking about part of it today) the original intention in forming a federation was to provide an opportunity for governing areas that the States could not, such as control of the airwaves, defence, customs, excise, immigration, and the areas around our coasts classed as national waters, out to the 12-mile limit.

That was the original intention, but the States then said, for example, 'We don't like collecting taxes,' and in 1928 and 1942 the States said to the Commonwealth, 'You take over the income tax powers; we don't want the embarrassment of collecting it; we enjoy spending the income, but we don't want the stigma of having to collect it.' The Commonwealth then willingly took over responsibility for income tax collection, and now we have to go cap in hand when asking for more money for education, roads, and so on. By that very move of giving the Commonwealth that power, the States with smaller populations have suffered, as evidenced by the figures. Of Australia's total population, some 13 million people live on the eastern seaboard, while over the massive expanse of the rest of Australia there are only about 3 million people.

I have reservations about what we are doing. However, the Attorneys throughout the country have agreed to it, saying, 'She'll be right, mate.' This might suit the policies of a certain political Party at this stage, but people with another philosophy, like mine, might be able to achieve something in the future. This matter will not go to a vote today. I will not be calling for a vote, but I indicate that I do not like the legislation, as I believe it is another step down the path to centralism.

**The Hon. MICHAEL WILSON** secured the adjournment of the debate.

## CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (No. 2)

Received from the Legislative Council and read a first time.

## LIQUOR LICENSING ACT AMENDMENT BILL (No. 2)

Received from the Legislative Council and read a first time.

**The Hon. G.J. CRAFTER (Minister of Community Welfare):** I move:

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

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

Leave granted.

### Explanation of Bill

This Bill inserts new Division IIA into Part X of the Liquor Licensing Act, 1985. The new Division changes the

operation of the principal Act to liberalise the conditions under which liquor may be sold, supplied and consumed during the week in which a Grand Prix is held.

Because of the expected attendance of large crowds at the Grand Prix, including many visitors from other States and overseas, and because of the festive nature of the occasion, trading hours limitations for hotel, retail liquor merchants', club and general facility licences will be removed for this period. (The other licence categories already have no trading hour restrictions.) Liquor may still be supplied only from licensed outlets, so that a proper standard of premises and background of those supplying liquor can be assured.

The lifting of these restrictions will mean, for example, that holders of hotel licences will be authorised to conduct 24 hour bar trade, without the need to provide meals during certain hours.

The tenor of licences will not be altered. For example, while the trading hours for retail liquor merchant's licences will be unrestricted, under those licences liquor may still only be sold in sealed containers for consumption off the licensed premises.

Licences such as restaurant licences may still sell liquor only with or ancillary to meals supplied to diners. However, these licensees may apply individually to the licensing authority for limited licences to enable an expansion of trading rights for the period of the Grand Prix, in which case each application will be treated on its merits.

To protect the rights of persons who reside, work or worship in the vicinity of licensed premises given expanded trading rights under this Bill, members of the Police Force are given power to require activities at those premises to be curbed where undue offence, annoyance, inconvenience or disturbance is caused. In its present form, this power is vested in the Commissioner of Police and any member of the Police Force authorised by the Commissioner.

Following points raised in the course of the debate of the Bill in the Upper House, I foreshadow an amendment to be introduced by the Government providing that any commissioned officer in the Police Force is vested with these powers. This makes the vesting of powers quite clear and will also overcome the logistical problem of the Commissioner of Police having to authorise certain members of the Police Force.

A further amendment is also foreshadowed. The Bill in its present form applies to all hotel, general facility, club and retail liquor merchant's licences. The question was raised in the Upper House as to the position in respect of those licences which have special trading hour restrictions imposed by the licensing authority as a result of complaints from local councils or residents about noise or other disturbing activities at or related to licensed premises. To protect the special position of these persons which has been recognised by the licensing authority, an amendment will be moved providing that open ended hours do not apply to relevant areas of the seven hotels and one general facility licence concerned.

The expansion of trading rights applies through the State so that visitors who wish to travel during their stay in South Australia can also be catered for. The Bill does not oblige licensees to trade during extended hours but will give licensed liquor outlets the flexibility to cater for the many thousands of people who will be in the State for the Grand Prix, and should overcome frustrations which can arise when patrons from other States or overseas encounter trading hours different from those with which they are familiar. The Bill applies only for the period of the coming Grand Prix from Tuesday 29 October to Monday 4 November 1985, inclusive.

Clause 1 is formal. Clause 2 inserts new Division IIA into Part X of the principal Act. The new Division operates during periods declared under the Act in respect of each Grand Prix. New section 132b sets out the extent to which restrictions are eased in respect of various licences. New section 132c provides for control of noise and offensive behaviour in relation to licensed premises during a Grand Prix. New section 132d provides that the new Division expires on 30 June 1986.

**The Hon. H. ALLISON** secured the adjournment of the debate.

## APPROPRIATION BILL

Returned from the Legislative Council without amendment.

## SWINE COMPENSATION ACT AMENDMENT BILL

Received from the Legislative Council and read a first time.

## AUSTRALIA ACTS (REQUEST) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1410).

**The Hon. MICHAEL WILSON (Torrens):** I wish to speak for only two minutes on this Bill. The contributions made by the Deputy Leader and the members for Fisher and Eyre reflect the problem that State Parliaments have with this sort of legislation. The problem is that this type of legislation stems from meetings of Ministers around Australia, where decisions are taken to have uniform legislation, and by so doing they virtually pre-empt the role of the State Parliaments in considering that legislation. I shall give a few examples. When I was Minister of Transport I met with other Ministers of Transport at the Australian Advisory Council meetings, and decisions were made about uniform transport legislation throughout Australia. In itself that is desirable, but in making those decisions the role of the State Parliaments is pre-empted, because in presenting uniform legislation to a State Parliament, although it can be amended, members do not wish to amend such legislation because in so doing uniformity would be lost.

In this instance a decision has been made by the Standing Committee of Attorneys-General to introduce this uniform legislation, and there is much to commend it. However, the Standing Committee of Attorneys-General, comprising the Commonwealth Attorney-General and the State Attorneys-General, has formulated recommendations which have been taken back to the State Cabinets, which also do not feel inclined to recommend amendments.

As I have said, generally, members here do not want to tamper with this Bill because, if amended, the legislation would no longer be uniform. Therefore, I believe that the system involving ministerial council meetings making decisions on behalf of all the States and the Commonwealth presents a danger to the people of this nation, because such meetings pre-empt, perhaps not theoretically but practically, decisions of State Parliaments.

**The Hon. G.J. CRAFTER (Minister of Community Welfare):** I thank all honourable members who have contributed to this most interesting debate. As the member for Torrens has said, it does reflect on the divisions that exist in the community in trying to resolve such fundamental issues. I concur with the opening remarks of the member for Mount

Gambier that this is a very profound issue indeed. I take issue with the honourable member and other honourable members who have said that this legislation is being rushed. The debate on this matter has been going on since the very foundation of European settlement in this country.

One could be forgiven—and I do not say this in any disparaging way to honourable members who have contributed to this debate—for believing that we are sitting in the Constitutional Museum listening to the debates recorded there in relation to similar issues, or indeed, reading the reports of the Constitutional Conventions at the turn of the century which brought about our federation. Those very same arguments and fears were being expressed by the elected representatives of the people at that time. There has always been present in the community a fear of centralism, a fear of some diminution of power of the States, and a belief that the basis of wisdom is in the English Parliament and the English courts.

The conclusion of the comments of some honourable members is that they believe that the judges who are appointed by the elected representatives of the people of Britain, Northern Ireland, Scotland and Wales are better able to judge the issues of this State and its communities when in conflict, and that when laws passed by this Parliament are under question the interpretation should be carried out by another country's judicial officers rather than those appointed within this nation.

The Deputy Leader, in fact, said that we really should move away from political appointments; that is, appointments of judges by the Government. He quoted the dam case and said that this was a political decision of the court. It was a four/three decision, and six of the seven judges were appointed to the High Court by conservative Governments. The division that existed was within the minds of those conservative Governments' appointees.

There have been many outstanding judges appointed to the High Court by conservative Governments as well as outstanding judges, although very few, appointed by Labor Governments in this country. Our courts enjoy a very high reputation within the common law system throughout the world. Indeed, the doubts that have been cast on the capacity of our judges in the High Court to decide on issues of the day that have arisen in the States really reflect the same fear that has been expressed, as I have said, throughout the period of European settlement in this country. I guess that that is an argument that will continue!

The member for Mount Gambier asked for the timetable. I think that I should tell the House that South Australia is lagging somewhat in bringing this legislation into our Parliament. Indeed, the Queensland Parliament, I understand, has already passed this legislation. Whilst Sir Charles Court's comments and fears have been enjoined by a number of members of this House it is interesting to note that Sir Joh Bjelke-Petersen, in the Queensland Parliament, has supported the legislation and had it passed through the one House of Parliament in that State.

I ask honourable members to reflect on where they place themselves in the political spectrum, bearing in mind that the New South Wales Parliament has also passed the legislation and that all the other States have introduced legislation that has not yet been passed, to my knowledge. The member for Mount Gambier said that there is a timetable to meet and that all States and the Commonwealth must have their legislation passed by March 1986, I understand, to meet the requirements of the United Kingdom Government so that we can proceed on the planned path.

This has been the result of decades of debate, discussion and negotiation emanating from the Standing Committee of Attorneys-General, Premiers Conferences, and numerous other forums in Australia. The debate in another place, as has been mentioned, was a full one indeed, and I think that most of the queries raised by honourable members were answered in that place. The Hon. Mr Griffin, however, raised one issue relating to the interaction between clauses 7 (2) and 15 (1) of the first schedule of the Bill.

The Attorney-General has asked me to read to the House a reply sent to the Hon. Mr Griffin by the Solicitor-General commenting on the concerns that the Hon. Mr Griffin raised in the other place. Dated 11 October 1985, the letter states:

Dear Mr Griffin,

Australia Acts (Request) Bill, 1975

The honourable the Attorney-General has asked me to write to you regarding a question raised by you, in debate on the above Bill, in the Legislative Council on Wednesday 9 October 1985.

In particular, it appears you raised the matter of the effect of subclause 7 (2) of the schedule to the Bill, which provides.

Subject to subsections (3) and (4) below,
all powers and functions of Her Majesty
in respect of a State are exercisable
only by the Governor of the State.

You asked whether or not it would be competent for the Legislature of a State to alter or abolish any of the powers and functions referred to in that subclause.

It is my view that, under present South Australian law, there is no legal or constitutional impediment to the Parliament of the State regulating the powers and functions of Her Majesty that are exercisable by the Governor. The reference in subclause 7 (2) to powers and functions is descriptive, not definitive, and for that reason the powers and functions so described do not rely upon the present Bill for their source.

It follows that, in my opinion, any steps taken by the Parliament to deal with the powers and functions of the Governor are not affected by the requirements in subclause 15 (1) of the first schedule to the Bill.

Yours sincerely,

M. F. Gray
Solicitor-General

I trust that that clarifies that point, which is one that I recall the honourable member raising.

I will comment briefly on the constitutional position that will result from the passage of this legislation, the passage of similar legislation in all of the other States of Australia and the Commonwealth Parliament, and the passing of enabling legislation by the Westminster Parliament. I think that it is important to emphasise that nothing in the legislation will impair the constitutional position of Her Majesty the Queen in the Government of each State and the Commonwealth of Australia. On the contrary, as will appear obvious to members who have read the Bill, it appears that the effect of the legislation will be to bring the Crown closer to the people and the Governments of this nation since the Queen, instead of being formally advised on State matters by United Kingdom Ministers, will be advised by State Premiers.

Most of these measures are to be effected by legislation to be enacted by the State, Commonwealth and United Kingdom Parliaments the form of which has been agreed upon by all Governments. I suggest to all honourable members that that constitutional basis of our system of democracy is in fact, being entrenched and not weakened.

The other matter that deserves comment is the remarks made by the member for Eyre on the Constitutional Convention. I understand that the Constitutional Convention forums will continue, although the Commonwealth Attorney-General has appointed a body of persons from the community to consider the redrafting of the Australian Constitution. This comes from a consistent failure within the body politic of Australia to reach agreement for constitutional reform in this country. In fact, we have a very dismal record indeed of constitutional reform, and that is why so much power has devolved to the High Court, which has indeed taken on a legislative function over the years because there cannot be effective reform of the Commonwealth Constitution. Indeed, it was in this very Chamber

that we saw a quite disappointing Constitutional Convention take place some years ago where, even on matters that had been the subject of considerable agreement prior to the convention, the politics of the day ensued and votes with respect to potential matters for referenda were lost and did not evolve.

One area that affects me particularly in my own ministerial portfolio is that of family law. It was disappointing that agreement could not be reached at that convention on an amendment to the Constitution in that area, because I am sure the Australian people would have carried it at a referendum. It is interesting to find the criticism of that unelected body matched alongside the criticism of elected judges—and here we are saying that it should be duly elected persons and only those who have their formal say in rewriting of the law, particularly constitutional law, in this country, yet casting doubts on those same duly elected people appointing the judges who interpret that law. There seems to be a logical disparity there that I fail to grasp. There must be accountability in the appointment of judges and I have every confidence in the elected representatives and the judges whom they appoint to do what is their duty in law.

There will always be some aberration to that and, indeed, the very law that we are attempting to enact today has been brought about to a large extent by a judge from South Australia (Mr Justice Boothby) who, in the 1850s, when a judge of the Supreme Court of this State, refused to accept the laws passed by this Parliament and said that he only respected the laws of the British Parliament. As a result of that judge's judgments and his actions the Colonial Laws of Validity Act was enacted in 1856 entrenching the legal subordinacy of the Australian States to the British Parliament.

*The Hon. Michael Wilson interjecting:*

**The Hon. G.J. CRAFTER:** No. So, we have the entrenchment in law of the legal subordinacy of the Australian States, the colonial Legislatures, to the British Parliament, whereas even today the British Parliament could pass laws with paramount force which would apply with the full force of the law in this State: similarly with appeals to the Privy Council.

So, we see an anachronistic colonial structure still existing in this State and this legislation and all States agree—even the conservative States—that we should bring about this legislation. I thank honourable members for their contributions. Perhaps what we have heard this afternoon is an accurate reflection on our society. However, in unison with other States in the Commonwealth we must now proceed to a new era in constitutional law in this country.

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

## GOVERNMENT MANAGEMENT AND EMPLOYMENT BILL

In Committee.

(Continued from 18 September. Page 1039.)

Clauses 2 and 3 passed.

Clause 4—'Interpretation.'

**The Hon. MICHAEL WILSON:** I move:

Page 2, line 29—Leave out 'or a nominee of that Minister'.

My amendment relates to the definitions clause. The Bill defines 'disciplinary authority' as follows:

*(a)* in relation to an employee (not being a Chief Executive Officer)—the Chief Executive Officer of the administrative unit in which the employee is employed;

*(b)* in relation to the Chief Executive Officer of an administrative unit—the responsible Minister for that administrative unit or a nominee of that Minister:

The Opposition believes that, if anyone has to act as a disciplinary authority in relation to a chief executive officer, it should be the Minister. However, as the Bill now stands the responsible Minister (the Minister in charge of that department under the Bill) could nominate another Minister to be a disciplinary authority. Under this clause he could also perhaps nominate another chief executive officer or anyone else: it may be the Commissioner.

The Opposition believes that its amendment is very reasonable indeed. It provides that if anyone has to sit as a disciplinary authority upon the conduct of a chief executive officer that person should be the Minister concerned and no-one else. Clause 4 (1) *(a)* provides that the chief executive officer of the administrative unit shall sit as a disciplinary authority over an employee. There is no power for the chief executive officer to nominate anyone else. Why then should there be power for the Minister to nominate anybody else to be a disciplinary authority concerning a chief executive officer?

**The Hon. J.C. BANNON:** I have noted what the honourable member has said and the reasons for it. The problem is that the effect of that amendment would be to remove the ability of Ministers to delegate the conduct of a disciplinary inquiry under section 64. While it would strengthen the Minister's obligation to act against chief executive officers in disciplinary situations, the Government is not prepared to accept it, because under the Bill a chief executive officer has a general power to delegate but Ministers have not. The Bill, as drafted, gives flexibility for Ministers to arrange for inquiries to be conducted by a third party. For instance, they could use the Commissioner for Public Employment in those cases where the demands and possible complications of a chief executive officer/Minister relationship require it. So, it anticipates a situation which could arise where it is appropriate for the Minister to use a nominee. To remove that power or ability would create an inflexibility that we could not accept.

**The Hon. MICHAEL WILSON:** I am surprised that the Premier is not prepared to accept this. I would be prepared to accept an alternative wording if he came up with it. The Premier is allowing in this clause a Minister to nominate anybody as a disciplinary authority when considering the conduct of a chief executive officer. I find that quite extraordinary.

I would perhaps be prepared to accept that there may be occasions when a Public Service Board Commissioner should be nominated for that position, and I do not have too much of a problem with that. However, I do have a problem with the Minister's nominating somebody else. I do not find acceptable a chief executive officer from another department. Of course, it is not restricted to that. The Premier is allowing the Minister to nominate anybody.

**The Hon. B.C. Eastick:** A ministerial assistant.

**The Hon. MICHAEL WILSON:** A ministerial assistant, as my colleague from Light says. It may sound ridiculous, but gaps have been left in legislation before and ridiculous things have occurred. I ask the Premier to reconsider the matter. I would be prepared to accept, 'or a Commissioner of the Public Service' if that was the Premier's wish. I cannot accept, on behalf of the Opposition, a situation where the Minister can nominate anybody to be a disciplinary authority over a chief executive officer.

**The Hon. J.C. BANNON:** We have to accept—and this is true in any legislation that we deal with—that there has to be some element of common sense and some understanding of what the parameters would be. We are talking about a chief executive officer, so already we are at that level. The concept of the Minister's being able to nominate any person who comes into his head is clearly untenable in these situations. One would expect, on occasions, that there may

be good reasons for the Minister to be involved. However, there would also be situations which one could easily contemplate and in which it would be inappropriate for the Minister personally to be responsible, and a nominee would be appropriate.

The member has retracted from his position to a certain extent by saying that he concedes that by eliminating any such flexibility he might be going too far, and has taken a position that says, 'Perhaps you could stipulate the Commissioner for Public Employment as being the only alternative.' However, there could be other cases, perhaps the Crown Solicitor, or somebody else who might be appropriate.

I think you have just to accept the fact that a Minister who tries to exercise this nomination capriciously obviously will not receive very much support. I stress again that the Act, to the extent that it is an enabling Act, should leave that flexibility there, but commonsense suggests that nominees would have to come from areas like the Commissioner of Public Employment in this sort of situation.

**The Hon. B.C. EASTICK:** The learned gentlemen on the bench from time to time have told us that, whilst it might be the intention and that whilst commonsense is expected to prevail, unless something is specifically stated in the Act they interpret it as they see it. The Opposition is of the belief that anybody could be nominated by the Minister. Whether it was tenable that he should do so, or whether it might be expected that a responsible Minister might do so is another matter. From time to time some Ministers of both political persuasions have been found to be less than rational in some of their activities.

The situation could also arise where a ministerial assistant (and from time to time there has been evidence of this) sought to usurp the role of the Public Service, having been detailed by a Minister, or having taken it on his own shoulders, to embark upon an admonishment of a senior staff member. Also, as the provision now stands, a Minister who perhaps has not been performing as well as he might could be weighed upon by a senior Minister, a Premier or Deputy Premier, and forced into the position of making the hit man of the Government of the day responsible for the action. It would need to be particularly serious circumstances before any political Party that aspired to be the Government of the day wished to see it as open-ended as that. The amendment which my colleague seeks, as he admits and I am prepared to admit, may be too open and will make it too restrictive, so that the Minister and only the Minister can undertake the activity.

I believe that the Premier has been hoist on his own petard by his comments relating to his expectations. There is possibly a need to consider an additional amendment to further qualify what is a nominee of a Minister in these circumstances. The Opposition would have no difficulty with that.

Whilst a set of words was considered, two courses of action are open; first, to proceed to the next clauses on the basis that this clause would be recommitted after a form of words was considered to give some prescription to who the nominee might be if that word was to remain there. Alternatively, it is a matter that could be taken up in another place. I suggest that it will take quite some time to go through the clauses of this Bill and it is possible that, if the Premier is of that mind, the necessary words could be found at a later stage and inserted then. Perhaps he could give an indication as to his agreement or otherwise with that course of action.

**The Hon. J.C. BANNON:** I am not agreeable to that course of action. It applies only in the case of the chief executive officer. Disciplinary action itself can arise only if the general rules of conduct under section 63 are breached. There are all sorts of terms and conditions that surround those. There is a right of appeal and there is no question in my mind that with all those safeguards, and bearing in mind that we are talking about chief executive officers with all the weight and authority that they command, the sort of situation that the Opposition envisages could not arise. If it did, there would be other sanctions to be taken against it. If we started enumerating officers to whom it may be appropriate to give this power to nominate, invariably someone would be excluded or it would create an inflexibility which would make it very difficult in a particular instance.

For example, it may be that the Commissioner for Public Employment for some reason is disqualified from being an appropriate person in the case of that particular CEO. Where does the Minister turn then if it is also inappropriate for the Minister to be involved—if a matter of discipline has arisen in which the Minister has an involvement and is therefore better not acting as the disciplinary authority itself? For all those reasons, I think it should be kept flexible. There are enough safeguards within the Act itself, and in practice for chief executive officers, for there to be no concern about it.

**The Hon. MICHAEL WILSON:** I disagree with the Premier quite violently on this. I point out to the Premier that the Opposition has not approached this Bill in a lackadaisical manner. We have approached it with concern for its machinery and its provisions and to try to make it what we would believe to be a better Bill. This is not an issue where there is a philosophical difference between the Government and the Opposition. There may be other amendments later which show a different approach between the Government and the Opposition, and that is fair enough, but this is an endeavour by the Opposition to make the Bill more workable.

The Premier said that it would be untenable if somebody were to be appointed to this position as a disciplinary authority who was, say, a ministerial assistant or of deputy director status—anybody of that nature. Of course, if it is untenable, why then do we not make sure that it does not occur? That is the position which the Opposition is putting to the Premier. The member for Light put to the Premier a couple of alternatives. If he would agree to perhaps reconsider the matter before the Bill's passage through another place, we would be happy to accept that assurance; or, indeed, the clause could be recommitted at some later stage (and I suggest that that would be several hours away, because there are at least 40 amendments to be dealt with in this group). I again suggest to the Premier that here is a chance to put the issue beyond doubt.

**The Hon. J.C. BANNON:** The amendment is totally unacceptable as moved, and I think even the honourable member concedes that there are deficiencies in that. I do not think there is any ready way of finding a form of words providing the sort of protections in statutory terms without being very clumsy or very comprehensive in a way that would be inappropriate in the Bill. If the Opposition feels that it can come up with something, the opportunity would be there for it to move an amendment in another place.

The Committee divided on the amendment:

Ayes (19)—Mrs Adamson, Messrs Allison, P.B. Arnold, Ashenden, Baker, Becker, Blacker, D.C. Brown, Eastick, S.G. Evans, Gunn, Ingerson, Lewis, Mathwin, Meier, Olsen, Oswald, Wilson (teller), and Wotton.

Noes (24)—Mr Abbott, Mrs Appleby, Messrs L.M.F. Arnold, Bannon (teller), Crafter, M.J. Evans, Ferguson, Gregory, Groom, Hamilton, Hemmings, Hopgood, Keneally, and Klunder, Ms Lenehan, Messrs McRae, Mayes, Payne, Peterson, Plunkett, Slater, Trainer, Whitten, and Wright.

Majority of 5 for the Noes.
Amendment thus negatived.
Progress reported; Committee to sit again.

[*Sitting suspended from 6 to 7.30 p.m.*]

## LIQUOR LICENSING ACT AMENDMENT BILL (No. 2)

(Adjourned debate on second reading (resumed on motion).

(Continued from page 1411.)

**The Hon. H. ALLISON (Mount Gambier):** I join with colleagues on this side of the House who, during the past hour, have been particularly critical of the Government for the way in which it has introduced this Bill into the House. The Grand Prix has been known as a South Australian event for a considerable time, yet here we have a relatively unprepared Government introducing legislation in another place with only 2½ weeks to go. This House has been up for the past week, leaving only a few days of work, and this Bill was introduced in the House today with a copy of the Bill arriving on members' desks only a few moments ago.

I have been personally aware of the legislation, and of course have done some work on the Bill, but colleagues who wish to speak on the legislation this evening find themselves rather belatedly in possession of the Bill itself. I believe that the Government could have done a much better piece of coordination, rather than leaving the whole thing to the last minute.

Whether or not this was by accident or deliberate, in an attempt to keep the general public under informed or completely uninformed as to the legislation, I do not know. Some fears were expressed by members on this side of the House that any criticism of the legislation may be construed to be opposition to the Grand Prix itself. I would like to dispel any such suggestion. The Opposition is not opposed to the Grand Prix in any way. We recognise that it will be an event of world standing, and we also recognise that the Government has had somewhat of a dilemma on its hands in deciding whether or not to bring in this legislation.

Naturally, people from interstate would not have been experiencing such unrestricted licensing legislation, but people coming to South Australia from overseas will have been living in countries—particularly in Europe—where licensing restrictions are few and far between and where trading in many cities is allowed on a 24-hour basis not only in hotels but in wayside cafes. With that dilemma on its hands, we believe the Government might have introduced this legislation much earlier.

Since it did not do that we will just have to air a few points in the House this evening. One of the major problems that has been presented to us is simply that the Government is introducing legislation that applies State-wide. Relatively few remote areas in South Australia will be basking in the euphoria of the Grand Prix, yet hotels will be allowed to decide to trade for up to seven days, 24 hours (morning, noon and night) and the difference in lifestyle in those remote areas, compared with the difference in lifestyle in central Adelaide, is highly questionable. The Grand Prix will impact very lightly on those remote areas, yet we have legislation applying to Port Lincoln, Ceduna, Coober Pedy, Mount Gambier, and the Riverland, and clubs—private clubs as well, with limited membership normally only allowing a few visitors entrance under the signature of a member—will be allowed to invite guests, with no restriction for drinking to go on for 24 hours a day.

There are areas in metropolitan Adelaide that have already experienced problems. These have been quite serious ones such as those at Glenelg, which have happened in festive seasons during licensing hours far less lenient than the ones before us. They have been subjected to all sorts of happenings such as riots and action against the police. With that in mind, on looking at this legislation one sees that the Commissioner of Police or individual members of the Police Force are allowed to issue directions during this week of continuous trading, prohibiting activity, behaviour, or noise or directing that the level of noise be reduced.

Bearing in mind the experience of the police on previous festive occasions, I suspect that we will be putting the onus on police officers most unfairly. I think that it is highly unlikely that police officers on an individual basis will be taking action in cases where there is a high risk of personal abuse or attack. I am not suggesting that our police officers are fainthearted, but those are the facts of life.

Since the revelry will occur only for a week it may be that police officers will err on the side of leniency. The onus should not be on individual police officers. For that reason, the Opposition in another place moved an amendment to give local councils authority to opt in or out of this legislation. For example, if the Glenelg City Council wished to opt out of the legislation and not let people trade for 24 hours it would have the right to do so. Bearing in mind the troubles it has already experienced, one could hardly blame that council for taking such a decision.

There is also the question of whether a number of hotels that are already the subject of restrictions because of complaints laid by local residents will be given the 24 hour trading rights that will apply as a blanket cover over the whole of the State. This matter was raised during the debate in another place. I understand that in his second reading explanation in this House the Minister stated that an amendment will be introduced during the Committee stage to make it quite obvious that those hotels will be restricted. That is at least some solace for some residents in metropolitan Adelaide who have previously complained, and they have had their complaints redressed. Those particular hotels or institutions will not be allowed to trade unrestrictedly during the period of the Grand Prix.

I do not propose to prolong this debate, as other Opposition members wish to express their voice of protest on behalf of individual electorates and councils. Generally, we recognise that the Government has had this dilemma. As I said when I opened this debate, we are pleased to see that in the other place the Government allowed the introduction of an additional clause imposing sunset legislation, so that the Bill before us is a sort of trial and error. If the Government finds, after this week of continuous trading, that the problems created are far greater than the benefits that accrue then the whole matter will be brought back to this House before the next Grand Prix is held. Members on both sides will sit in judgment and will assess how this legislation has affected individual electorates or parts of South Australia, and will again be asked to make a judgment accordingly.

As I have said before, we are not opposed to the Grand Prix. We are not opposed to people enjoying themselves in a relaxed atmosphere. We believe it is appropriate in a number of cases for 24 hour trading to be carried on all year round, and there is at least one hotel in Adelaide in the main city square (and that is the Hilton Hotel) which, because it is of extremely high international reputation, already has a 24 hour licence. There appears to be no problem regarding drinking and drunkenness at that establishment. It is very well run and very reputable. However, to impose blanket legislation across the whole State of South Australia, to the remoter areas, where obviously the impact of the Grand Prix will only be felt lightly, can be questioned.

Nevertheless, we will not oppose the legislation. However, we will introduce an amendment in Committee and we will support the Minister's amendment, if it reads as I think it will.

**Mr M.J. EVANS (Elizabeth):** In contributing briefly to the second reading debate, I would like to indicate my general support for the proposition of extended trading hours during the Grand Prix period. That is certainly a legitimate proposal and, while it is unfortunate that there has been some delay in the Government's bringing this matter forward to the Parliament, thus requiring it to be considered somewhat hastily, a legitimate case can be made for extending trading hours in the Grand Prix period. I have some personal doubts and concern about the operation of this measure extending throughout the State. A case could certainly be made for limiting the application of this measure to the inner metropolitan area of Adelaide and various tourist areas throughout the State. However, that would require considerable research and undertaking by the Government and, obviously, the time is not available to permit that action.

Of course, the first Grand Prix is necessarily experimental in some respects and therefore I suppose that State-wide application of the legislation can be justified on that basis. However, I am concerned about the broad scope of this legislation: it will operate right throughout the State and in respect of all licensed premises. There are a number of premises in my district which I can think of and which are located in densely built up residential areas where it might well be quite inappropriate that such facilities are open all hours of the day and night. However, given the short time between now and the first Grand Prix, considering that this is our first experience in this area, and given the need to ensure the success of the event for the economic benefit of the State, I believe that the risk is justifiable.

I strongly support the foreshadowed amendments that the Minister has circulated and, without those amendments, the Bill would be very much deficient. I indicate my strong support for the amendments, particularly the extension of the definition of the Commissioner of Police to include any commissioned officer. That is a very important extension and, if the Minister had not foreshadowed it, I intended to move a similar amendment. I am very pleased to support that aspect of the Minister's proposal. It would certainly be very difficult for individual councils to opt out, and this was referred to in the other place. While I appreciate the motives of some honourable members in proposing such an amendment, I think it would be quite unworkable in practice given the very short time available.

Fortunately, the Legislative Council decided to insert a sunset clause so that this measure expires on 30 June 1986. Therefore, we can have every confidence that the matter will have to be reviewed again by the Parliament before the next Grand Prix. That is an essential step. In the light of the experience we will gain on this occasion, Parliament will be in a much better position, as will the Government, to determine the appropriate action that will be required to regulate licensed activity during the next and succeeding Grand Prix. While I support the legislation in principle, I have severe reservations about the way in which it covers the entire State without any restriction. I believe that that is a matter that we will want to consider when the measure comes before the Parliament again.

I am very pleased to see the strengthening of the police power. I hope that every commissioned officer in the Police Force will take this as a direction from the Parliament to act with the greatest severity against any patrons or licensed establishment which abuses the very considerable privilege that this Parliament proposes to bestow on them. I certainly hope that the Government will undertake to back in strongest terms any officer of the force who takes the necessary step of closing all or part of a licensed establishment pursuant to the provisions of section 132c as they are foreshadowed in this Bill.

I also am very pleased that the Government has picked up in its foreshadowed amendments the matter of existing licence conditions not being overridden by this Bill. When this matter was raised in another place the Attorney indicated that the Bill would not override existing conditions restricting the hours of some licensed premises. However, it is clear from the face of the Bill that that is not the case. The second reading explanation of the Minister picks up that point and the foreshadowed amendments clearly cover it. Therefore, that is another potential area of difficulty that has been resolved by the foreshadowed amendments. With those reservations, I support the second reading.

**Mr LEWIS (Mallee):** The remarks that I make are very much along the lines of those of the members whom I have heard speaking in the second reading debate to this point. It therefore will not take me long to place my position on the record. I have told this House before that I am very much in favour of the abolition of the Licensing Court, anyway.

In this instance, however, and in those circumstances it should be possible and lawful for local government to determine whether or not liquor can be sold within certain hours by making by-laws. By that means it would be possible for inappropriate behaviour in the various demographically, geographically and climatically different parts of South Australia to be properly brought to account by the populations of people who live there. Such ordinances (that is, subordinate legislation through local government) would enable the way in which liquor is sold to be regulated not just within the framework that I have referred to but also to be varied according to the seasonal influence and the need of the population at the time, so that in those circumstances that I have spoken of, in hot, dry places on the seaside to which people go for their summer vacations, it would be possible for the local government body in that locality to decide during that period to extend liquor trading hours according to its inclination and its assessment of the needs of the tourist who came there and the development of that source of employment in its community.

I will not name any specific instances, but the coastline of South Australia is replete with places that would want to be able to do that during the vacation time and restrict trading hours at other times because they would have within them, as communities, an element of ne'er-do-well, unruly drunkenness that would otherwise poison itself more quickly, causing a great deal more dislocation to the peaceful enjoyment of life of the other full-time residents there.

On that basis, I put the view that the amendment to be moved by the Opposition ought to be supported. Clearly, that amendment will mean that local government, where it chooses, can opt out. I cannot see, for instance, why the community of, say, Pinnaroo (which may not want through its district council to allow open slather trading, even though a publican may wish to do it) should not be permitted to simply pass a by-law to prevent trading where it saw that trading as being against the best interests of the community. Why should we in this place, given that we are catering for the specific needs of a Grand Prix that will have relevance only to those people within the metropolitan area of Adelaide during the week that the Grand Prix is on, impose some unnecessarily uncomfortable consequences on remote communities that would wish to divorce themselves from those consequences by simply passing a subordinate piece of legislation?

That is my position and for that reason I will be supporting the amendment to be moved by the Opposition in the certain knowledge that it will provide people, wherever they live, with the right through their district council to determine how they will have liquor sold in their communities during the Grand Prix week.

**The Hon. LYNN ARNOLD (Minister of Education):** I rise briefly to indicate that I will be opposing the Bill before the House tonight. My views on extended trading hours have been well canvassed in this place and in other arenas on previous occasions. I do not wish to recanvass them tonight. I do not believe that there will be a big plus in South Australia under such an extension of trading hours. We are giving to the community a confusing message by such an action. That confusing message has, amongst other things, to do with the road safety campaign that we are trying to promote in South Australia. We need to think clearly about whether or not we will gain publicly out of this in any event. I raise that issue for other members to think about.

When Australia won the America's Cup yacht race we had a moment of national pride in this country. However, in the days that followed, we had some moments of some chagrin when the celebrations turned into not so pleasant events and were just a bit too well lubricated for our own good. I do not want to canvass the arguments of principle as I have previously put them on record. I oppose the Bill on those grounds.

As member for Salisbury I am probably out of keeping with the bulk of my electorate on this matter and, if so, I apologise to my constituents. It is my intention to oppose the amendment to be moved by the Opposition as it will further free up the system by passing over to local government the right to make decisions in this matter that should be the proper province of the Licensing Court of South Australia.

**Mr BLACKER (Flinders):** I was most interested to hear the comments of the Minister of Education and I, too, briefly would like to share his sentiments exactly. I have canvassed the provisions of this Bill amongst many people in my electorate, the majority of whom believe that the open slather amendments to the Licensing Act are unnecessary. Most of my constituents are of the opinion that, if anyone wants to have access to drinking facilities, there is plenty of opportunity and the greatest fear in most people's minds is that, if they go to the Grand Prix, the atmosphere of speed and excitement could be exacerbated if there is greater access to drinking facilities. Some people would be of the attitude that it does not matter or that they could not care less, but many people are concerned, particularly road users, and believe it is not really warranted. Therefore, I oppose the Bill.

**Mr MATHWIN (Glenelg):** I am not happy with this Bill. First, we have had little chance to look at it as it was only put on our desk this evening. I have a great deal of concern with it as I do not see how on earth it can be controlled. I must speak against a number of aspects of it. With the experience that I have had in Glenelg (and I am sure my concern is shared by my colleague the member for Morphett), I am concerned about the sale of merchants licences and general unrestricted licences and outdoor sales at different hotels and outlets.

I ask honourable members to recall the Glenelg riot, which was undoubtedly caused by alcohol consumption. At that time liquor was obtainable by one's going from one hotel to another. It was a warm day and people had nothing else to do but drink alcohol. However, at the time of that riot the hotels were open only during a prescribed period, as a result of which people went from hotel to hotel.

The provision in this Bill is 100 times worse than that: hotels will be allowed to open for 24 hours a day, which is asking for trouble. How on earth will it be policed? I am sure that officers and those in charge of the Police Force are more than concerned about the immense problem with which they will be faced. That terrible Christmas-New Year Glenelg riot could be repeated: things could be much worse. It is a step in the wrong direction to allow people to buy liquor and drink it over a 24 hour period. Why make it so easy for them? They will be able to buy alcohol and consume it away from hotels at any time of the day. If we are to control that situation, let us ensure that alcohol is consumed within hotels or restaurants: let us not make it an open slather for people. As I said, we are asking for trouble.

Although no honourable member can speak with authority for the whole State, we would all claim to know about hotels in our areas of responsibility. We should leave it to local government in each area to decide which hotel is issued with a licence, as described in this Bill. People in local government (the Government that is closest to the people) know the trouble spots in their areas. I can name at least two hotels in Glenelg at which there is almost constant trouble. We should leave these decisions to local government, rather than giving a blanket permit throughout the State.

I am also concerned about clause 2, which inserts new section 132c, subclause (i) of which provides:

> Where, during a prescribed period—
> *(a)* any activity on, or the noise emanating from, premises in respect of which a hotel licence, club licence, retail liquor merchant's licence or general facility licence is in force;
> or
> *(b)* the behaviour of persons making their way to or from such premises,
> is, in the opinion of the Commissioner of Police or of a member of the Police Force authorised by the Commissioner . . .

That means that if one is going to have trouble in one area one has to run around and find someone with authority in the Police Force—a Commissioner of Police, the Deputy Commissioner, or maybe a Superintendent in charge of that particular division—to come in in a hurry or to get some sort of order because of the trouble that is brewing. The clause continues:

> . . . unduly offensive, annoying, disturbing or inconvenient to any person who resides, works or worships in the vicinity of the licensed premises, the Commission or the member of the Police Force may issue directions prohibiting the activity, behaviour or noise or directing that the level of noise be reduced.

That is a farce. I know that this is the first time that we have had a Grand Prix in Australia and that it is a novel situation. But, under this Bill the Government intends to allow every hotel throughout the State, whether Coober Pedy, Mount Gambier, Pinnaroo or anywhere, to open, merely because of the Grand Prix in Adelaide. I have never heard anything so ridiculous in all my life. Perhaps it is an excuse to give everyone a free booze-up for the week.

It is absolute madness. If one is to allow some concessions, for heavens sake let the bodies that know where the trouble is (local government) decide which hotels and premises should be open. Why should we, in this place, decide that these establishments should be open for a full 24-hour service? It is ridiculous, and members opposite should realise it.

New section 132c provides that the police can take action in relation to the behaviour of people making their way to and from such premises. How on earth will the Police Force control this on a State-wide basis? As I said earlier, we can all be very happy that the Grand Prix is to occur. It will be a first. I suppose that any Government delights in being a first in a field. We want it to be a success. If the Government

wishes the Grand Prix to be a success because it will advertise and bring in tourists from throughout the world, it should not be hinged on a Bill like this. What credence does the Government put on the fact that this Bill will allow pubs to open for a full 24-hour service? It will do nothing to enhance the Grand Prix.

It is time that the Government had another look at this matter. If it did so, the Government would see that it will not work properly, because we are dictating in this place what should happen throughout the State in areas where there has previously been trouble. This matter should be left with local government, if hotels are to open, so that it can decide which trouble spots should not be opened. Local government knows because it is local, and it should have control. Parliament is not, and cannot be expected to be, in that situation.

I again remind the Minister that this action will cause trouble, and surely he realises the ridiculous situation in which police would be placed under these circumstances. I think that we should look at the amendment about which I am not allowed to speak at this stage. Indeed, I think the Government is making a great mistake.

**Mr OSWALD (Morphett):** In opening my remarks, I would like to place on record my support for the Grand Prix. I do not want my remarks about the licensing laws and the changes that are about to be made to the Act to be misconstrued in relation to my support for the event which is about to overtake Adelaide. I think that the Grand Prix will be a great thing for Adelaide. It will be a revenue producer, it will bring tourists to the city and I think that the city can only benefit by it, but I have some concerns about this Bill and an extension to 24 hour trading in hotels.

I can speak with some authority on the subject of crowd behaviour outside hotels. I represent the electorate of Morphett, which members know includes all the suburbs of Glenelg. One of the amendments in which I have an interest seeks to ensure that local government can have an input on the subject of hours of trading. I think it is appropriate that some hotels around Adelaide can trade during the Grand Prix for 24 hours. They are in isolated areas in the city and away from residential areas that will not harm anyone if they trade over 24 hours. However, there are certain hotels located in residential streets, and I do not think that those residents should be put in the position of having to contend with 24 hour trading if they do not want it.

The Bill was rushed into the Parliament. Within a matter of only two or three weeks before the first race of the Grand Prix we find a Bill of this importance being introduced and that does not really give local residents much of an opportunity. I can assure the House that, when the Bill was first announced in the press, my telephone ran hot with residents in the vicinity of Glenelg hotels asking for clarification of the Government's intentions and also asking what we were going to do about it. They reminded me that over the years they have had to contend with unruly crowd behaviour in the streets of Glenelg, behaviour that has continued until 2, 3 or 4 a.m., with the inevitable bottle throwing, shouting, laughing, slamming of car doors, squealing of tyres, unpleasant incidents occurring in driveways and all those occurrences that should not be permitted in quiet built-up residential areas.

I had hoped that there would be a lot more enthusiasm in the House for an amendment that allowed local government to decide the hours. By giving local government the right to decide the hours, it allows certain hotels in areas that will not affect local residents to trade 24 hours a day for the duration of the Grand Prix, whereas those hotels that are likely to cause difficulties to local residents may remain closed. I notice that the Government has an amendment that will continue the restrictions that apply to some seven hotels, namely, the Edinburgh Hotel at Mitcham, the Hackney Tavern at Hackney, the Stable Bar of the Holdfast Hotel at Glenelg, the Gouger Hotel in Adelaide, the Kentish Arms Hotel at North Adelaide, the Queen's Head Hotel at North Adelaide, the Royal Hotel at Kent Town and the Old Rising Sunday at Kensington.

That in itself is appreciated and I applaud the Government for doing that, but I pose the question that will no doubt be asked of me tomorrow morning at Glenelg. That removes the difficulty around the Stable Bar at the Holdfast Hotel, but that does not mean that other hotels in the Glenelg district will not be able to trade 24 hours a day seven days a week.

I know that many local residents in Glenelg will be most unhappy about that. I have discussed the matter with some members of the Glenelg council who felt that to be given those powers was a very useful tool, as it would enable them to do what they believe they should do, that is, exercise some say on behalf of the residents, whom they seek to represent, for that six-day period of the Grand Prix. I hope that members will take careful notice of the Opposition's amendments concerning the powers that have been given to local government.

While I applaud the Government for exempting those seven hotels to current trading hours, I hope members will bear in mind that there are hotels nearby which will be allowed unlimited trading. I do not think it is fair to shut down the Holdfast Hotel but allow three or four hotels within walking distance to carry on trading. There has to be a bit of fairness in this as well. The fair way is to let the local government authority decide which hotels will be allowed unrestricted trading hours.

The other clause which I was pleased to see remaining in the Bill is the sunset clause. It is very valuable in any piece of legislation such as this to look at how the Bill operated, assess it after discussions or post mortems on the Grand Prix and then decide at a later date what should happen. I commend the Opposition's amendment to the House, and in conclusion place on record again the concern of Glenelg residents that the Government is taking this course in allowing 24-hours a day seven days a week trading, which has already been labelled at Glenelg as 'the six-day swill'.

**Mr S.G. EVANS (Fisher):** I will try to make my remarks brief. I oppose the legislation, and I say that even though I am connected with two licensed clubs, one of which has a 24-hour licence. We in this State have a particular lifestyle, but when we are getting a few visitors from other parts of the world why do we suddenly attempt to change our methods of operation and try to show them that we are the same as they are back home? I thought that visitors, wherever they may come from in the world, would not mind seeing that we are different. People coming from certain countries would not be able at home to buy liquor after midnight and others would not be able to buy liquor if they were under the age of 21. Others would be able to buy liquor at 20 years of age but of a lower alcohol content. There are plenty of variations in laws throughout the world. There are even countries such as Canada where you have to produce a voluntary identity card with liquor stores owned by the Government. They could easily say, 'Unless a person produces an identity card, they are not served,' so the person has to voluntarily obtain an identity card. That is a different set of rules from those applying in this State.

We are also different from many other countries in terms of the vast distances between our communities. There is no doubt that some people (like I was when I was younger, although I did not drink alcohol) like to drive a high powered car at speeds most probably dangerous to themselves (as

they were to me) and to others. There would perhaps not be many in my time who drove a Marmon 'straight eight', which I used to drive (I thought I was showing great skill if I could keep it on the dirt roads in those days). Some people, most probably the younger ones, will have driven all the way from Sydney or Melbourne to see the Grand Prix, perhaps having arrived on the Thursday, Friday or Saturday.

After having been to the Grand Prix, where alcohol will be available, some of these people might perhaps go to a hotel, have a few ales and a bit to eat, and then set off on the main road to Melbourne or Sydney. Some of the hotels on these routes may decide to stay open and so people could go on a pub crawl on the way home. We know how notoriously dangerous some country roads are for people even in normal circumstances, but in some circumstances we have been able to ascertain that accidents have involved people who have consumed alcohol at a football match, for example, before making the 50 mile trip home.

The reporters, for example, who come here from other countries or States, will not be staying at lower standard hotels or in private houses. It is most likely that they will be staying at the top hotels where they will be able to get a drink at any hour of the night if required. I am sure that the Hilton and the Gateway and other establishments of that class will provide a 24-hour service, and so there will be no shortage of opportunity to obtain alcohol.

In relation to the nightclub scene, is anyone going to tell me that one would have any problems obtaining drinks at an Adelaide nightclub at three or four o'clock in the morning? This would apply equally to some of the hotels, and perhaps up to five and six o'clock in the morning. Very few of them are overcrowded at that hour. How many of the Grand Prix spectators, having been out in the crowd and maybe the warm sun and having consumed some alcohol and food, would want to stay up all night before the racing the next day. I do not think a big percentage of people will do that—so what are we trying to condone?

In recent years Governments have spent large sums of money pointing out to people the dangers on the roads and the dangers in relation to driving under the influence of alcohol. In relation to the Grand Prix, on that weekend a concept of speed will be in the minds of many people—whether or not we like it, that aspect will apply. Further, some of the hotels and nightclubs may provide video entertainment, using big screens, and show past Grand Prix and other racing highlights, and therefore many patrons will leave such establishments with that attitude in mind, namely, speedway racing of some description. I am referring to not only motor car drivers but also motor bike riders, and we know how lethal motor bikes can be even if a rider has not had too much alcohol.

The Government maintains that it will ensure that there will be sufficient police on the road to police all the trouble spots. In present circumstances we know which establishments are able to remain open in the early hours of the morning—to daylight hours, if you like. Such establishments are sufficiently limited in number for the police to adequately police them and to keep their eye on them. However, if all establishments are allowed to remain open to compete for business, the police will have hell's own job in trying to chase up the troublemakers who inevitably appear in those circumstances.

I have another concern in relation to under age drinking, and members have heard me speak on this matter on other occasions. As there will be more places open, the police will try to concentrate on the central areas of the city and the areas close to the Grand Prix circuit. The police will have to watch the area near the Grand Prix carefully to ensure that the track and the fittings are undisturbed. Security there will have to be tight. Therefore, there will be big demands on the Police Force. However, hotels and licensed premises will be open throughout the State.

People under age can tell their parents they are going to the city for a few hours, and then jump in a car and go to the country to get away from any control close to the city. We are thus likely to have people of all ages, including very young people, if not entering licensed premises then having others bring alcohol out of licensed premises for them. People will find that opportunity.

I have tried—I cannot do it tonight—to amend the Act so that people under the age of 18 cannot drink in a public place, nor can they be given alcohol in a public place unless they are in the care of a parent or legal guardian. Standing Orders prevent my moving that amendment again tonight, but I would if I could.

I say this to the House: until we are willing to tackle this sort of problem that exists in society, we are not fair dinkum. Simply because people might come from other lands, we have to be different for this one week. We will not be South Australia—we will not be ourselves. We are trying to show that we live in the same way as many of the visitors in terms of how we live.

Is it that vested interests have approached the Government and said, 'It would suit us if we could open longer because it might give us a bigger turnover.' If that is the reason for this Bill, I am disappointed, especially if we find our road toll figures in regard to deaths and injury increase in that period. Let us think about the extra jobs created, whether it is by providing people with artificial arms, selling flowers or whatever. In real terms that is possibly what we are doing. I say this now before it happens and not afterwards.

Members are aware of the many people who will be on the road. We are all aware of the visitors who do not have to be quite so careful to abide by our laws because, if they commit some sort of offence, they can be out of the place before one can do much to them. That applies especially to visitors from other States who travel by car and motorcycle. Each member is aware of the many problems that will arise. We know they will arise whether or not we have extended drinking hours, and we know that we will increase the opportunity for such problems to occur through extending licence hours.

I have an interest in licensed clubs and the sale of alcohol there as a member or office holder of such clubs, but there is an area of responsibility that we should observe. Certainly, members with teenage families and friends—we have all lived through our own teenage years—will know of the experience once a motor vehicle comes into our possession. We know how we can get the feeling behind the wheel in a high powered vehicle that the world is ours, especially if there is the right sort of programme on television in a hotel. Such a screen can be anywhere in the State. One could watch television in Bordertown and get in the car and drive back to Tailem Bend or Mount Gambier. It could be at 5 o'clock or 6 o'clock in the morning and a hotel might decide to open if the clientele is there.

Business houses will attempt to attract a clientele. That is obvious. If we change the law to provide that opportunity for them, good luck, but I do not like the principle and I oppose it in the strongest terms. I do not support the proposition. I will support the suggested amendment because it is better than the provision in the Bill but, in the end result, if it becomes part of the Bill, I will still oppose it in the strongest terms.

**Mr BAKER (Mitcham):** I think that my colleagues have set out some of the arguments associated with this Bill. I will be brief in telling the House of my attitude. I suppose

that the bottom line for me is that Adelaide is on show to the rest of the world and that we do have some responsibility towards our visitors and the residents of Adelaide. More importantly, we have to show people who come from interstate and overseas that Adelaide is a grown up city in many ways, not in certain ways that the member for Fisher has suggested but certainly in other ways.

Having travelled to many places in the world, I cannot conceive of any Grand Prix circuits where there would not be reasonably open retail, liquor and petrol trading across the board. I have visited a number of places with Grand Prix circuits and am assured that the fact that some of those places operate on that basis in any event means that those facilities are available there. I think that we have to make facilities available for visitors to this State.

I share some of the concerns that have been expressed on this side of the House tonight, because they are real concerns. I would have been far happier if the Government had specified that the open trading for liquor was to be restricted to the square mile of Adelaide. I think that that would have had infinite benefits, because that is where the centre of activity will be. The natural gravitation will be to those hotels in close proximity to the track irrespective of whether people are sleeping at hotels in the area, are being billeted out, or have taken up accommodation elsewhere.

As the Bill originally stood I was vehemently opposed to it because there was no restriction on trading by hotels that had already had some restriction placed on them by the Licensing Court. I am pleased to note that the Minister has foreshadowed amendments to rectify that anomaly. I am pleased that my colleague in the Upper House asked about this matter. There is no doubt in my mind that, if allowed to trade uninhibitedly, certain popular hotels that have had problems in the past would have the same problems again.

The amendment put forward by my colleague with regard to councils being able to opt out I believe is sound because it could get rid of some of the hot spots where youngsters aged from 17 to 25 gather and, after having some liquor, tend to take out their feelings on the local community. I know that the Bill provides that there will be means whereby people can seek redress through the police. If I receive any complaints in my area I will be ringing the Commissioner of Police the following day asking him to close down the hotel concerned.

In all probability there will not be a vast number of hotels opening because it will not be economic for them to do so. As the member for Morphett has said, he can guarantee that certain hotels in his area will open. There may be one or two in my area that consider opening. It may well be that, once proprietors have assessed the trade available, only 5 per cent or 10 per cent of hotels will open.

I have some lukewarm support for this Bill. Members may recall that, when I debated the licensing legislation which passed earlier, I expressed extreme reservation about the drinking capacity and capability of the Australian populace. I still hold that concern. I have never seen such a poorly conducted population so far as liquor is concerned. Perhaps by taking little steps at a time they might grow up and not disgrace us. The Government might have to face the fact that, if certain of our young people live up to expectations, there could be a gigantic problem on our hands.

I presume that the Government realises this. If these people take the opportunity to celebrate in an overly disruptive fashion, visitors will not remember Adelaide fondly. It could gain a bad reputation, so we are taking a bit of a risk with this proposition. In the euphoria of the occasion, in the early hours of the morning, some people may take the opportunity to express themselves in a way that the community would like to discourage. So there is a risk involved.

I hope that the experiment will be a gigantic success and that, in the main, the only hotels that open for 24 hours a day will be those in the central area of Adelaide. I also hope that people will conduct themselves with decorum so that overseas visitors remember Adelaide as a wonderful place where the people are friendly and know how to treat visitors properly. However, there is a risk, and I hope that nothing untoward occurs.

**Mr PETERSON (Semaphore):** Obviously, the Government has decided that it is necessary, during the Grand Prix period, for hotels to open for 24 hours a day. I think that is a little overzealous. I see no reason at all why the legislation should have effect throughout South Australia; Kimba and Port Kenny, for example, will not benefit.

**Mr S.G. Evans:** Or Bull Creek.

**Mr PETERSON:** Or Bull Creek, or even Andamooka—and visitors might go there. In those places people can get a drink at any time if they want to, so I see no benefit. I have discussed this matter with bottle shop owners, and not one has talked about this provision: it will not affect my district too much. I have noted the comments of previous speakers. It has been suggested that there be an amendment so that someone else makes the decision on whether hotels should open, but that does not seem to make sense, because the dangers will still be there.

It would be better if bottle shop owners or hoteliers who want to open apply to the Licensing Court to obtain a special permit. This measure will not have widespread support in South Australia. There will be disruption to people's lives. The *City News* of October 1985 (page 2), a newspaper put out by the Adelaide City Council, stated:

> As a result of complaints from local residents, council will lodge an official complaint with the Liquor Licensing Court about the behaviour of people attending the Gouger Hotel.

A previous speaker referred to that hotel. Further, it was stated:

> The complainant alleged that the behaviour of hotel patrons is unduly offensive, annoying, disturbing or inconvenient to residents.

There will be plenty of that sort of thing if the hotels are open for 24 hours a day. I am concerned about dangers on the road. It is easy to drink too much liquor. Because hotels will be open for 24 hours a day, visitors and locals who want to drink will be able to do so. The explanation of the Bill states that the expansion of trading rights will apply throughout the State, so that visitors who wish to travel during their stay in South Australia can also be catered for. Does that mean that we want them to drink and drive? That is how it reads to me, and that is a bad point.

I am concerned that there will not be enough police to manage the situation. Many hotels in the metropolitan area may open, and there will be a problem for the police. We are told that the Police Force is undermanned, but it will be worse if facilities open for 24 hours a day. I do not believe that Adelaide needs this. Many local people will have disturbed nights as a result of this measure. I am certainly not against the Grand Prix. If the Government has decided that this is what it wants and if it thinks that it will work, I am prepared to support it to that degree. I have registered my thoughts on it. I do not think that it is necessary. The Government will have to bear the brunt for whatever goes wrong with this but, if it thinks that it is needed, I will support it.

**Mr MEIER (Goyder):** I rise to express serious objections to the part of this Bill that allows unrestricted trading throughout the State. First, the Government needs to be

rapped over the knuckles for having left the introduction of this Bill so late. The Grand Prix is just over a week away and we are discussing this type of legislation. We have had months to think about this, and in this type of area, where certain groups such as churches have moral objections, they should at least have had the right to express their views openly through discussion with the Government. But, with the time that has been given, the views have possibly been conveyed by telephone or maybe through correspondence.

Whatever the case, it is a little disturbing that the Grand Prix is looked at to some extent as though it will not be a success unless there is 24-hour trading. I have mixed feelings on it. Some of the visitors to our city will have been used to 24-hour trading and may look for the same thing here. It interests me that if one goes to another country one tends to take the line that when in Rome one does as the Romans do. I would have thought that people who are happy to come to Adelaide would be happy to do as Adelaidians do when we live our normal day to day lives.

Nevertheless, the legislation is before us and the arguments have been put forward that 24-hour trading should occur. Why, though, should the whole of South Australia be open to this trading? I think particularly of many parts of my electorate—towns such as Yorketown, Minlaton, Maitland, Balaklava, Mallala, Two Wells and Virginia. To what extent will they be influenced by people being in those towns for the Grand Prix and wanting 24-hour service? We will find the real answer to that after we have had this Grand Prix, but I predict that there will be very few, if any, people residing in those towns who will want 24-hour trading because the Grand Prix is on.

A request during the long weekend in October from the surfing classic at Stenhouse Bay on southern Yorke Peninsula for the use of the Innes National Park hall was drawn to my attention. The organisers wanted to have liquor on that evening, and the ranger refused permission because, he said, with liquor at such a function things could get out of hand and he did not know whether he had enough rangers to look after the situation, despite the fact that two years ago a similar surfing classic was held there and apparently things went off very well.

I took that up with the Minister of Environment and Planning (Hon. Don Hopgood) some weeks ago, pleading with him to allow the surfing classic to use the hall for that evening and have the use of liquor. The Minister wrote back and said that he would not allow it because the head ranger was against it. Yet, here we see the Government, of which the Minister is also a member, saying, 'Look, unrestricted liquor, not only in the area of the Grand Prix but throughout the State, is okay and will not cause any problems.

**Mr Mathwin:** Do you think that he asked the ranger?

**Mr MEIER:** I do not know. That is a very good question from the member for Glenelg. Whether he has asked the ranger or the people in the various country towns, I would like to know. Obviously, it would be highly likely that he has not asked people outside the area immediately affected by the Grand Prix. Yet, we here in this House are asked to push this legislation through so that it is ready in time for the Grand Prix. I can understand that: I support the Grand Prix and am happy to see it here for Adelaide's sake, but the planning arrangements by this Government again are shown to be wanting in forward thinking.

They are the main comments that I wish to make. It would have been much more appropriate to have a system whereby the local communities could determine whether or not they wanted 24-hour trading for this limited period. Maybe it would have been simpler still for the Government to say that it would allow it in the metropolitan area and exclude the areas that wished to be excluded. The Opposition's amendment suggests an alternative system and it is a pity that once again the Government is found lacking. In this House we only received the Bill late today. I leave the House with the thought that I hope due consideration can be given by the Government before pushing through this legislation.

**The Hon. D.C. BROWN (Davenport):** I am concerned that again, as the shadow Minister of Transport, I am forced to get to my feet and argue a viewpoint for commonsense when it applies to the possibility of the influence of alcohol on deaths and road accidents in the State. This House has spent a great deal of time debating and talking about the issues. We have a Government in this State that has been extremely reluctant to take the necessary steps recommended by the select committee of the Legislative Council into random breath testing. We have a Government that still has not fully implemented the recommendations of that select committee brought down in April of this year.

We have a Government that has consistently refused to implement the recommendation that there should be a zero blood alcohol level for L and P plate drivers, yet at the same time we have this enormously high road toll for this year—substantially higher than last year—and one which the authorities still effectively argue has alcohol as the major contributing factor. Except for the Minister of Education, who has shown some courage this evening, members opposite have shown no courage whatsoever; nor have they even been willing to stand up and support the argument in favour of this Bill. I challenge the Premier, as the Minister responsible for the Grand Prix, to explain what the Government will do to ensure that we do not have an unprecedented rise in road accidents and road deaths during the Grand Prix period. I find it incredible as during that period we will incite many young road users to follow the example they might see on the track—

*Members interjecting:*

**The Hon. D.C. BROWN:** We will have a Grand Prix and any member should realise that that will suddenly produce a large group of budding authorities who believe that they can drive as well as the people they have just seen on the track, even though on the track the cars are going in one direction and they are driven by skilled drivers whereas in other cases the people have no such skills and are driving on normal roads in cars that are normal, to say the least. Unfortunately, such people will boost their egos with a substantial amount of alcohol before going on to the road.

**The Hon. G.J. Crafter:** That is an attack on young people.

**The Hon. D.C. BROWN:** It is, unfortunately, a grim reminder of what occurs on our roads. I find it incredible that the Minister of Community Welfare should (after I had raised the issue of road safety and the involvement of young drivers who have had too much to drink as being the liable group to be killed on our roads) throw across the House the interjection that that is an insult to young people. It is a pity that the Minister and the member for Henley Beach did not happen to come along to the launching of the road trauma booklet produced by the—

*An honourable member interjecting:*

**The Hon. D.C. BROWN:** I did not say that all: I referred to the young people who would go and who would unfortunately drink too much.

*An honourable member interjecting:*

**The SPEAKER:** Order! The member for Davenport has the floor.

**The Hon. D.C. BROWN:** It is a pity that they did not read the booklet that the Minister of Transport launched only last week. There is no justification for a blanket extension of drinking hours across the entire State. In fact, the consequences could be quite severe in terms of road accidents, injury, trauma and—I hope not but I suspect—fatal

accidents that might occur over that weekend. If the Government desires, as it obviously does, to extend drinking hours particularly for the festivities directly associated with the Grand Prix, it should support an amendment that will be moved later this evening.

The amendment allows for perhaps the Government's desires to be met, but at the same time it prevents a blanket cover across the entire State with what could well be dire consequences. At least I have issued the warning to the Government, because I have grave fears about what might occur after three days of what one could only describe as exhilarating viewing as these people drive cars around tracks at unbelievable speeds and the consequences that that could have on some young people who might drink too much and then go out and drive to achieve the same results themselves.

I admire the Minister of Education for his courage in expressing the views that he has expressed tonight against the overwhelming opinion of members of his Party who are not even prepared to stand up and put their points of view. A number of members on this side have expressed their concern. I am not trying to knock the Grand Prix at all: I support it. However, I am concerned, because a road safety factor is directly related to this legislation that I do not think the Government has even bothered to consider when putting this Bill forward in its present form. Therefore, I very strongly support the proposed amendment.

**The Hon. G.J. CRAFTER (Minister of Community Welfare):** I thank the member for Mount Gambier for his comments in opening this debate on behalf of the Opposition, for his support of the measure and for the amendments which have arisen out of debate in another place and which have been circulated in my name. I also note the amendment circulated in the name of the member for Mount Gambier. As I said, this matter was debated last week in another place, and was announced publicly some time ago.

I understand that there has been considerable discussion with various sections of the industry on this matter and that it has received substantial support from within the industry and the community. Some members opposite want it both ways: they say that they do not want to knock the Grand Prix, but they then say that they do not want to be associated with any of the effects that flow to the community from a major international event such as this. If they want to eliminate disturbance from our community, we would not have the event at all. The Government has taken an entrepreneurial stance, on which it should be congratulated by all honourable members in the interests of development of the economy and the standing of this State.

I believe that all members of the community will have to accept some disturbance to their normal way of life because of this event. Perhaps that will be suffered more by some than others. Of course, the Government has a responsibility to minimise that effect where it can. I believe that the organisers of this event have taken every step that they can to cushion the effects of staging a major event such as this. One can only reflect on the Commonwealth Games that were staged in Queensland and the effect that that had on that city—a major influx of people from throughout the world. It certainly had an effect on the lives of people in that city, but it had many positive benefits, too.

There will be potential in this State over a number of years to develop a pattern of staging this event that will cushion its detrimental effects. The proposal before us will improve the level of service that we can provide to those people who come from country areas, interstate and overseas, and ensure that people throughout the State enjoy this unique event. I do not take the pessimistic view that some honourable members have taken that to open a hotel door for an hour or two more leads to absolute drunkenness and debauchery in the streets of our city.

One should reflect on who comes to these types of sporting events. Are these people so shallow thinking that they will be so incited by seeing racing vehicles that they will go out and drive in an irresponsible way? I suggest that people who come to these sorts of events are sporting enthusiasts. They travel from overseas, interstate and long distances because they want to see the spectacle of this event and enjoy it.

It costs these people a good deal of money. This is not an ordinary man's sport; it is an elitist sport to that extent. That is reflected in the people who view races of this type. One will not find a crowd similar to the crowd at a VFL grand final. Does the city of Melbourne come to a grinding halt because of the VFL grand final or on Melbourne Cup day? Does this State come to a standstill when Oakbank draws 60 000 or 70 000 people to one particular area?

We must put this matter in balance and look at the pattern of trading in liquor that has been established in this State over many years. To declare certain geographic areas of the State as suitable areas for the provision of liquor would allow huge congregations of people in small areas and would create real problems for the authorities. I suggest to honourable members that the majority of licensed premises in this State will vary very little their traditional trading hours. Obviously, some establishments will be able to provide services, and it will be economic for them to do so. There are substantial cost penalties in staying open for long periods of time. If there is (and we must always anticipate that there will be) some social disturbance caused by this event, I believe that this legislation provides safeguards in those circumstances.

Indeed, some shortfall was picked up in the Legislative Council, and that has been included in the foreshadowed amendments, so that wide authority can be given to police officers to enable them to deal very promptly with disturbances that may arise in the circumstances. Where licensed premises have had restrictions placed on their trading hours as a result of concern by local government and residents about behaviour of patrons of those premises, noise and like disturbances, those provisions will remain.

I think that the arguments should be raised, but they must be put in perspective. As a State we are taking on a very entrepreneurial role in this matter. We accept that risks are associated with any entrepreneurial venture. However, we are trying to meet the needs of a very large number of people who are coming to this State, in terms of service delivery to that group of patrons, and to enable the whole of our community to participate in what I hope will be seen as a very enjoyable festival part of our year. I do not believe that this extension of liquor trading hours and restaurant trading hours will have the detrimental effect to which members have referred.

I point out that this legislation has a sunset clause. On the first occasion of this Grand Prix obviously there is an unknown element, so its effect will be looked at very closely. The point that the member for Davenport made about road safety has been discussed in another place and by the Government.

The Government has acted to ensure that there is maximum policing of our roads in our community at this time. Indeed, the Government has asked the police to upgrade the level of random breath tests in the community. At that time, with respect to the behaviour of road users, there will be a good deal of vigilance. I hope that members opposite join with the Government in issuing the traditional warnings that we all issue prior to long weekends and other festive occasions in order to ensure that a very real concern

is instilled in the community to drive carefully when large numbers of people are using our roads, particularly our interstate and country roads.

Many thousands of people will be coming in and out of rural areas of this State to the city to participate in the Grand Prix. Many people are having to take up accommodation in country areas of the State and that is one reason why this legislation should apply in its current form. It is an important warning that we all need to heed with respect to road safety and I hope that we find bipartisan support from the Opposition rather than the threats and warnings that have been made tonight. As a Government and as a State we must take every advantage to ensure that this event is a success, that it is enjoyed by the maximum number of people that can possibly enjoy it and that the benefits that flow from it are distributed throughout this State for the general prosperity of the State.

One would hope that over a period of years this event could be very much a part of the international perception of what our State has to offer, particularly to tourists, but certainly within the motor vehicle industry, to attract further support for our motor vehicle building and associated industries. This is important legislation. I am disappointed that some members opposite have tried to find a way out of this complex issue, to stand aside from this venture and perhaps to place themselves in a position where they can be critical of any events that take place or that gain publicity during that time. This is a matter in which we need the support of the whole community to indeed put South Australia on the map and to gain those benefits that our community needs.

The House divided on the second reading:

Ayes (37)—Messrs Abbott and Allison, Mrs Appleby, Messrs P.B. Arnold, Ashenden, Baker, Bannon, Becker, D.C. Brown, M.J. Brown, Crafter (teller), Eastick, M.J. Evans, Ferguson, Gregory, Groom, Gunn, Hamilton, Hemmings, Hopgood, Ingerson, Keneally, and Klunder, Ms Lenehan, Messrs Lewis, Mayes, Meier, Olsen, Oswald, Payne, Peterson, Plunkett, Slater, Trainer, Whitten, Wilson, and Wotton.

Noes (4)—Messrs Lynn Arnold, Blacker, S.G. Evans (teller), and Mathwin.

Majority of 33 for the Ayes.

Second reading thus carried.

In Committee.

Clause 1 passed.

Clause 2—'Insertion of new Division IIA.'

**The Hon. G.J. CRAFTER:** I move:

Page 1—

After line 20—Insert the following definition: 'commissioned officer' means the Commissioner of Police, the Deputy Commissioner of Police and any commissioned officer within the meaning of the Police Regulation Act 1952.

Line 26—Leave out 'The following provisions' and insert 'Subject to subsection (2), the following provisions'.

After line 35—Insert the following subsection:

Notwithstanding subsection (1), any terms and conditions of

*(a)* a hotel licence;

or

*(b)* the general facility licence constituted by clause 13(1)(k) of the schedule,

imposed by the licensing authority or by Clause 16 of the schedule and that restrict the days on which or the hours during which liquor may be sold and consumed pursuant to the licence, remain in force.

The first amendment relates to the authority of police officers to take action with respect to undue offences, annoyance, inconvenience or disturbance surrounding licensed premises. This is to protect the rights of people who reside, work or worship in the vicinity of licensed premises given expanded trading rights under this Bill. Members of the Police Force are given power to require activities in those premises to be curbed in the circumstances that I have just described. In its present form, this power is vested in the Commissioner of Police and any member of the Police Force authorised by the Commissioner.

Following points raised in the course of debate on the Bill in the Upper House, the Attorney-General foreshadowed an amendment to be introduced in this House providing that any commissioned officer in the Police Force is vested with these powers. This makes the vesting of powers quite clear, and it will also overcome the logistical problem of the Commissioner of Police having to authorise certain members of the Police Force.

Perhaps I should explain the second part of my amendments further to the explanation I gave in the second reading debate. The Bill, in the form it came to us from another place, applies to all hotels, and general facility, club and retail liquor merchants licences. The question was raised in another place as to the position in respect of those licences that have special trading hours restrictions imposed by the licensing authority as a result of complaints from local councils or residents about noise or other disturbing activities at or related to licensed premises.

To protect the special positions of these persons which has been recognised by the licensing authority these amendments are moved to provide that open ended hours do not apply to relevant areas of the seven hotels and one general facility licence concerned. In the second reading debate the member for Morphett referred to those licensed premises that are curbed in their trading hours in that way, and I endorse his comments. Obviously, in each of these instances litigation has proceeded before the Licensing Court to protect the interests of residents, worshippers and others in the districts surrounding these licensed premises.

This is a very vexed area of conflict within the community. It occurs in many areas of the State, as we discussed during the debate recently on the Licensing Act Amendment Bill. It is hoped that in this way the settlement of those disputes that occurred as a result of the decisions taken by the Licensing Court will continue so that there will be no differences in trading pattern for those licensed premises.

Amendments carried.

**The Hon. H. ALLISON:** I move:

Page 2, after line 24—Insert section as follows:

132ca. (1) A council may, by notice published in a newspaper circulating throughout the State not more than one month before the commencement of a prescribed period, declare that sections 132b and 132c will not apply in the area of the council, or such part of the area as is delineated in the notice, during that prescribed period.

(2) A declaration under subsection (1) has effect according to its terms.

We believe that in those cases where councils already have expressed objection to extended licensing hours the imposition of a period of seven days continuous trading would be something that they might resist and, rather than having the Government superimpose its intention upon councils, we believe it appropriate through this amendment to allow local government to arrive at its own decisions.

I noted with some interest that the Minister of Education expressed his intention to oppose the legislation and this amendment. I suggest that, should the Bill actually be won to the Government, his own intention of opposing the legislation would be to no avail and that support for this amendment would be beneficial to the very people he is trying to protect.

There is no way that acceptance of this amendment can lead to increased trading or can lead to extended trading for six or seven days 24 hours a day. In effect, this amendment simply gives any council the right to reduce trading for all or part of that period in its area or a specified part

of its area. Therefore, the Minister is erring on the side of inconsistency when he says that he will oppose this legislation and amendment. Were he to support this amendment it would be in his own best interests. Certainly, this amendment lies in accord with the argument that he has propounded.

Amendment negatived; clause as amended passed.

Title passed.

**The Hon. G.J. CRAFTER (Minister of Community Welfare):** I move:

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

The House divided on the third reading:

Ayes (36)—Messrs Abbott and Allison, Mrs Appleby, Messrs P.B. Arnold, Ashenden, Baker, Bannon, Becker, M.J. Brown, Crafter (teller), Eastick, M.J. Evans, Ferguson, Gregory, Groom, Gunn, Hamilton, Hemmings, Hopgood, Ingerson, Keneally, and Klunder, Ms Lenehan, Messrs Lewis, Mayes, Meier, Olsen, Oswald, Payne, Peterson, Plunkett, Slater, Trainer, Whitten, Wilson, and Wotton.

Noes (4)—Messrs L.M.F. Arnold, Blacker, S.G. Evans (teller), and Mathwin.

Majority of 32 for the Ayes.

Third reading thus carried.

## GOVERNMENT MANAGEMENT AND EMPLOYMENT BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 1415.)

Clause 4—'Interpretation.'

**The Hon. MICHAEL WILSON:** I move:

Page 3—After line 5—Insert paragraph as follows:

(aa) the manner in which each of the applicants carried out the duties or functions of any position, employment or occupation previously held or engaged in by the applicant;.

Lines 13 to 17—Leave out all words in these lines.

The second amendment is consequential. The amendments relate to the definition of 'merit'. We are re-establishing the existing definition of 'merit' and deleting the words 'where relevant'. Thus the definition of 'merit' in relation to a selection process for the filling of positions is as under paragraph *(a)*. Paragraph *(b)* will be replaced by paragraph *(aa)*, so that merit is the important criterion for filling positions and promoting within the Public Service.

If these words 'where relevant' are taken out, and taken out only in regard to that clause on merit—I hasten to point out that they are not taken out in regard to subclause (b)(2) but only in the matter of the question of merit—it could be argued that we want to promote somebody off the street such as a young student applicant who would not have a history that would conform with 'the manner in which each of the applicants carried out the duties or functions of any position, employment or occupation previously held or engaged in by the applicant'. But that does not exclude that person. The fact that we are emphasising the previous experience and performance of the applicants in their former positions does not mean that somebody cannot be appointed without such a history. We are saying that merit should not be qualified at all and that the previous history of the persons and their performance must be a prime criterion in assessing whether they should be appointed or otherwise.

**The Hon. J.C. BANNON:** Effectively, this amendment seeks to elevate experience in the traditional form to a criterion that takes its place alongside all of the others that are spelt out under subclause (a). Whilst the Bill as drafted provides for experience to be taken into account where relevant, it has given a list under subclause (a) of those factors that ought to be taken into consideration in making an appointment.

I would have thought that anybody with any understanding of personnel practice and the way in which one approaches appointments in this day and age would recognise that that is the appropriate set of criteria to use and that, indeed, after one has considered them it is relevant to look at experience and development potential, but the way in which it is phrased—a way, incidentally, that has had the approval of and been drafted in accordance with a pretty wide consultation with all of those people who are likely to be affected, and their representatives—puts that category of experience into its correct context. To erect it again into a primary characteristic, as the Opposition seeks to do, is simply to turn the clock back and in many ways to cut away at the whole basis of this Bill, which aims at improving the relevance, flexibility and excellence of the Public Service while protecting the rights of all those working in the Public Service to provide them with incentive, potential and opportunity.

Here is a classic area: merit is certainly to be taken into account. That is good. It is departing from old Public Service principles: for instance, in the postwar years many Acts had recognition of war service as a criterion for promotion or appointment. Whilst it is admirable that people enlisted and that their rights were protected when they returned after the war, the way in which criteria of that sort remained in operation has created major problems for senior management over time in a number of Public Services in Australia. By and large, we have avoided that problem, but in a sense the Opposition is contemplating that turning of the clock back in this area. It makes the consideration of experience mandatory. Placing it first in the definition makes it the first criterion of merit.

Quite frankly, it cuts across the whole thrust of the Bill. So, we cannot agree to the amendment, as it is badly based. If the response of the Opposition is that we are throwing away the judgment of experience in terms of promotion, my answer is that that is nonsense because, when one looks at ability, aptitudes, skills, qualifications, knowledge and experience, including community experience, one is taking into account those factors. We are suggesting that as a secondary level—and only as a secondary level—one should look at the experience in carrying out a duty or function in any position previously held. Surely that is a sensible way to approach that matter and I am surprised that the Opposition has so misread the thrust of the legislation. It cuts across a lot of other rhetoric it has used about the way the public sector should be adaptable and responsible and in some way reflect some of the attitudes of the private sector.

**Mr BAKER:** I am amazed at the Premier for making those very trite comments about the amendment. The quality of merit is a group of intangibles to be measured by someone somehow and, when we get down to it, it becomes *ad hoc* as to what we are looking for. Secondly, we have a secondary consideration, almost as an after thought—'where relevant'. Who decides where it is relevant? The Government is turning around the principles of merit. The Premier stated that we have largely avoided those problems in South Australia. Why have we largely avoided those problems in South Australia? I agree with the Premier's comments, because in fact we did not have the words 'where relevant' and a secondary observation at the end of the section saying that, if one performed well in the last job, that might be considered. That is the way the Act reads at present.

The Premier's reference to war service of course has no relevance at all. It may well have more relevance in this paragraph *(a)*, in that war service is a characteristic or whatever else it may be. But performance in the job cer-

tainly has nothing to do with war service. The Premier referred to the fact that the Liberal Party was interested in principles associated with private enterprise. I assure the Premier that the first principle that private enterprise is interested in is performance. If one applies for a job up the salary scale, they will not ask whether you treat your neighbours well, whether you kick your dog at night or whether you belong to so many community groups. They will ask what you have achieved.

There is a slight anomaly: 'where relevant' should be struck out altogether. We should have a list of three criteria. We are not denying the relevance of the three criteria but, as currently structured, 'where relevant' becomes an afterthought and not a prime criterion; performance counts for little as it is a secondary criterion. Paragraph *(a)* could be interpreted subject to the wishes and whims of whoever is doing the interviews. We should be encasing in legislation the principles upon which we wish to operate. A principle on which we wish to operate is that the people who perform the best should get the jobs. We are going to depart from that simple criterion on a number of occasions where we believe that certain different attributes are necessary because we might be entering a new area or might need a change in direction from what has been previously accepted. If we take out 'where relevant' we do not have any great difficulty. We will have a listing of three criteria.

We believe that performance is the first criterion. Of course, if someone has not had job performance, that does not enter the equation. For example, if school leavers apply for a job with the Government for the first time, it is not relevant that they have not had job experience. That criterion has to be considered. I point out strongly and clearly to the Premier that we are interested in performance. The greatest gauge of performance is the way in which people have conducted themselves, the efficiency with which they have operated and results that they have achieved.

However, that does not detract from all the other characteristics, qualities, and so on, that a person may have and that may give them a competitive edge. We strongly support our amendments, but we say that 'where relevant' should be struck out. We should have an *(aa)* and *(a)* and probably a *(b)* which specifies the extent to which each applicant has potential to develop, because potential development is equally as important as the other two criteria. There must be a future: people must have the ability to go one step further. We believe that performance is the top criterion, and we do not think that 'where relevant' should be inserted in the Bill as an afterthought. The Opposition strongly supports the amendments.

**The Hon. J.C. BANNON:** As usual, the honourable member, having spent his working life in the public sector, lectures us about what private sector principles are, and I always find that a bit invidious. I guess that he cannot be cured of that habit and that we are getting used to it.

**The Hon. Michael Wilson:** That's like you lecturing us on small business.

**The Hon. J.C. BANNON:** I have had my experience in small business—admittedly not in a pharmacy—but enough to know something about it. However, the member is missing the point entirely. This section attempts to appoint people and judge them on their potential to do the job in hand: that is looking to their abilities to do the job which has to be filled—looking to the future, if you like. We are saying that that personnel practice that tended to look at people as they performed in a particular job and simply automatically said that if they were doing that well they must be qualified for something else should be put into a different context.

If it is not, one gets the problem which recurs in both public and private sectors. People are often promoted above the level of their ability. One could say, using the terms of this legislation, that the manner in which someone carried out their duties or functions in another position was very good indeed: *ergo,* they must be able to do this other promotion or different job. But, that does not necessarily follow.

If one adopts that sort of hide bound attitude one is simply institutionalising a kind of Peter principle into it. This section overcomes that. In conclusion, all I can say is that even if one does not accept the philosophy behind it, which I think is very sound, it does not discount experience in jobs or whatever. It recognises it as being central, but it talks about how that experience is applied to the job to be filled, not how well it has been carried out in an existing or previous job.

Even if one rejected that concept, the fact is that this section has been gone over in fine detail by commissioners of the board, the working party, with the union and experienced Public Service managers represented on it, and members of the review committee itself. This is the formula that they have worked out. The Opposition is trying to reinstitute an earlier unsatisfactory draft which has been through the process, analysed and rejected for very sound reasons.

**Mr BAKER:** I know that we will not get very far before 10 p.m., but I reiterate that we are not doing any of those things about which the Premier talks. He is demonstrating that he probably does not understand how this legislation will be read. For instance, clause 4, in part, provides:

> *(a)* the extent to which cach of the applicants has abilities, aptitude, skills, qualifications, knowledge, experience (including community experience), characteristics and personal qualities relevant to the carrying out of the duties in question;
>
> and
>
> *(b)* where relevant—

If a person has had great successes, that would probably be mandatorily taken into account. The Bill reads as if it is an afterthought.

**The Hon. Michael Wilson:** He said it was secondary.

**Mr BAKER:** Yes, philosophically, we believe in performance. The best way to judge performance, not necessarily for the job in hand, is on how one has performed previously. Where this is not relevant in terms of new appointments or changes in roles or areas that have not been touched on previously, then, of course, one does not apply that criterion. The potential for development of each applicant was mentioned. I think that that is relevant criteria in almost all situations, even at chief executive officer level, because one could expect at that level that one could grow in a job and improve as time went on. In one way we are talking about philosophy, but we are also talking about the way in which the Act is worded and the emphasis on the Act.

At the forefront I believe we should have performance, although not necessarily performance in the strict definition that the Premier is talking about. I am talking about the ability to achieve, initiate and make change. One can obtain an indication of that only through the performance of a person on the job.

**The Hon. B.C. EASTICK:** The Premier, as I saw it, was arguing that the inclusion of proposed paragraph (aa) was to be the criterion used exclusive of all else, whereas in fact it is an adjunct to what already exists in the Bill. It seeks to make an additional set of criteria available for consideration by the employing body. It does not say that a person will be employed only if that person can fulfil a certain criterion. It does not say that this set of criteria requires a greater consideration than all others. However, it extends the benefit of an examination of the potential nominee.

It is a completely reasonable suggestion to make in relation to this Bill. It may be that in the Premier's mind the matter has been tested, found wanting, and withdrawn. As

far as the Opposition is concerned, it is an additional yardstick against which a nominee can be measured and should be given due consideration.

Amendment negatived.

**The CHAIRMAN:** Does the member for Torrens wish to proceed with his next amendment?

**The Hon. MICHAEL WILSON:** No, Mr Chairman, that amendment is consequential.

**The Hon. B.C. EASTICK:** While we are still on the matter of merit, I asked the Parliamentary Library Research Service to determine to what degree merit was a feature of Public Service Acts in other Legislatures in Australia and elsewhere. It was indicated by the research services that the new Act would revoke the Public Service Act of 1967 where the grounds for new appointment to the service are medical fitness and attainment of a given educational or vocational standard, and where appointment of an existing officer to another position within the service is made on the basis of the officer's efficiency.

The term 'efficiency' is not a criterion or standard that we would necessarily want to retain. It was then indicated that the broad meaning of 'efficiency' was as follows:

> . . . special qualifications and aptitude for the discharge of the duties of the office to be filled and, in addition, in the case of offices specified when applications are called for, special qualifications and aptitude for the discharge of the duties of offices of a higher status than the office to be filled together in each case with merit and good and diligent conduct.

While the new concept of merit appears to differ from the old one of efficiency, both definitions are broad and would allow consideration of a wide range of experience or capabilities. Again, we state that the words to be used are more explicit and beneficial than the old word of 'efficiency'. It was pointed out that one change if the Bill becomes law would be that the community experience of applicants who have no recent qualifications or work experience would be explicitly taken into account. This would presumably benefit those who have been unemployed or out of the labour force for some time, mostly women re-entering the work force.

I refer here to the selection criteria used by other States and by the Commonwealth. Under the Public Service Reform Act 1984, new appointments to the Commonwealth Public Service are now to be made according to the merit principle, and discrimination and patronage are explicitly precluded. Assessment of applicants must take into account as provided for in section 33 *(b)* (ii) of the Commonwealth Act, the following:

> . . . the abilities, qualifications, experience and other attributes of each applicant that are relevant to the performance of those duties.

Officers who are applicants for transfer or promotion within the service are assessed on similarly broad grounds, but because the officer has already performed duties within the Public Service some account may be taken of the standard of this work, and that is provided for in section 50A of the Public Service Reform Act 1984.

In Tasmania, the relevant measure is the State Service Act 1984, under which new appointments and promotions are all made on the basis of merit broadly defined in section 4 (1) to include an assessment as follows:

> The individual capacity of those persons . . . notwithstanding any disability of those persons or employees in relation to performing the work associated with the position . . . and having particular regard to the knowledge, skills, qualifications, experience, and potential for future development of those persons.

I suggest that that goes rather further than that which is to apply in South Australia, although the general thrust is the same. In Victoria it is the Public Service Act 1974 and in New South Wales the Public Services Act 1979. The Victorian and New South Wales Acts contain provisions similar to those in the existing South Australian Act. While entry to the Public Service is on the basis of a medical examination and either educational qualifications (in Victoria, as provided in section 30 (1)) or a set examination (sections 66 and 67 of the New South Wales Act), applicants for promotion or transfer within the service are assessed on the criterion of efficiency. We certainly will be in advance of those two States.

In relation to Victoria and New South Wales, as defined in both Acts, efficiency assessments are required to include assessment of the officer's qualifications and personal capacity as well as merit, diligence and good conduct (which in New South Wales is provided for in 62 (1) and, in Victoria in section 39 (2) *(b)*). In addition, the Victorian legislation allows some vacancies to be filled only after assessment of the applicant's ability to undertake duties at a higher level.

In the Northern Territory, under the Public Service Ordinance 1976, new appointees to the Public Service must possess educational requirements or other qualifications deemed necessary and must satisfy the chief executive officer that they are fit and proper candidates as required by section 31 (1).

Applicants for promotion or transfer are assessed on the basis of their aptitude for the position, the extent of their relevant experience, training, capacity for development and relevant personal capacities (section 34 (2)). Just to round off the assessment by the research service, in the United Kingdom, according to Halsbury's *Index to the Statutes*, 'the regulation of the Civil Service is largely based on the prerogative, not on statute'. This is contained in the index at page 323, footnote 3. There are no other direct details available relative to criteria used in the United Kingdom.

I believe that the course of action we have achieved by this measure is definitely an improvement and puts us as high as or higher than the other establishments, although I still believe that it would have been better if the additional criteria had been entered.

**The Hon. MICHAEL WILSON:** I move:

After line 19—Insert definition as follows:

'the Minister responsible for the administration of this Act' means the Minister of Labour:

The Leader of the Opposition has made public statements over the past 12 months as to the restructuring of the Public Service that would occur under a Liberal Government. He has made it quite plain that, as far as a Liberal Government is concerned, this would come under the jurisdiction of the Minister of Labour, as the Minister connected or involved with industrial relations and industrial affairs, and this is where the administration of this Act should reside.

Secondly, the Opposition believes that the Premier has enough to do without having the additional responsibility of the administration of this Act, especially as it is a new structuring of the Public Service, a structuring that will bring about fundamental changes in the Public Service. The Opposition believes that in these circumstances it is not a job for the Premier who has the overall performance of the Government to consider or look after, but for the Minister of Labour, who has the specific expertise within his own department and officers to administer this Act.

One might say that the Minister of Labour may not be the name of a Minister in charge of that area of government, that the name can be changed. As I understand it, from advice that has been given to me, the fact that the Minister is included here does not mean that it could not come under the jurisdiction of, say, the Minister of Industrial Affairs, because I understand that the Interpretation of Acts Act—if that is the correct Act—makes provision for such a situation.

This Bill does not define which Minister the Act is to come under. It talks about the Minister responsible, not the responsible Minister. The responsible Minister in this Act

is the Minister in charge of a Government department or a Government instrumentality, but the Minister as far as this Act is concerned is not defined. The Premier may have some ideas as to where he intends to place it. Maybe it is intended to place the legislation with the Premier, but we believe that it ought to be defined in the Act. We shall be explicit, and I therefore ask the Committee to support the amendment.

**The Hon. J.C. BANNON:** I oppose this amendment. It is quite unnecessary. Surely, if any administration or any Premier in charge of allocating ministerial responsibility wishes to retain or divest himself of this responsibility, there ought to be power to do so. I would have thought that any tying of ministerial responsibility to a particular portfolio ought to be very carefully looked at.

One of the important things in public administration as far as the Ministry is concerned is to retain flexibility, to allow the Premier of the day to allocate portfolios and within portfolios responsibilities where that may best and most productively be exercised. Very often that depends on the personalities, individual abilities and interests of the Ministers. Therefore, why circumscribe that? Sure, on occasions it might be logical to have the Minister of Labour, or Industrial Relations—whatever the appellation of the day is—responsible for the public service involved. However, there may be reasons why that should not be the case.

Traditionally, it has been held with the Premier. The Minister of Labour has always played a leading role particularly in the industrial relations aspect of public service management. There is no reason why that should not continue. However, to depart from usual practice and to nominate a Minister would put an unnecessary constraint on the Act. We have been told where, under a Liberal Government, the administration of the Act would lie. That is fine—a Liberal Administration would have power to do that. Any Administration would have such power, so why fetter other Administrations. There is no logic to that proposal.

**Mr BAKER:** Perhaps the Premier could tell us exactly where responsibility for this position will lie. We have already seen this spectacle of the Premier prevaricating on the Children's Service Office issue, much to the detriment of everyone involved with that, with responsibility lying somewhere between Education and Community Welfare Ministers, and someone else whom he could not define in the process. The Opposition firmly believes that the major thrust of this issue is in the industrial relations/personnel management area and that therefore the labour or industrial affairs portfolio is the appropriate, and, indeed, probably the most logical, spot for it. Obviously the Premier would have given this matter a great deal of consideration and he would have determined at this stage under which Minister's reponsibility this matter should be. I would be delighted if the Premier would tell us.

**The Hon. J.C. BANNON:** Under current arrangements the responsibility is with me. If circumstances change in future, the matter would have to be addressed. All I am saying is that there is no need to have inflexibility written into the Act.

Amendment negatived.

Progress reported; Committee to sit again.

## ADJOURNMENT

**The Hon. J.C. BANNON (Premier and Treasurer):** I move:

That the House do now adjourn.

**Mr MATHWIN: (Glenelg):** I use this opportunity to scold the Government particularly on its policy relating to the axing of the north-south corridor. I draw to the attention of the House problems associated with choking traffic on many roads, particularly those connecting the southern areas with the city. I believe that to some degree these problems are related to the Government's decision to axe the north-south corridor. I refer particularly to the traffic jams that occur on Anzac Highway from about 8 a.m. when there is bumper to bumper traffic on Anzac Highway from about the K Mart to Keswick bridge.

This is a shocking situation which puts to the test any drivers waiting in the queue. It is all very well to admire the scenery when one inches along while waiting to get to work, but at that time of the morning people are going to their businesses or their jobs and it is most upsetting if one leaves in plenty of time only to find that one is bumper to bumper and must crawl along the Anzac Highway. The road is chock-a-block from K Mart at Camden to Keswick.

A close friend of mine told me this evening that she comes along from the southern areas on South Road. She had been trying to get through on Brighton Road, but that is a scene of choas because of the decision of the previous Labor Government to open the Lonsdale freeway (or whatever it is called). Having got fed up with crawling down Brighton Road and stopping and starting—althouth it is not as bad as Anzac Highway when one gets to Camden—she tried to get to work in reasonable time by going along Marion Road. She tried that but got into heavy traffic just before Anzac Highway.

She then tried going up Cross Road and into South Road turning by the Emerson Crossing. She cruised along and then hit the dense traffic on the out of town side of the Glenelg tramline. She was left to admire the scenery, and listen to the radio, crawling along in the hope that she will get to work by the official starting time. I understand the bank-up this morning was from the Glenelg tramline on South Road to Anzac Highway. The traffic proceeded at a snail's pace, stopping and starting all the way through to Anzac Highway.

One has the same problem on Anzac Highway when one turns right towards the city and is again faced with the added frustration of trying to proceed farther on Anzac Highway to one's place of business. My friend works in Keswick, and that part of the journey becomes more frustrating because she gets later and later to work. It used to take me about 20 minutes to go from Seacliff to the city, but it now takes 30 or 40 minutes.

*The Hon. D.J. Hopgood interjecting:*

**Mr MATHWIN:** I did not realise the Minister was listening so intently. His own father would have told him of these problems, because his parents live at Seacliff—they still live there.

**The Hon. D.J. Hopgood:** They've never lived there.

**Mr MATHWIN:** I must have the wrong son of the wrong father.

*Mr Hamilton interjecting:*

**Mr MATHWIN:** Perhaps so. It takes 30 or 40 minutes for that journey. I have thought about this problem thoroughly and, in regard to Anzac Highway, the situation can be eased considerably and simply at no cost.

I think that, in the morning, traffic proceeding east into the city and traffic coming from the city westward toward Glenelg should not be able to cross Anzac Highway except to make a right-hand turn where traffic lights are provided. In other words, if one is travelling out of the city along Anzac Highway in the morning one can make a right hand turn at South Road or at traffic signals all the way down Anzac Highway. The problem is that there is traffic crossing from smaller roads in front of the oncoming traffic causing delays, near accidents and in some cases accidents, because

with three lanes of traffic the person on the inside lane has little chance to see a vehicle cutting across the traffic, so it is dangerous.

Therefore, those areas where traffic can turn right should be blocked by the simple method of using red witches hats to stop traffic driving across the heavy traffic flow coming into the city. Likewise, in relation to traffic coming from the city in the evening, when people are travelling home from work back down south, the reverse situation should apply, with the only areas where a vehicle can turn right across the heavy traffic being at traffic lights situated at junctions, corners or cross roads. Other streets should be blocked off with witches hats to stop traffic crossing. That would provide a safe solution, stop the baulking of the traffic flow, and would prevent a lot of troubles. This is a simple matter to do.

From my memory of visiting Sydney some time ago, that is precisely the method used to provide extra lanes for people crossing the Sydney Harbor Bridge. They use the witches hats, which are reversed at the end of the day from the position they were used at the beginning of the day. This could be done easily without taking up too much time.I believe that this would save frustration, upsets and accidents. I hope that the Minister of Transport, the Minister in charge of the department concerned, will take my comments to heart, will do something about the problem, and will try to ease this situation until we take Government in three or four weeks time after the election to be announced on 23 November.

We will then set about the job of fixing the great traffic problems that prevail in South Australia. We will be doing something about the north-south corridor. We will do something about the traffic jams and take positive action, not just hope and dream that by some wave of a magician's wand or flick of the wrist the whole thing will disappear so that we do not have to worry about it any longer. In the meantime—

**The SPEAKER:** Order! The honourable member's time has expired. The honourable member for Albert Park.

**Mr HAMILTON (Albert Park):** On reading press advertisements and statements on 18 and 19 October I noted in the *News* and the *Advertiser* respectively, first under the heading 'Travel for the elderly', the following:

> A representative of an international organisation promoting travel for elderly and disabled people will be in Adelaide in November.

It continues later:

> The association promotes relaxed paced travel for disabled and elderly people.

Under the heading 'Notice to the South Australian Tourism Industry' in the *Advertiser* of 19 October, a report states:

> The South Australian Department of Tourism is in the process of installing a computer information and booking system into each of its travel centres. The system will be operational in Adelaide in early 1986, followed by the Melbourne and Sydney offices.
>
> It will be a national system that will link South Australia into an established network of over 40 State Government travel centres throughout Australia. Information on South Australia and its tourism products will be available at the touch of a button.

On 19 October there was an advertisement under the heading 'The Government of South Australia, Office of the Commissioner for the Ageing'. It stated that the Act requires the Commissioner to provide policy advice relating to programs and services for the ageing and in doing so to monitor practices of all levels of government, to gather data and undertake research, and to consult widely. In addition, I read with great interest, and I applauded, the report of the Department of Environment and Planning on access to public beaches on the western coastline for disabled and elderly people.

I congratulate the Minister for Environment and Planning in that regard. However, my investigations have revealed that there is no comprehensive booklet available in this State listing access to and the type of accessibility to metropolitan and country beaches, aquatic centres, beach change rooms, caravan parks, churches, educational institutions, halls, health centres, holiday camps, cottages and flats, hotels, taverns, motels, jetties, boat ramps, museums, art galleries, parks, picnic sites, playgrounds, public libraries, public and private toilets, recreation centres, restaurants and eating places, shopping facilities, show grounds and sporting facilities.

The type of sporting facility that could be included are badminton, basketball, lawn bowls, croquet, golf, ice skating, racing, trotting, greyhound racing, reserves, roller skating, squash courts, surf lifesaving, tennis courts, ten pin bowling and many others. One must not forget to mention theatres, TAB agencies, tourist attractions and so on. Moreover, I am advised that the only such list available is for the Fleurieu Peninsula, and that list is out of date. I understand that it is supplied by the tourist office.

There is an adviser on transport within the STA; I understand that that person is disabled. Information on transport is available from the STA publicity officer. I make the point that there is not available in this State a comprehensive booklet that details access to all those places or to many other places that I have not mentioned.

I refer again to the press statements. It seems that there must be a coordinated effort by Government departments and interested organisations to collate a comprehensive guide on access for the disabled and elderly in this State. Western Australia compiled such a list in 1982 and 1983. That list was in two parts: the first part was called 'Access—A Guide to Perth's Picnic Sites, Parks and Ocean Beaches', and the second part was called 'Access for the Disabled—Perth Metropolitan Area, South Western and Great Southern Regions of Western Australia'.

Surely the compilation of similar data and the provision of such information is not only important but also necessary if we are sincere in our desire to assist those who are less fortunate than ourselves. I believe that funding could be obtained under the Community Employment Program to compile such information. The Western Australian books give details on access in terms of location, map references and other features, such as playing fields, playgrounds, tennis courts, picnic areas and toilet blocks, and there is advice on admission charges, and so on. They list limited or restricted access.

They include the type of road or footpath foundation, for example, gravel or bitumen. Account is also given of the height of kerbing, kerbside parking, ramps, automatic opening or closing doors, etc.

The International Year of the Disabled has come and gone, but the needs of the disabled are ongoing, be they for the present or future generations. I therefore urge the Government, be it through the Minister of Tourism and/or other Ministers, to give early and favourable consideration to the compilation of booklets similar to that which is presented by the Western Australian Government.

I know that it is not proper to have written that speech out, but I did that yesterday and make no apologies for it. I believe very sincerely that there is such a need here in this State to try and assist the disabled. This booklet, as I said, clearly provides all those data—the locations, etc. — that are necessary to assist the disabled in the community.

At random I look at page 43 on access for the disabled from the Western Australian booklet, which was printed in 1983. It states:

**Area: North Metropolitan:** Stirling—Dianella
**Accessibility: Usable**

| | |
|---|---|
| Library | The library has fully marked parking bays and ramped access. Toilets are also fully accessible. Full ACROD facilities. |
| Recreation Centre | No marked bays. The centre is accessible. |
| Other | No marked bays, 10 cm kerbs, except for toilets rest accessible. |
| **Accessibility: Partially Usable** | |
| Playgrounds | Kerbside parking only, slanting 15 cm kerb, grassed area with limited shade. |
| | Kerbside parking only, slanting 15 cm kerb, grassed area with shady trees. |
| Recreation Centre | 5 cm kerbs, single door 2.5 cm step entry, double door exit, ACROD facilities. |

Clearly, this type of booklet should not only be available but, referring to what I said at the start of my contribution, I believe that these facilities should be provided through the South Australian Government Tourist Bureau and other Government departments through their proposal to establish this network that will cover over 40 State Government travel centres throughout Australia.

We all are well aware that we have the 1986 Jubilee 150 celebrations; we have many other people coming from all parts of the world, intrastate and interstate. This is a very worthy project, which should be addressed by this Government and successive Governments, if we are fair dinkum in our efforts to assist the disabled.

**The DEPUTY SPEAKER:** Order! The honourable member's time has expired.

**Mr BECKER (Hanson):** I take this opportunity tonight to express my disappointment at the attitude of the Department for Defence in handling applications for a clerical position. A young disabled girl applied for a secretarial position with the Air Force and had her application rejected when she presented herself to the medical officer. This girl has a very mild form of epilepsy, commonly known as *petit mal*, which consists of a blank stare or an absence of no more than two or three seconds.

I understand from this girl's neurologist that her condition is so mild that they have not been able to detect anything on her electroencephalogram or EEG recording. This girl presented herself to the Air Force Department and filled in the application form. On most employment forms applicants are required to indicate whether they suffer from certain disabilities including epilepsy. Because she had been told that she had been diagnosed at the age of eight that she may have some form of epilepsy, she ticked the appropriate box. She went through the full process and appeared before the medical officer. As he started to examine this young girl, the medical officer said, 'You have ticked the box for epilepsy.' She said, 'Yes'. He picked up the file, went out to the secretary's desk, threw down the file and said, 'She should never have got this far.' He then told the young girl to leave as her application would be rejected.

This young person approached the member for Goyder, Mr Meier, who wrote to the then Minister Assisting the Minister for Defence, Mr Brown, who advised Mr Meier that there were strict rules and regulations in regard to medical standards for entering the Royal Australian Air Force, which standards had been established over many years in consultation with appropriate medical specialist advisers, that the person's application had been rejected and that therefore any person with epilepsy would not be accepted into the Air Force.

Not satisfied with that, this person approached me as President of the Epilepsy Association to see what we could do to assist. I wrote to the National Executive Director of the Epilepsy Association of Australia seeking his enlistment to make strong representations to the Department of Defence to ascertain what was the medical standard requirement, when that standard was set, and to see whether we could help this young person obtain a clerical position in the RAAF. The National Director of the Epilepsy Association of Australia was advised as follows:

> The standards contained in the publication [a joint services publication] have been reached after many years of experience under all conditions and consultation with leading specialists in all medical disciplines. The user requirements are also given due weight. The Services Health Policy Committee continually reviews these standards and amends them if considered necessary. However, the standard in regard to epilepsy has not been altered at any time and there is no intention to do so in the immediate future.

It must be fair to say that some years ago I had a similar case and found that the Commonwealth Department for Health was using guidelines established in the early 1930s. The Executive Director of the National Epilepsy Association of Australia then wrote to the Deputy Chairman of the Human Rights Commission as follows:

> . . . imagine the frustration that she must have felt and still feels at having been rejected as a clerk, particularly as she points out that she is doing her very best to remove herself from the social security system. As you will see from the correspondence, I have again taken this matter up with Rear Admiral B.T. Treloar and in fact have included a previous reply received from him pointing out the attitude of the Defence Department as far as epilepsy is concerned. Surely in this day and age of enlightened thinking and with the knowledge that [her] epilepsy is controlled, then a re-thinking of the Defence Department's attitude is vitally important and should be undertaken without delay!

The Human Rights Commission presented a paper earlier this year on discrimination against people with epilepsy. The Department for Defence wrote to the National Director of the Epilepsy Association and stated:

> The matter of Miss D's rejection on medical grounds from enlistment as a Clerk Administative in the Royal Australian Air Force has been very fully addressed as a result of six ministerial representations to the Minister for Defence.
>
> On each of these occasions the Minister was advised by the RAAF. Her application was refused on each occasion. The medical standards and reasons for rejection in this case are contained in JSP(AS) 701A (Australian Joint Services Publication—Recruit Medical Examination Procedures), and these requirements are identical for all three services. Epilepsy in all of its forms is a reason for permanent rejection from enlistment to the Australian Defence Force . . . As mentioned in previous correspondence . . . there is no intention of altering current standards in relation to epilepsy.
>
> I am sure you will appreciate that entrants to the ADF must satisfy a standard of fitness which will permit their rapid deployment to any areas, including remote and tropical areas, at short notice. Such members must be physically capable of undertaking arduous general service duties in addition to their normal trade/category duties.
>
> Members suffering from epilepsy invariably require regular medication to prevent the recurrence of fits. In times of defence emergencies, hazardous circumstances or even the stresses of certain postings, the maintenance of this medication cannot always be guaranteed, nor can the therapeutic effects of such medication, e.g., intractable motion sickness. The conditions in the defence environment differ widely from conditions that apply in the commercial workforce where it is possible to provide a non-hazardous and stable workplace.
>
> The standards set by the ADF are designed not only to protect the operational requirements of the ADF but equally to protect the individual from coming to unnecessary and preventable harm.
>
> Observing that the hazards and potential stresses of defence environment are unlikely to diminish in the future, the standards of fitness currently employed must remain.
>
> I would strongly urge Miss D to seek employment in a more stable workplace where her health can be protected and her career advancement need not suffer as a result of her medical condition.
>
> Yours sincerely
> B.T. TRELOAR
> Rear Admiral, RN
> Chairman
> Services Health Policy Committee

That is probably the roughest letter I have ever read from any public servant. I do not care what happens to his future,

because I hope that we can apply some real pressure on him for adopting such an attitude. It is absolutely disgraceful that we have such a letter from a person of his ilk claiming that there would be problems in future for any person, even if they were a clerical or administrative assistant, who could be required to go anywhere in the world and to evacuate that position without notice, and that a person who had in the past had a slight medical problem was barred totally from employment within our defence forces.

That is absolutely disgraceful. Tens of thousands of persons were injured and damaged during war and, because of those injuries, they have manifested epilepsy in all forms. At least the Commissioner for Equal Opportunity in South Australia, Josephine Tiddy, was kind enough to take up the case on behalf of this girl. When I wrote to her, Mrs Tiddy believed that we might well have a case. She explained that she had approached the Human Rights Commission in Canberra whose charter includes the United Nations Declaration on the Rights of Disabled Persons. She said:

I turn specifically to Rear Admiral Treloar's letter [to the National Executive Director of the Epilepsy Association of Australia] . . . I think it is regrettable that the Department of Defence should have attempted to set one anti-discrimination law against another. I believe that this approach misconstrues the thrust of our State and Federal laws, whose purpose is to open up employment and other opportunities for Australians who have been disadvantaged in the past.

More than this, I believe that the argument may be misconceived. A basic tenet of equal opportunities policy is that an employer should look at the genuine requirements of a job that it intends to fill. The recruitment process can and should be done without regard to later contingencies that may or may not occur. This view is supported by the recent New South Wales decision of the Equal Opportunity Tribunal in *Najdovska & Ors v. Australian Iron and Steel.*

Motion carried.

At 10.29 p.m. the House adjourned until Wednesday 23 October at 2 p.m.

## HOUSE OF ASSEMBLY

Tuesday 22 October 1985

## QUESTIONS ON NOTICE

### HOSPITAL WAITING LISTS

109. **Mr BAKER** (on notice) asked the Minister of Transport representing the Minister of Health: What specific deficiencies were identified by the report into Adelaide's public hospitals which recommended new guidelines for reducing waiting lists?

**The Hon. G.F. KENEALLY:** The major recommendations of the Waiting List Task Force Report, which are aimed at improving arrangements for managing patient waiting lists, relate to:

*(a)* matters for individual hospitals to take up which can be managed within existing resources;

*(b)* matters concerning systems development and information requirements;

*(c)* standards and guidelines for waiting list management; and

*(d)* mechanisms for oversighting and monitoring performance and to provide impetus for the implementation of recommended arrangements.

### THE SECOND STORY

110. **Mr BAKER** (on notice) asked the Minister of Transport representing the Minister of Health: Where will the proposed adolescent health centre be sited, what is its total estimated cost and what facilities will be included in it?

**The Hon. G.F. KENEALLY:** The centre, called The Second Story, is located on the second floor of the Rundle Central Building in Rundle Mall.

The estimated cost for 1985-86 is:

| | |
|---|---|
| Establishment | $350 000 |
| Operating | $320 000 |
| Total | $670 000 |

The centre will eventually provide the following:

- Health facilities including medical consultancy, preventive health, health education, nutrition education and health information.
- Recreation facilities including dance, drama, music and arts and crafts.
- Legal counselling and information.
- Facilities for furthering personal development and communication.
- Education facilities for furthering employment opportunities.
- General counselling and assistance for young people in areas that affect their health and well being.

### SCHOOLS: 'TIME OUT' FACILITIES

112. **Mr BAKER** (on notice) asked the Minister of Education: How many schools have 'time out' facilities, how many such areas are of inadequate size and have been ordered to close, and how many will remain?

**The Hon. LYNN ARNOLD:** The following table provides details of 'time out' facilities in schools, by areas:

| Area | Schools with 'time out' facilities | No. closed due to inadequate size | No. remaining |
|---|---|---|---|
| Adelaide | 32 | Nil | All |
| Northern | 35 | 1 | All except 1 |
| Southern | 25 | Nil | All |
| Eastern | 34 | Nil | All |
| Western | 35 | 1 | All except 1 |

### HOUSING TRUST RENTS

148. **Mr BAKER** (on notice) asked the Minister of Housing and Construction: With respect to the revised rental arrangements for South Australian Housing Trust tenants, what was the estimated revenue forgone by the trust in 1984-85 by not charging full market rent to those tenants who were not subject to rental subsidy?

**The Hon. T.H. HEMMINGS:** The recent revisions to rental arrangements for South Australian Housing Trust tenants are to move away from market rents rather than implementing such a policy as the member's question suggests. Under the 1981 Commonwealth-State Housing Agreement the States were required to progressively increase rents to full market rentals during the five year term of the agreement. However, the 1981 agreement was superseded by a new agreement signed last year. The 1984 Commonwealth-State Housing Agreement is to run for ten years and requires that the States will fix rents at a level not less than that which would result from an application of the cost rent formula set out in the agreement. The agreement further provides that the policy may be phased in over three years.

The new cost rent formula is a complex one, but in broad terms it requires that rents cover operating expenses, interest charges and depreciation. As a result of the revisions to rental policy set out in the new agreement, together with the complexity of the cost rent formula, the Government recently announced that implementation of cost rents in South Australia is to be investigated as the subject of the Housing Trust triennial review during 1985. One of the purposes of this review is to assess existing rental levels in relation to those required under the cost rent formula.

### DRIVER'S LICENCES

166. **Mr BECKER** (on notice) asked the Minister of Transport:

1. When, how and at what additional cost will driver licences be produced with the licence holders photograph on them and, if such licences will not be produced, why not?

2. Which States in Australia issue drivers licences with photographs of the holder on them?

**The Hon. G.F. KENEALLY:** The replies are as follows:

1. At this stage, it is not proposed to amend the Motor Vehicles Act to provide for photographs on motor drivers licences, but this matter is being kept under review. Based on the Victorian experience, it is estimated that the cost of providing photographs on drivers licences in South Australia would be in the vicinity of $1 million. However, this would have to be established through a feasibility study.

2. Victoria is the only State in Australia which has introduced photographic licences.

### DEPARTMENTAL THEFTS

178. **Mr BECKER** (on notice) asked the Minister for Environment and Planning: What was the total value and

what were the individual amounts of property, goods, etc. lost or stolen from each department under the Minister's control in each of the years 1981-82 to 1983-84?

**The Hon. D.J. HOPGOOD:** The replies are as follows:

*Department of Environment and Planning*

| Items lost or stolen<br>1981-1982 | Value<br>$ | |
|---|---|---|
| Bicycle—Blue Continental | 134.72 | |
| 1 Tennis Net | 69.00 | |
| Chain Saw Stihl | 296.35 | |
| Socket Set | 51.37 | |
| | 551.44 | 551.44 |
| 1982-1983 | | |
| Chain Saw Stihl | 296.35 | |
| Socket set | 51.37 | |
| Binoculars | 73.00 | |
| Ladder Extension | 61.80 | |
| Binoculars | 73.00 | |
| Step Ladder | 61.80 | |
| Oxywelder/Torch | 201.00 | |
| | 818.32 | 818.32 |
| 1983-84 | | |
| Binoculars | 89.00 | |
| Fire Extinguisher | 54.00 | |
| Binoculars | 89.00 | |
| Electric Fence Energiser | 100.00 | |
| Battery | 85.00 | |
| Chain Saw Stihl | 403.25 | |
| Portable Radio | 2 183.20 | |
| Electric Drill Skill | 98.00 | |
| 2 Velbon Tripods | 104.00 | |
| Projector | 456.00 | |
| Screen | 17.50 | |
| Steel Locker | 130.00 | |
| Traffic Counter | 555.50 | |
| 2 Metal Swing Gates | 96.00 | |
| 2 Bonaire Season Master filter pads and filter pumps | 38.00 | |
| 2 belt joiners 36' leather belts for pump jack | 174.00 | |
| 20 rolls wire netting (90 cm × 50 m) | 664.00 | |
| | 5 336.45 | 5336.45 |

*Police Department*

| Items lost or stolen | Value<br>$ | |
|---|---|---|
| 1981-1982 | | |
| Postage Stamps | 132.00 | |
| | 132.00 | 132.00 |
| 1982-1983 | | |
| Prisoner's Cash | | |
| Communications equipment | | |
| Battery charger | | |
| Sundry items | 11 615.00 | |
| | 11 615.00 | 11 615.00 |
| 1983-1984 | | |
| Blue dome lights | | |
| Camera | | |
| Handcuffs | | |
| Helmet and Motorcyclist's suit | | |
| Pistol | | |
| Radios (×2) | | |
| Radio aerial | | |
| Rear view mirror | | |
| Stationery | 7 397.00 | |
| | 7 397.00 | 7 397.00 |

*S.A. Metropolitan Fire Service*

| Items lost or stolen<br>1981-1982 | Value<br>$ | |
|---|---|---|
| 1 High Pressure Hose Nozzle | 485.00 | |
| 1 Salvage Sheet | 76.50 | |
| 1 Portable Radio | 1 212.00 | |
| | 1 773.50 | 1 773.50 |
| 1982-1983 | | |
| 4 Paging Units | 1 940.40 | |
| 2 Fire Hose Nozzles | 864.00 | |
| 1 Radio | 446.00 | |
| Qty. Misc. Fire Equipment Lost Ash Wednesday II | 489.15 | |
| 1 Holden Station Wagon—Vehicle Recovered, Parts Removed | 498.59 | |
| | 4 238.14 | 4 238.14 |

| Year 1983-1984 | Value<br>$ | |
|---|---|---|
| 1 Steel Plate | 211.84 | |
| Qty. Carpet Tiles | 444.62 | |
| 1 Vacuum Cleaner | 223.88 | |
| 1 Salvage Sheet | 175.00 | |
| 1 Portable Radio | 1 350.00 | |
| Uniform | 127.80 | |
| 1 Portable Radio | 1 350.00 | |
| | 3 883.14 | 3 883.14 |

There were no items lost or stolen in the Country Fire Services or the Auditor-General's Department during the years 1981-82 to 1983-84.

## ROAD OFFENCE PENALTIES

180. **The Hon. D.C. WOTTON** (on notice) asked the Minister of Transport: Does the Minister intend taking action to amend the Road Traffic Act, 1961 and the Motor Vehicles Act, 1959 to ensure adequate penalties for multiple offenders and, if not, why not?

**The Hon. G.F. KENEALLY:** Provisions already exist within the Road Traffic Act, 1961 and the Motor Vehicles Act, 1959 for dealing with offenders who have committed multiple offences, notably the recent amendments to the Road Traffic and Motor Vehicles Acts covering drink-driving offences. Penalties for offenders are constantly under review by various agencies such as the Transport, Police and Attorney-General's Departments. However, major changes are being considered for the Road Traffic Act and the matter of multiple penalties will be included in these considerations.

## MONARTO ZOO

188. **The Hon. D.C. WOTTON** (on notice) asked the Minister for Environment and Planning:

1. What is the current status of the Monarto open range zoo?
2. What resources have been provided for the project in the past twelve months?
3. What time frame exists for completion of the project?

**The Hon. D.J. HOPGOOD:** The replies are as follows:

1. The breeding and agistment area at the Monarto open range zoo is approximately 90 per cent complete. The fauna management facility is approximately 60 per cent complete.
2. $228 000.
3. The estimated date of completion of the breeding and agistment area is 30 June 1986, and the fauna management facility 31 March 1987.

## DEPARTMENT OF SERVICES AND SUPPLY

195. **Mr BECKER** (on notice) asked the Minister for Environment and Planning: What are the full details of property lost or stolen from the Department of Services and Supply, State Supply Division at Seaton, during the year ended 30 June 1984 and why was the information not supplied in the letter dated 16 July 1985 in answer to Question on Notice No. 553 of the previous session?

**The Hon. D.J. HOPGOOD:** On 14 May 1985 the Minister for Environment and Planning was asked by Mr Becker what items had been lost or stolen from any department within his portfolio (Q.O.N. 553). The Minister replied to this on 16 July 1985 but did not refer to the Department

of Services and Supply as this department was not part of the Environment and Planning portfolio. It was, in fact, under the control of the Minister of Lands. Details of items lost or stolen from the State Supply Division, Seaton, during the year ended 30 June 1984 are as follows:

Salvage Section

A burglary occurred during the weekend of 2 to 5 December 1983 and a list of items stolen is listed below:

| | $ |
|---|---|
| 10 bottles Southern Comfort | 150 |
| 10 bottles Johnnie Walker (1 125 ml) | 180 |
| 2 bottles beer (750 ml) | 2 |
| 17 cartons x 24 bottles Fosters Lager beer | 230 |
| 493 Pre-recorded cassette tapes (ave. $8.00) | 3 944 |
| 15 615 cigarettes | 1 400 |
| 95 cigars | 19 |
| 2 packets Drum tobacco plus 19 packets papers | 5 |
| 3 car computers | 240 |
| 2 Pioneer car speakers | 100 |
| 1 car radio and 1 car radio/cassette player | 150 |
| 1 Lucas stereo unit consisting of tuner, cassette deck and graphic equaliser | 450 |
| 1 Lucas stereo unit consisting of tuner, cassette deck and graphic equaliser | 450 |
| 1 Arrow graphic equaliser | 100 |
| 2 Pioneer stereo amplifiers | 250 |
| 1 Realistic stereo equaliser/booster | 70 |
| 1 Sharp car AM/FM radio/cassette player | 150 |
| 1 Pioneer cassette deck and stereo amplifier | 300 |
| 1 Sharp AM/FM radio/cassette player | 250 |
| 3 car stereo cassette players | 150 |
| 1 AWA portable AM/FM radio/cassette deck | 100 |
| 3 car speakers | 80 |
| 3 cigarette lighters | 45 |
| | $8 815 |
| *Plus cash in office drawers | Approx. $13 |

The claim made on the insurers was settled.

Warehouse

To list every individual item unaccounted for would be an administratively time-consuming task. However, in each case, a thorough investigation was carried out in an effort to determine the cause and prevent a repetition of the occurrence. Full records of these investigations have been kept.

Because the items concerned were either lost, stolen or misplaced, they were all transferred to the lost-in-transit account and I feel it would be more appropriate to give the actual dollar value.

Lost-in-transit account 1983-84

| | $ |
|---|---|
| Total charged to this account | 5 247 |
| Total value of issues ex-Seaton | 10 684 530 |
| Percentage of issues charged to account | 0.05 per cent |
| Annual stocktake adjustment 1983-84 | |
| Adjustment (surplus) | 7 502 |
| Stock on hand | 2 914 977 |
| Percentage adjustment (surplus) | 0.25 per cent |

It would appear that the stocktake adjustment may well account for those items transferred to the lost-in-transit account.

## LYELL McEWIN HOSPITAL

201. **Mr M.J. EVANS** (on notice) asked the Minister of Transport representing the Minister of Health:

1. What was the cost estimate of the redevelopment of stage 1 of the Lyell McEwin Hospital at the time the project was approved by the Parliamentary Standing Committee on Public Works?

2. What is the current estimated cost to complete the project and what is the estimated date of completion?

3. What are the reasons for the variation, if any, between the original and current estimates?

**The Hon. G.F. KENEALLY:** The replies are as follows:

1. $9 360 000.

2. $13 717 730. Estimated date of completion is July 1986.

3. The reasons for the variation between the original and current estimates are as follows:

(i) The original estimate based on March 1983 rates which was presented to the Public Works Standing Committee made no attempt to project costs to completion and therefore no allowance was made for future escalation or a contingency sum.

(ii) During the design development several necessary changes and additions to the construction component were formally submitted for approval and the construction budget adjusted.

(iii) The consultant's reconciliation of the construction budget at the time of the tenders was $8 879 785. However the consultants pre-tender estimate based on pricing the bill of quantities and the time of opening tenders was $9 803 900.

(iv) While the four lowest tenders confirmed closely to the pre-tender estimate of $9 803 900 even the lowest tender was approximately $1 million over the approved construction budget.

(v) All four were asked to re-tender and after all possible negotiable savings were investigated the estimated construction cost was $9 279 500, a resultant budget overrun of $399 715 or 4.5 per cent of the approved construction budget.

(vi) Original furniture and equipment costs of $902 400 were based on rule of thumb allowance of 12 per cent of construction cost. A detailed schedule of requirements showed costs of $1 735 250, an increase of 92 per cent over the original estimate.

(vii) Apart from escalation there were additional professional fees associated with a series of minor items totalling $43 566, a further $2 465 for survey work, $40 000 for a provisional bill of quantities and a project officer for three years amounting to an additional $90 000.

(viii) The project is reported to be within budget at this date and projections are that it will be within budget at completion.

## ELIZABETH SWIMMING CENTRE

204. **Mr M.J. EVANS** (on notice) asked the Minister of Transport representing the Minister of Local Government:

1. Have senior officers of the Department of Local Government visited the Elizabeth City Council to discuss allegations concerning the management of the Elizabeth Swimming Centre redevelopment project and, if so, what opinion did they form as to the need for further investigation of the council's actions in this matter?

2. Does the Minister intend to take any further action in relation to the council in this matter and, if so, why and, if not, why not?

**The Hon. G.F. KENEALLY:** The replies are as follows:

1. Senior officers of the Department of Local Government have visited Elizabeth council and discussed with officers and members of the council allegations concerning the management of the redevelopment of the Elizabeth Swimming Centre. I am advised that, while there are significant problems associated with the project, the information obtained does not constitute a sufficient basis to institute an investigation under section 30 of the Local Government Act 1934.

2. I do not intend to take any further action with respect to this matter at this time.

## NOARLUNGA HEALTH VILLAGE

213. **Mr BECKER** (on notice) asked the Minister of Transport representing the Minister of Health:

1. Why did the Minister instruct the Board of Directors of the Noarlunga Health Village to bring forward the opening of the village from February 1986 to 1 October 1985, and was the instruction contrary to a decision of the Board of Directors?

2. Did the Board of Noarlunga Health Services advertise the intention of opening the centre in February 1986 and, if so, why?

3. When and by whom were South Australian Health Commission staff requested to find staff in time for opening the centre on 1 October?

**The Hon. G.F. KENEALLY:** The replies are as follows:

1. The practical completion date of the construction of the village was initially planned for August 1985. Because of various factors practical completion has been delayed until the end of October 1985. It was always intended that the village would be opened in October 1985 and a date was set for the opening by the Premier of 20 October 1985 some months ago. The board supported this proposal.

When the recruitment of professional staff commenced it became obvious that sufficient medical practitioners were not available to appropriately staff the medical drop-in-centre. The Noarlunga Board responded by setting a February 1986 date for commissioning of this service when sufficient medical staff would be available. This decision was initially questioned by the Health Commission and the Minister as other alternatives had not been fully investigated. Subsequent investigations were made but no viable alternative could be found. The commission and the Minister then agreed the February 1986 date for commissioning of the medical centre.

2. No.

3. There was never any request to open the village by 1 October 1985. A desire was expressed by the Minister of Health to have as much of the commissioning of the village completed as was possible by the opening. In the event all but one building will be completed by the opening. The multi-purpose building will require internal works for completion in the week following the opening. Staff to commission the 24 hour medical drop-in service will not be available until 5 February 1986, which will be the commissioning date of that facility. A medical head of this unit has been appointed and will be available to assist in planning its commissioning.

Staff for the remainder of the village are progressively being employed and will allow commissioning of all other facilities throughout October. The Health Commission has been working with the Noarlunga Board in commissioning the Noarlunga Health Village in accordance with an agreed plan. The delay in availability of medical practitioners was the only significant variation to the plan.

## CIRCLE LINE BUS

214. **Mr BECKER** (on notice) asked the Minister of Transport:

1. Will the Government give consideration to extending until 9 p.m. the hours of operation of the Circle Line bus to enable shop assistants easier access to public transport to return home instead of travelling to the city and back to their place of residence in suburbs adjacent to their employment and, if not, why not?

2. Will consideration be given to extending the operation of the Circle Line bus on weekends to provide better transport for persons wishing to visit relatives in hospitals and other places of interest by travelling across the city rather than travelling to the city, out to other suburbs and back and, if not, why not?

**The Hon. G.F. KENEALLY:** The replies are as follows:

1. The Circle Line bus service operates on weekdays until 6.30 p.m., allowing time for shop assistants finishing work at 5.30 p.m. to travel home. On Thursday nights, the State Transport Authority currently operates the Circle Line Bus service after 9.15 p.m. Surveys carried out on the Circle Line bus route indicate that patronage after 5 p.m. is extremely poor and the State Transport Authority considers that it would not be justified in extending the hours of operation.

2. The State Transport Authority has considered this possibility on a number of occasions, but considers that, given the existing levels of patronage on other routes not serving the central business district on weekends, patronage on the Circle Line bus service (if provided on weekends) would be very poor indeed. The Circle Line bus service already operates on Saturday mornings and patronage at those times, even though shops are open, is poor.

The State Transport Authority is constantly faced with requests for improvements to public transport services into areas poorly served by public transport. The authority must give priority to the provision of services into these areas, rather than providing extra services on routes such as the Circle Line, which serve suburbs already supplied with other public transport services.

## STUART HIGHWAY

219. **Mr GUNN** (on notice) asked the Minister of Transport: Can the Minister give a final completion date for the sealing of the Stuart Highway?

**The Hon. R.K. ABBOTT:** Present indications are that a completion date of December 1986 is attainable, though this will depend upon the performance of the contractors, climatic conditions and the satisfactory performance of water supply bores.

## JUBILEE 150 FLAGS

224. **Mr LEWIS** (on notice) asked the Minister of Education:

1. How many schools have received Jubilee 150 flags from the Government?

2. Which schools have had flags presented to them by members of Parliament?

**The Hon. LYNN ARNOLD:** The replies are as follows:

1. One flag was presented to Elizabeth Vale Primary School in recognition of the role it played in initiating the sister school program with Texas.

2. Any members of Parliament, or for that matter members of the public, are able to purchase Jubilee 150 flags or any other Jubilee souvenirs for presentation to schools, organisations or individuals.

## ADOPTIONS

226. **Mr BECKER** (on notice) asked the Minister of Community Welfare:

1. What is the current waiting time for inter-country adoptions in South Australia?

2. How many inter-country adoptions were there in 1984-85 and how does this figure compare with each of the preceding two years?

3. Are special staff required to handle applications for inter-country adoptions and, if so, are there sufficient staff resources allocated to this work to minimise delays?

**The Hon. G.J. CRAFTER:** The replies are as follows:

1. On 30 June 1985:

Time from application to approval was 12 months.

Time from application to allocation was 16 months.

2. No. of children placed were:

| 82-83 | 83-84 | 84-85 |
|---|---|---|
| 51 | 71 | 60 |

No. of adoption orders granted were:

| | | |
|---|---|---|
| 49 | 47 | 34 |

No. of applications received were:

| | | |
|---|---|---|
| 79 | 81 | 116 |

3. Inter-Country adoption is a very specialised field of work.

One full-time consultant and two part-time (total 40 hours per week) social workers in Adoptions Branch spend nearly all of their working time on inter-country adoptions. Social workers from district offices prepare reports and offer support once a child has been placed with prospective adopters. Although stretched at times, I believe staff resources allocated to inter-country adoptions are adequate.

## SEX DISCRIMINATION BOARD

231. **Mr BECKER** (on notice) asked the Premier: Who are the members of the Sex Discrimination Board and the Handicapped Persons Discrimination Tribunal and—

*(a)* when were they appointed and for how long;

*(b)* what is their annual remuneration; and

*(c)* what are their out of pocket expenses or other allowances, including travel?

**The Hon. J.C BANNON:** The replies are as follows:

Handicapped Persons Discrimination Tribunal and Sex Discrimination Board

| Membership | Date of Appointment | Term | Remuneration |
|---|---|---|---|
| | | | $ |
| Margaret Jean Nyland | 1.10.85 | 6 months | 123 per session |
| Barbara Worley | 1.10.85 | 6 months | 103 per session |
| Lindsay Burton Bowes | 1.10.85 | 6 months | 103 per session |
| **Deputy Members** | **Date of Appointment** | **Term** | **Remuneration** |
| | | | $ |
| The Hon. Judge Iris Eliza Stevens (Nyland) | 1.10.85 | 6 months | Nil |
| Wendy Seymour (Worley) | 1.10.85 | 6 months | 103 per session |
| Norman Rennoldson (Bowes) | 1.10.85 | 6 months | 103 per session |

Members are reimbursed expenses which they have necessarily incurred whilst attending to official board/committee business.

## LIBRARIES BOARD

234. **Mr BECKER** (on notice) asked the Premier:

1. Why has Mr Myles Cundy been appointed to the Libraries Board of South Australia and for how long and at what annual remuneration was he appointed?

2. Is it normal for an employee at Government House to be appointed to such a position?

**The Hon. J.C. BANNON:** The replies are as follows:

1. Mr Cundy was nominated for a position on the Libraries Board of South Australia by the Local Government Association in a private capacity as a member of a local council. His appointment until 14.3.89 was made for the balance of the term of the previous incumbent, viz. R.T. Miles, (resigned). No remuneration has been determined.

2. See 1 above.