LEGISLATIVE COUNCIL

Wednesday 24 September 1986

The PRESIDENT (Hon. Anne Levy) took the Chair at 2.15 p.m.

The Clerk (Mr C.H. Mertin) read prayers.

MILLION MINUTES OF PEACE

The Council observed one minute's silence in acknowledgment of the International Year of Peace.

QUESTIONS

GLENELG COURT

The Hon. K.T. GRIFFIN: I seek leave to make an explanation prior to directing a question to the Attorney-General on the subject of courts.

Leave granted.

The Hon. K.T. GRIFFIN: Reports in the local newspaper at Glenelg indicate that the Attorney-General has informed the local MP, Mr John Oswald, that the Glenelg Courthouse is to be closed and the space used by the adjoining police station. Local people have expressed concern at this prospect. As I understand, all the criminal matters are to be transferred from Glenelg to the Adelaide court. As a consequence, there will not be a major court along the Adelaide coastline between Port Adelaide and Christies Beach. When the courts were rationalised by the previous Liberal Government over a period of time, from the establishment of the Courts Department (and this was subsequently continued by the present Government), there was a plan to have the Adelaide courts at the centre with major suburban court centres in key suburban areas.

Glenelg was one of those, and was to operate in conjunction with Darlington Police Station. Glenelg was retained as a court because it was reasonably accessible to defendants and witnesses in the region by public transport and motor vehicles. The waiting time for summary cases at Glenelg is currently eight weeks, whereas one day hearings in the Adelaide Magistrates Court take some 14 weeks to come on for trial.

I am told that Mr Liddy, SM, has the most up to date list of any magistrate, and that it is possible to get a case listed in six weeks. He deals with matters promptly, and the view around Glenelg among police officers, local government people and business people, in particular, is that Mr Liddy has been a significant factor in cleaning up Glenelg with respect to vandalism and hooliganism. On the other hand, anyone who has been in the Adelaide Magistrates Court will recognise the large numbers of matters dealt with there and the congestion which occurs among the rabbit warren of courtrooms.

This will be aggravated by having all Glenelg matters added to the Adelaide Magistrates Court lists and will detract from the present standard set by the Glenelg court. I am also informed, after consultations with various police officers and the council at Glenelg, that they all see no reason for the closing of the court and, as I said earlier, the Glenelg council opposes the closing of that court. My questions to the Attorney-General are:

1. Is the Glenelg court in fact to be closed and, if it is, what is the rationale for it?

2. What impact is the closure of the court likely to have on the congestion and waiting lists of the Adelaide Magistrates Court?

3. What alternatives to closure of the Glenelg court were considered by the Government?

The Hon. C.J. SUMNER: The Glenelg court would have closed in due course, in pursuit of the policy of rationalisation of court buildings in the Adelaide metropolitan area which was commenced by the previous Liberal Government, with the Hon. Mr Griffin as Attorney-General. From my recollection, there were a number of courts closed in the metropolitan area: Prospect, Norwood and Unley come to mind.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: They were somewhat closer to the city although not very much so in terms of transport. Transport from Glenelg to the city is not very difficult. It is served by a very substantial road and both a tram and a train system in the Glenelg vicinity.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Not precisely to Glenelg, but to the region. A train runs south to Seacliff and on to Noarlunga.

Members interjecting:

The Hon. C.J. SUMNER: To the Glenelg region. The region is serviced by at least one substantial road (if not more), the tram and the train, which runs to Brighton and to Seacliff.

The Hon. C.M. Hill interjecting:

The Hon. C.J. SUMNER: It is the area serviced by the Glenelg court, about which the honourable member is complaining. Other courts in the metropolitan area which have been closed, I think almost without expection (of the three that I have mentioned), have in fact been taken over by the police, because it was generally usual historically for the police station to be in close proximity to the court.

The situation in Glenelg is that the police require further premises and there is not room on the existing site for both the courthouse and the police. A decision has to be made as to whether to keep the courthouse going and relocate the police somewhere else, no doubt at great financial cost, or whether to close the court, shift its operations to Adelaide and allow the police to expand on the existing site. It was in that context that the decision was taken that the Glenelg court should be closed in due course. I do not believe that the closure is imminent in the sense that it will happen in the next few weeks.

The honourable member mentioned the contribution by the magistrate (Mr Liddy) to the Glenelg Magistrates Court and I am not critical of what the honourable member said with respect to Mr Liddy, but of course, as he would well know, there is no guarantee that Mr Liddy will remain in the Glenelg Magistrates Court for the rest of his life. He may well wish to change his place of sitting, or the Chief Magistrate may decide, for all sorts of reasons, that Mr Liddy ought to serve in another court, so the argument based on the individual magistrate in that court really has no validity.

As to the arrangements in the Adelaide Magistrates Court, because of the difficulties in that court, and looking to the future to some extent, the Government has agreed to release the two courts that were equipped in Sturt Street and it is anticipated that the Adelaide Magistrates Court could have the use of one of those courts, if not both, depending upon the circumstances, but the final decisions about that have not yet been made.

I am not sure who the police officers are to whom the honourable member referred. He said that they stated that

they could see no reason for closing the Glenelg court and perhaps they are not the police who actually have to make the decisions about a building and the use of the police resources, because my information is that the police need to expand on that site and that the most convenient way to do it is by taking over the courthouse. From the point of view of the concerns of the local community, I think that it is surely more desirable to have a substantial police presence in Moseley Square than it is to have the courthouse.

I believe that the decision is fully justified. Primarily, it is based on getting the most effective use of resources within Government. Glenelg is not that far from the city. There will be no reduction in the number of magistrates available to hear cases and the number of cases that are currently being heard at Glenelg ought to be able to be heard in the Adelaide Magistrates Court when the decision to shift the Glenelg Magistrates Court is finally implemented.

MINISTERIAL COMPETENCE

The Hon. L.H. DAVIS: I seek leave to make a short explanation before asking the Minister of Tourism a question about ministerial competence.

Leave granted.

The Hon. L.H. DAVIS: Growing concern is being expressed in tourism and library circles about the Minister's competence in dealing with such important and sensitive areas. As one tourism leader put it, 'What we need is performance and not photos in the paper.' For example, tourism leaders were staggered to learn that the Minister 'was not aware of the Australian pavilion at the international expo', so was not aware of what arrangements had been made for South Australian content to be included. This statement was made on 5 August in response to a question which I had asked and which highlighted the fact that the previous Minister of Tourism (Mr Keneally) had promised that the fiasco of no South Australian content at the 1984 New Orleans Trade Fair would not be allowed to happen again. The Hon. Ms Wiese said:

> I shall seek a report and bring back as much information as I am able to.

That was seven weeks ago and as yet I have not received a reply.

In October 1985 I asked a question about inadequate signposting in the Adelaide Hills, and the Minister promised an answer on that subject, but I received no reply. On 4 March I again asked the Minister the question and I pointed out that a leading interstate journalist had become lost in the Adelaide Hills because of lack of signposting. The Minister responded:

> He was not a particularly clever journalist, or human being for that matter.

There is continuing concern about lack of signposting in the Adelaide Hills, as I am sure the Minister would know. In August I pointed out that in the sesquicentenary year there was no pamphlet promoting the unique North Terrace cultural precinct and, indeed, only two institutions have pamphlets displayed at the Travel Centre. The Minister said:

> I do not see what the sesquicentenary year has to do with it.

I asked a question on 13 February about the possibility of turning the lights off in Adelaide in April for Halleys Comet. A reply was promised but the comet has come and gone without it.

In library circles, there has also been widespread criticism of the Minister. The printing of the Libraries Board of South Australia Annual Report was delayed for several months because the Minister put pressure on the board members to delete or modify critical aspects of the report. The South Australian Libraries Advisory Committee, formed expressly to advise the Government on library matters, wrote to the Minister on 23 April and again on 23 June to express concern. It eventually received a reply of 3 July with no apologies for such tardiness. Furthermore, key library workers are surprised that in the 14 months since the Minister has been appointed she has not once consulted the South Australian Libraries Advisory Committee.

My questions to the Minister are these:

1. Given that the major tourism industry conference has as its theme this week 'making dreams come true', does the Minister accept that they will not without attention to detail, hard work and communication with the tourism industry, instead of an arrogant, slapdash and offhand attitude?

2. Is the Minister aware of the widespread and mounting criticism of her performance as Minister of Tourism and Minister of Local Government, and what will she do about this matter?

The Hon. BARBARA WIESE: The honourable member is probably spending too much of his time painting walls to come up with new questions. Instead, he asks recycled questions. Probably he did not think that he got a good enough run with those questions in the first place. The questions that have been asked are as trivial as he is, and they do not deserve a reply.

COUNTRY FIRE SERVICES

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking questions about the CFS of the Attorney-General as the Minister representing the Minister of Emergency Services.

Leave granted.

The Hon. M.J. ELLIOTT: On 31 July I asked a series of questions on the CFS. The answers that I received on 17 September at best did not address the original questions. I will need to show where they did not, so that I can ask my questions. In questions 1 and 2, I asked what moneys were being spent outside and inside administration last year as compared with the present year. I was intrigued to see that money spent outside CFS administration would increase by $813 000, and the money spent inside would increase by $1.864 million—a total increase of $2.177 million. According to the report of the Auditor-General of 30 June 1986, expenditure for 1985-86 was $6.298 million. According to the *Government Gazette* of that day, expenditure for 1986-87 will be $7.887 million. This shows an overall increase of $1.5 million. There is a disparity of $600 000.

The Government has been claiming that it is increasing funding by $1.8 million, but the *Gazette* of 30 June shows that funding by insurers will increase from $2.729 million to $3.715 million—that is, by close to $1 million. That would suggest a total increase of $2.786 million. I shall give the three recent figures for comparison. They are $2.1 million, $1.6 million and almost $2.8 million. I am confused by these figures, as anybody else might be. There is an urgent need to clarify this matter, lest the public think that the Government is fudging figures.

In the response to question 4, it was suggested that the fire rating information was based on inadequate data. I have an example. According to the CFS data, the Happy Valley district area had 102 fire calls in the past three years. The information that I have received suggests that the Happy Valley CFS brigade, which is one of five in the

Happy Valley area, alone had 62 calls last year, not just for fires but for spills and car accidents.

The answer to question 9 suggests that the question was not understood. I have a copy of a letter dated 15 July 1986 written to Mr McArthur, the Director of the CFS, from the CFA of Victoria regarding the proposed purchase of a CFA vehicle. It was proposed that the vehicle should be purchased as a demonstrator for the CFS, which suggests that the CFS intended to change standards. It is interesting that the CFA in Victoria is liaising with the CSIRO about vehicle standards and is I understand moving towards what the CFS standards have been. This also relates to an answer to question 6.

The answer to question 10 says that the Government has not considered proposals to amend the Country Fires Act, but I have a copy of a draft Act which has existed for some months, I believe. It has reached this level but consultation has been virtually non-existent. The answer to question 13 failed to address the question of volunteer morale and how it has been affected. Correspondence that I have received suggests that it has been affected severely.

Will the Minister make available to me a detailed analysis of the 1986-87 and 1985-86 CFS budgets? I assume that such a budget is normally prepared. What money is allocated for 1986-87 and what was allocated for 1985-86 for maintenance subsidies, equipment subsidies for equipment used by brigades in the field—not for demonstration—and for administration? What money is to be supplied by the Government to the CFS in 1986-87 as compared with 1985-86? Why do the figures from various sources—the *Government Gazette* and the Auditor-General's report—and the answers to my questions of 31 July not tally? Is the Minister convinced that the CFS data on fire rating information is accurate? Why is the CFS considering a reduction in vehicle standards while the CFA is considering adopting standards similar to ours? Will the Minister ensure that all levels of local government and volunteers are involved in consultation before major changes to the Country Fires Act are introduced to Parliament? Does the Minister intend to decrease the volunteer component of the CFS? Is he aware of morale problems among volunteers in the CFS? Is he further aware of the massive unrest in local government about issues relating to the CFS?

The Hon. C.J. SUMNER: I shall take those questions on notice.

BOTANIC PARK

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Health representing the Minister for Environment and Planning and for Transport a question about the building of a car park in the Botanic Park?

Leave granted.

The Hon. I. GILFILLAN: As I returned from a constitutional jog along the Torrens this morning I was horrified to discover heavyweight earth moving machinery biting into the hill at the corner of the south-east end of the Botanic Park, adjacent to the Hackney bus depot. Not only that, there had already been work to form a new road area and clearance of quite a wide part of garden which most people would regard as part of the Botanic Park. When I stopped to ask questions I was alarmed to learn from the people working there that they were building a new car park for State Transport Authority employees. That left me somewhat stunned and is my reason for asking the Minister of Health some questions. The area is already well on the way to being developed. Can the Minister explain what the hell is going on in the south-east corner of the Botanic Park? Did the Government approve of this alienation of parklands?

The Hon. C.J. Sumner: What was that—

The PRESIDENT: Order! The honourable member might like to withdraw one word that he has just used.

The Hon. I. GILFILLAN: I withdraw. It was an involuntary expression of emotion.

The PRESIDENT: I appreciate that, but I do have to uphold Standing Orders.

The Hon. I. GILFILLAN: My question after the first one, now slightly amended, continues: did the Government approve of the alienation of this area from parklands; why should the STA require a further car parking area on the Botanic Park next to the Hackney depot; and, what is the need for it? What compounds this matter even more is that announcements were made earlier this year about moving the Hackney depot to Mile End and other areas, an announcement greatly welcomed by the people of South Australia, so why on earth is there any need for extended car parking there at all? Does the Minister agree that the requirement for car parking should be reduced rather than expanded?

The Hon. J.R. CORNWALL: I am not a resident of the inner city like the Hon. Mr Gilfillan and do my jogging at West Lakes, so obviously I do not have the first-hand knowledge of the area that he does. Therefore, I cannot respond to the specific allegation. However, the Hon. Mr Gilfillan would know Commissioner Ken Tomkinson, at the request of the Premier and the Government, has prepared a strategy which involves the return of more alienated parkland to the people of Adelaide and South Australia than has been returned in the previous 50 years. The Hackney strategy is one of those strategies which is well developed and has been announced. It will proceed, and in those circumstances I wonder whether the honourable member is not carping around the edges. However, if the situation is as he has described it then, obviously, it is appropriate for me to refer his questions to the responsible Minister and bring back a reply as soon as I reasonably can.

ADELAIDE FESTIVAL CENTRE

The Hon. PETER DUNN: Has the Minister of Tourism an answer to a question I asked on 14 August about the Adelaide Festival Centre? It makes me think that the Hon. Legh Davis was right in what he said.

The Hon. BARBARA WIESE: I do have an answer to that question asked on 14 August, but would point out before making my reply that the implication about this issue contained in the honourable member's question the other day implying that there were outstanding answers to questions that had been asked of me or other Ministers I represent was quite inaccurate; this was the only reply to a question asked by him of me or the Ministers I represent that was outstanding. The reply is as follows.

I have made inquiries on behalf of the honourable member and shall respond to the points that he has raised. His first question regarding displays apparently refers to the 'Isolated Childrens and Parents Association Conference' which was was held in the banqueting room on 16 and 17 July 1986. The conference was quite large and included use of the banquet area, gallery and piano bar facilities.

In the matter of who performs certain tasks at the Festival Centre in respect of displays and the erection of equipment, it is simply the Adelaide Festival Centre Trust ensuring that

all safety requirements are adhered to and that the trust's building and other fixtures are properly protected. In this instance, all specialised equipment was erected by the hirer.

Where electrical equipment or hangings of any sort are required, no matter how complex or simple, the work is always undertaken with care not to damage the building. Where electronic or other systems are interconnected with the centre then trust staff are always consulted. This process ensures operational safety to ensure that power circuits and other electronic equipment are not overloaded and it also provides for a good back-up service in the event of a problem developing.

With the erection of displays, the trust has an extremely flexible approach and where the displays, as such, are free standing they are normally assembled by the hirer and the trust staff is supplied where assistance is required by the hirer. If, in the event, equipment needs to be inter-connected into the trust's systems and/or hung from the wall or ceilings, trust staff is always involved.

EXPLORATION LICENCES

The Hon. T.G. ROBERTS: I understand that the Minister of Tourism has an answer to a question that I asked on 28 August about exploration licences.

The Hon. BARBARA WIESE: My colleague the Minister of Mines and Energy has advised that there are no exploration licences issued to Peko-Wallsend in South Australia. However, that company has been engaged in exploration in this State for the past decade as joint venturers in five licences. Commitments have been met and, on that basis, there is no reason to revoke the licences.

PETITION: MARIJUANA

A petition signed by 160 residents of South Australia praying that the Council reject any legislation which proposes an expiation fee for marijuana offences was presented by the Hon. M.B. Cameron.

Petition received.

QUESTIONS RESUMED

TOURISM RESEARCH

The Hon. R.I. LUCAS: I seek leave to make a brief explanation prior to directing to the Minister of Tourism a question on the subject of market research.

Leave granted.

The Hon. R.I. LUCAS: Members would be aware that yesterday I asked the Minister two short questions about the Minister's large market research study into tourism that had been proudly announced by the Minister at the weekend. Members were all stunned to find that the Minister was not aware of the name of the successful company that won the contract. The Minister also boldly, and somewhat foolishly, said that she had ensured that all the appropriate guidelines had been followed in the awarding of that contract. Ms President, information that has been provided to me indicates quite clearly that there have been a number of irregularities in the Minister's handling of the awarding of this contract, and that the Minister misled the Council yesterday.

The PRESIDENT: Order! I think that that is a reflection on the Minister, and that is contrary to Standing Orders.

The Hon. R.I. Lucas: It most certainly is a reflection on the Minister, Ms President.

The PRESIDENT: The honourable member is making a reflection on the Minister, and that is not permitted under Standing Orders.

The Hon. R.I. Lucas: Oh, come on! The Minister misled the Council.

The PRESIDENT: I point out to the Hon. Mr Lucas that Standing Order 193 provides that no injurious reflections shall be permitted upon any member of the Parliament of this State unless it be upon a specific charge on a substantive motion after notice. If the honourable member wishes to make injurious reflections on any member of this Parliament, he must give notice of a motion that he is going to do so. That is the Standing Order. If the honourable member wishes to have the Standing Orders changed, I will be quite happy to convene a meeting of the Standing Orders Committee to consider any changes. Meanwhile, I have to uphold the existing Standing Orders.

The Hon. R.I. Lucas: Well, that is outrageous.

The Hon. C.M. Hill: That is normal criticism; that is what we are here for. The honourable member is entitled to criticise the members opposite.

The Hon. J.R. Cornwall: If it were proved to be true, the Minister would have to resign.

The PRESIDENT: Order!

The Hon. J.R. Cornwall interjecting:

The PRESIDENT: Order! The Minister will come to order. If there are any further interjections, I will have to name members. The Standing Order is quite clear that no injurious reflections on a member of Parliament are permitted in this Chamber. If members wish to have that Standing Order changed, there is a procedure for doing so. I am merely upholding the Standing Orders that have been agreed on by this Chamber. Injurious reflections on a member, other than on a specific charge on a substantive motion after notice has been given, are not permitted. Questions of Ministers are certainly permitted, but not injurious reflections. I am quoting the Standing Order. If the Hon. Mr Lucas wishes to continue with his explanation, he is free to do so, provided that no injurious reflections are made.

The Hon. C.M. HILL: I move:

That the President's ruling be disagreed to.

The PRESIDENT: Under Standing Order 205, the objection by the honourable member to my ruling must be brought to me in writing at once. This is under Standing Order 205; the honourable member may wish to check that, unless of course he wishes to argue that Standing Order also. Standing Order 205 further provides that when I have received the objection:

> . . . a motion shall be made which, if seconded, shall be proposed to the Council and debate thereon shall stand adjourned and be the first Order of the Day for the next sitting day, unless the Council decide that the matter requires immediate determination.

The Hon. C.M. HILL: I will do so.

The PRESIDENT: The honourable member has moved that he objects to my ruling. Is the motion seconded?

The Hon. R.I. Lucas: Seconded most strongly.

The PRESIDENT: Unless the Council decides that the matter requires immediate determination and it is so resolved, the debate on the motion for disagreement to my ruling must be adjourned and must be the first Order of the Day for the next sitting day.

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

That the matter be dealt with immediately.

Motion carried.

The Hon. C.M. HILL: I realise, of course, that this is not a motion which one moves lightly, and I want to assure

you, Madam President, that it is not any reflection upon you; it is simply an endeavour to ensure that the normal and proper constitutional and parliamentary process is adhered to in this House of Parliament. Especially does it concern members on this side because one of our fundamental obligations and duties is to oppose, and that is not because we wish in any way to be obstructive but, of course, in the parliamentary process by opposing one probes the Government and its measures and calls the Government to justify its stand and its measures.

Sometimes, as a result of such opposition and the Government's endeavour to justify its measures, weaknesses are noticeable and, indeed, better legislation passes through this Parliament to the betterment of people at large as a result of strong opposition. In this process of opposing, of course criticism must be involved. We cannot escape making criticism, so I felt when you took objection to the Hon. Mr Lucas, Madam President, that in effect you were gagging an honourable member from making justifiable criticism.

You took the point, Madam President, that the question of injurious reflection was involved—but I do not think that it was. I think that the honourable member was simply criticising a Minister as, in my view, it is his right to do. He was taking the proper course of action as a member of Her Majesty's Opposition, and for him to be prevented from doing that makes a joke of this Parliament. If the honourable member was reflecting in an injurious way and impugning the character of a Minister, it is a different kettle of fish altogether, but he was talking entirely in the parliamentary sense, not the personal sense. He was not talking on a personal level at all: he was doing his duty as an elected member of this Council. I ∠r him to have a leg rope put on him as you have done, Madam President, preventing him from carrying out that duty, is something I do not think this Council can stand for. So, again, I want to stress the point that raising this motion as I did is not intended to be a reflection in any way upon you, Madam President. It is simply to put the record straight and allow members on this side of the Council to criticise Ministers and the Government, and I think that the Hon. Mr Lucas should be entitled to do that—

The Hon. J.R. Cornwall: Within the Standing Orders.

The Hon. C.M. HILL: —within the Standing Orders. The Minister who is interjecting (and he has done nothing else today but interject—entirely contrary to Standing Orders) is still trying to get his six penn'orth of publicity, or whatever he is seeking by interjecting. He should keep his mouth closed and not interject, because that is contrary to Standing Orders. I can understand the Hon. Mr Lucas being rather forthright in his criticism, because I wish to quote what he has had to contend with in this place from the Hon. Dr Cornwall. Only a few days ago, on 17 September, the Hon. Dr Cornwall said of the Hon. Mr Lucas:

> The choir boy seems to find this amusing, Ms President. He is singing away in his soprano voice and laughing. He is laughing about an industry that kills 16 000 Australians prematurely every year.

Members interjecting:

The Hon. C.M. HILL: That is the kind of attack with which the Hon. Mr Lucas has had to contend from the Hon. Dr Cornwall, but as soon as the Hon. Mr Lucas gets up today and starts to criticise a Minister he is sat down on what, with very great respect, I say was the pretence of falling back on Standing Order No. 193.

I think it is the first time since I have been in this place—and, of course, I do not have to remind members that I have been here longer than any other serving member—that I can recall a presidential ruling based on this particular Standing Order when the obvious evidence did not justify any interruption from the Chair at all. So, I believe that your ruling was incorrect. I believe that your interpretation of the situation, Madam President, was wrong, and I do not think that you should fall back upon this Standing Order in the circumstances of the criticism of the Minister being given by the Hon. Mr Lucas.

The Hon. C.J. SUMNER: I oppose the motion of the Hon. Mr Hill. I think members need to get back to the basic principles which are applicable to a parliamentary debate if we are to vote properly on this issue. The Standing Order that you, Madam President, have used to draw the Hon. Mr Lucas to account, was Standing Order No. 193, which provides:

> The use of objectionable or offensive words shall be considered highly disorderly;

I do not suppose that your case rests on that part of the Standing Order. It proceeds:

> and no injurious reflections shall be permitted upon the Governor or the Parliament of this State, or of the Commonwealth, or any member thereof, nor upon any of the judges or courts of law, unless it be upon a specific charge on a substantive motion after notice.

The situation is that the Hon. Mr Lucas accused the Minister of Tourism of misleading the Parliament—not even in the question which he asked but in the explanation which he gave. Of course, there are two grounds on which that could be criticised by the Chair. The first is that, in asking his question, he was expressing an opinion, and it has been held by a number of presiding officers in this Chamber that the expression of opinions, even if not in the actual questions themselves but only in the explanation preceding the questions, is considered to be contrary to the Standing Orders.

The honourable member asserted, first, an opinion that the Minister of Tourism misled the Council and in that circumstance I put to honourable members that, consistent with all the Presidents whom I have had the pleasure to be presided over, this ruling has been put consistently and has not been disputed, although I concede that it is possible to put an argument that the question of opinion refers only to the question itself and does not necessarily refer to the explanation for which leave is given by the Council prior to the question being asked. The consistent rules on expressions have been—and not challenged (although they may be open to challenge)—that opinions are not to be expressed in the explanation that precedes the question.

That is something of an aside, because that is not the charge that was levelled against the Hon. Mr Lucas. The charge that was levelled against him was that his statement that the Minister of Tourism (Ms Wiese) had misled the Parliament was an injurious reflection upon a member of this Council. The question that honourable members have to decide is whether or not the accusation by an honourable member that a Minister has misled—

The Hon. L.H. Davis: Stop protecting the Minister and let's have a vote!

The Hon. C.J. SUMNER: We will have a vote in a minute. I think that the Hon. Mr Davis ought to listen to the debate because it may lead him to take an open view of the topic. The question is: are those words an injurious reflection on the Minister of Tourism? That seems to me to be the central aspect of the issue. If it is an injurious reflection, it does not stifle debate in Parliament. It can be made, but Standing Order 193 says that it ought to be made by way of a specific motion and of course that has happened on numerous occasions in this Parliament. Members have moved motions accusing Ministers and others of various activities which clearly constitute injurious reflections on the Ministers, or indeed on other members on occasions,

but that is then debated in the proper way as part of a substantive motion. That is what Standing Order 193 states. If one refers to Erskine May's *Parliamentary Practice*, which most members opposite usually accept as being the guide for their conduct in this Parliament, wedded as they are to the Westminster parliamentary tradition, they will find in the 20th edition at page 432 where the question of allegations against members is dealt with in respect of the general question of the maintenance of order during debate, that it states:

> A good temper and moderation are the characteristics of parliamentary language. Parliamentary language is never more desirable than when a member is canvassing the opinions and conduct of his opponents in debate. It is not out of order, however, to cast aspersions on ex-members of the House—

that is clearly not the case with the Minister of Tourism—

> even if they are Privy Councillors—

which also is not the case with the Minister of Tourism. It continues:

> Reference in debate to either House of Parliament must be courteous, and abusive language, and [importantly] imputations of falsehood, uttered by members of the House of Commons against members of the House of Lords have usually been met by the immediate intervention of the Chair to compel the withdrawal of the offensive words . . .

That is, imputations of falsehoods. The opinion expressed by the Hon. Mr Lucas in his explanation to his question clearly was an imputation of falsehood accusing the Minister of having misled the House. Erskine May further states:

> . . . or, in default, by the punishment of suspension. However, criticism of a member of the House of Lords for his acts in another capacity has been permitted.
>
> Expressions which are unparliamentary and call for prompt interference include:

I will not go through them all, because they are not all outlined here, but members may care to refer to them in more detail at the appropriate time. However, I note that under point three at page 432 under the heading, 'Expressions which are unparliamentary and call for prompt interference' they include charges of uttering a deliberate falsehood and further in that paragraph it states:

> The suggestion that a member is deliberately misleading the House is not parliamentary.

The Hon. R.J. Ritson: He never said it was deliberate or wilful.

The Hon. C.J. SUMNER: Well, Madam President—

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order! You can take part in the debate later if you wish.

The Hon. C.J. SUMNER: The honourable member suggested that the Hon. Ms Wiese—

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: The honourable member will get a chance to ask his question—there is no problem with that. That is what no less an authority than Erskine May has to say about the topic. In the short time available to me, obviously I have not been able to research all the issues involved. Also, I think it would be true to say that from time to time those sorts of accusations are thrown about and have not on every occasion been taken up by the Chair. However, the President is responsible for maintaining order in the Parliament and Standing Order 193 clearly refers to injurious reflections against members of Parliament and states that they are out of order unless they are made by a specific charge. On my very quick researches into the matter that seems to be backed up by no less an authority than Erskine May, so the decision that the Council has to make is whether Standing Order 193 precludes the Hon. Mr Lucas and other members from making accusations of falsehood with respect to other members of Parliament if that is not done by way of a specific motion.

My submission to the Council is that the President's ruling should be upheld and that the disagreement with her ruling by the Hon. Mr Hill should be opposed. I do that on the basis of an interpretation of Standing Order 193 that I have put to the Parliament and principles that govern parliamentary debate, that being the specific issue at hand. I point out also that the honourable member, in accordance with all previous rulings, was out of order in any event in expressing an opinion during the explanation preceding his question. I ask members to oppose the motion put by the Hon. Mr Hill.

The Hon. M.J. ELLIOTT: As is often the case, in the Gallery this afternoon we have a number of school students whose teachers have probably tried to get across to them the ideas—

The Hon. M.B. CAMERON: I rise on a point of order. I believe that there is a Standing Order that indicates quite clearly that members do not refer to people in the Gallery and that, if they do, the Gallery be cleared.

The PRESIDENT: I accept the point of order.

The Hon. M.J. ELLIOTT: If I need to speak in general terms, I will. We often have students and other members of the public here with us. As a former teacher who has brought classes into this Council, I sometimes left Parliament embarrassed perhaps by the level of interjection and injurious reflections that occurred, because I always tried to impress on the students that in Parliament one finds debate on matters of substance.

The Hon. M.B. Cameron interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: We will sit late tonight to look at matters of great substance, but at this time we find ourselves having to look at the President's ruling. I believe that if there is an injurious reflection, that injurious reflection could be easily drawn by individuals on the basis of fact rather than a person coming out and saying it. I think that the facts and the argument presented should be able to speak for themselves without the necessity for injurious reflection. At the least, if I were making injurious remarks as a political stunt I would not do so until the facts were apparent, and then would withdraw them immediately at the President's request. I will be voting to uphold the President's ruling.

The Hon. G.L. BRUCE: I rise because of the remarks made by Mr Elliott. This is an important matter of principle about how the Chamber runs. Madam President, you have said that Standing Order 193 should be invoked and upheld. For Mr Elliott to say that it does not behove us to debate how the Chamber is run, is wrong. Without rules of debate and procedure, the Chamber cannot function. It is vital to settle this question. Your hands are tied and you have ruled on Standing Order 193 and are entitled to rule in that way. I support that ruling. If I thought that you were going against the spirit of Standing Order 193 I would oppose you but one must have rules and orders. Mr Elliott said that this is a trivial matter and that we shall be having an important debate later, but that does not mean a thing. Unless we have rules and laws to operate by, we cannot run the Chamber. I support your ruling.

The Hon. C.M. HILL: I exercise the right of reply to close the debate. I will be brief in my reply. I listened carefully to the Hon. Mr Sumner presenting his arguments against the motion and I was not impressed. I accept his almost apology that he had not had a long time to prepare his case, but he seemed to be skirting around the central point that I tried to make earlier. That was that, in my

view, an accusation by a member of the Opposition that a Minister of the Crown has misled the Council that is followed up by reasons for such a claim is not an injurious reflection on the Minister. I believe that the spirit of Standing Order 193 deals with objectionable and offensive words and injurious reflections of a non-political, personal kind. That is what Standing Orders should prevent.

The Hon. C.J. Sumner: They have not.

The Hon. C.M. HILL: You keep quiet instead of claptrapping, or get to your feet and make a sensible contribution for a change.

The Hon. C.J. Sumner: You did not give me a chance.

The Hon. C.M. HILL: I gave anybody time to reply. I looked around but Dr Cornwall sat in his chair.

The PRESIDENT: Order! The Hon. Mr Hill does not have to take notice of interjections.

The Hon. C.M. HILL: It is difficult when one is provoked contrary to Standing Orders.

The PRESIDENT: Standing Orders say that repeated interjections are not permitted. They do not say that interjections are not permitted.

The Hon. C.M. HILL: I come back to the point without labouring it too much. This Standing Order deals with personal criticism of a non-political nature. I fail to see why a member should be prevented, under this Standing Order, from accusing in this place a Minister of the Crown of misleading Parliament when at the same time that Opposition member gives his facts and information to justify such a claim. After all, the accusation of a Minister of the Crown is one of the most serious parliamentary accusations that can be made. It can be pursued to a point where, under the Westminster system, the Minister should resign. Unless the Minister, on knowing that he has misled the House immediately comes to the Chamber and makes an explanation or, to put it another way, if the Minister misleads the House and keeps that fact to himself or herself that situation demands the resignation of the Minister. That is accepted, I think, on both sides of the House, so we are not dealing with a matter of small importance but with an important matter.

The Hon. C.J. Sumner: Doesn't the Standing Order provide for that?

The Hon. C.M. HILL: My interpretation of the Standing Order is that on many occasions we have to rely on the spirit of the Standing Orders. If we do not, there would be no interjections or points of order would be taken every five minutes. That would not be a practical situation. So we must in some way consider the spirit of the Standing Order. It is not only you, Madam President, with all due respect, who has to consider these things but the Chamber as a whole because the Chamber is its own master. Madam President is only the ears and eyes of the Chamber. We run our own affairs so we have to take these details into account when we are considering whether we are infringing Standing Orders. The spirit of the Standing Order does not deal with a purely political issue such as the accusation of a Minister misleading the Chamber, particularly when that accusation is followed up with evidence of that claim. I accept that you acted in good faith, Madam President, but I think that you were wrong in telling Mr Lucas to sit down and in using Standing Order 193 against him. I ask the Council, because of the precedent that can be set, and it should be one dealt with entirely as a non-Party issue, to support the motion, and then let us get on with the business of the day.

Motion negatived.

The PRESIDENT: Do you wish to conclude your question, Mr Lucas?

The Hon. R.I. LUCAS: I had almost forgotten about it, it was asked so long ago.

The PRESIDENT: I can refresh your memory, it is a question about market research.

The Hon. R.I. LUCAS: I know that much. I was trying to remember whereabouts in the question I was. Perhaps I should go back to the beginning and summarise quickly what I said 35 minutes ago.

The Hon. C.M. Hill: Under Standing Orders, you are not entitled to read from notes.

The Hon. R.I. LUCAS: I am referring to copious notes. Honourable members will recall that yesterday I asked a question of the Minister of Tourism about market research. The Minister said that she was unaware of the name of the company to which she and her department had awarded the contract. I then said some naughty things which were ruled out of order and which I shall not repeat. The Minister also said yesterday that she had ensured that all of the appropriate guidelines had been followed. She was quite definite and bold about that. Information provided to me, however, shows that there have been a number of irregularities in the Minister's handling of the awarding of the contract. She will be aware of the Hon. Dr Cornwall's well documented sins in 1983 and 1984 regarding market research—his ANOP survey. The Premier, John Bannon, issued strict directives which were outlined on 1 May 1984 in a press release under the Premier's letterhead. The directives were followed by a statement by the Premier in the House; they were directives that must be followed by all Ministers in issuing contracts for market research and for consultancies. The Minister has clearly not followed those guidelines in that strict directive.

Furthermore, the original advertisement published in the *Advertiser* on 12 April 1986 under the heading 'Registration of interest in a Market Research Study' said:

> A maximum of $150 000 is available to meet all costs associated with a national research program, with completion required by the end of October 1986.

One of the companies which responded and expressed an interest in the study was a major South Australian company based in Adelaide, which said that it could comply with the cost restriction and the time deadline. Yesterday, however, the Minister of Tourism said, 'The South Australian Tourism Department would undertake a $250 000 survey of the State's traditional tourism markets.' I stress the sum of $250 000, which should be compared with the maximum of $150 000 in the advertisement in April. The Minister also said, 'The money had been allocated for an extensive study into new Australian and international visitor markets. The research is unprecedented in its scope. It is likely to result in a changed emphasis in marketing and promotion.' The contract did not go to the interested South Australian company but to an interstate based market research company.

First, has somebody told the Minister since yesterday the name of the successful company; if so, is she able to share that information with honourable members? Secondly, will she indicate how she complied with all the guidelines set down by the Premier in the directive of 1 May 1984? Thirdly, if she did not comply with all those guidelines, will she now apologise for—I was about to say, 'for misleading the Council yesterday,' but I understand that I am not allowed to say that.

The PRESIDENT: Order! You are right.

The Hon. R.I. LUCAS: Will the Minister now apologise for saying something yesterday which was not true? Is that all right, Ms President? Is that an injurious reflection? Should I say, 'At variance with the truth'?

The PRESIDENT: Order! I think that parliamentary language permits that, but I need to check the precedents. I shall not hold the honourable member up, however.

The Hon. R.I. LUCAS: Precedents or Presidents?

The PRESIDENT: Precedents of Presidents.

The Hon. R.I. LUCAS: My fourth question is as follows: why was the contract awarded to an interstate based firm for $250 000 when a South Australian company said that it could do the work for $150 000 in compliance with the original advertisements from the Minister and the department?

The Hon. BARBARA WIESE: This afternoon's performance is very interesting. It is another example of Opposition members trying to cast aspersions with no evidence, it seems. We have only assertions that guidelines have not been complied with. We were promised that there would be evidence to show that they had not been complied with, but there is none. I sought assurances from my officers that the guidelines were being complied with and I was given those assurances. The contract was awarded to a company known as Research International Australia Proprietary Limited to undertake market research on behalf of the Department of Tourism for $150 000, as was stated in the advertisement which the Hon. Mr Lucas mentioned. A further $100 000 is being spent during the financial year on numerous regional surveys—in addition to the national and international survey which the company is undertaking—which will be conducted later. The market research projects add up to $250 000 for the year.

As I explained yesterday, the company was appointed because the selection committee which considered the 27 consultancies which registered an interest thought that it was the best to undertake the type of work that we wanted. It is a professional company which the selection group thought was in the best position of all the applicants to undertake the survey and the extent of market research we were looking for.

The Hon. L.H. Davis: Who was on the selection group?

The Hon. BARBARA WIESE: The Director of the Department of Tourism, the Deputy Director (Marketing), the Assistant Director (Planning) and the Project Manager. They made their selection and discussed with me at an appropriate time the suggestions about appointments. I raised specifically with my Director the question of South Australian companies that might have applied for the job. I and the Government prefer, wherever it is possible, to award contracts to South Australian companies. I was advised, however, that no South Australian company was suitable, in their opinion, to carry out the task.

The Hon. R.I. Lucas interjecting:

The Hon. BARBARA WIESE: This is not an action taken only by members of this Government. When in office, the Liberal Minister of Tourism awarded a consultancy to review the Department of Tourism to an interstate company although I assume South Australian companies registered interest in the job.

Quite rightly, in her opinion, or in the opinion of her advisers, they appointed the company that they thought was best able to do the job. That is what happened in this instance, as well. If the honourble member has evidence that guidelines were not complied with, then (instead of standing up here and making allegations without evidence) he should provide me with that evidence and I will have the matter investigated.

URANIUM SALES TO FRANCE

The Hon. I. GILFILLAN: I move:

That the South Australian Government advise the joint venturers of Roxby Downs that it opposes any sale of uranium from Roxby Downs to France or its agents until such time as France signs the non-proliferation treaty and ceases nuclear weapon testing in the South Pacific, and that any such sale would jeopardise the Roxby Downs (Indenture Ratification) Act 1982.

Anybody who has taken any note of the Democrats' attitude to the sale of uranium from the Roxby Downs mine will realise that this has been a monumental concession to allow the Government to indicate that it has at least some vestige of conscience in this matter. I point out to honourable members that the wording of the motion specifically says, . . . 'it opposes any sale of uranium to France until. . .' Therefore, the motion does not even go so far as to express substantial opposition to the sale of uranium to France in the indefinite term. It quite specifically says that the opposition is until France signs the non-proliferation treaty and ceases nuclear testing in the South Pacific.

I do not believe that any member of this Chamber has any objection to France signing the non-proliferation treaty: if there is, I plead with them to make that plain during this debate on this motion; otherwise, I think that it is reasonable for everyone in South Australia to assume that we want France to sign the non-proliferation treaty.

I also assume without any real misgiving that every member in this place would want France to cease nuclear weapon testing in the South Pacific; and, once again, I plead with any member of this place who does not agree with that assumption to make that plain when speaking to this motion. I do not intend to labour this matter further. My only misgiving is that, although honourable members have this objection to France testing in the South Pacific and they want France to sign the non-proliferation treaty, that is as far as their conscience goes. This is an opportunity for me to be proved wrong in that regard.

I also remind honourable members that the motion does not say that such sale would invalidate the Roxby Downs indenture but is deliberately worded 'jeopardise', which means 'put in danger', so that the joint venturers are warned that, were such a sale to go ahead, then they could expect some moves which may change or threaten aspects of the indenture.

Once again, I point out that that is a concession to the Government, which has claimed that the indenture is inviolate and therefore of great delicacy, if there is any threat to invalidate it. I remind honourable members that, previously, both the Premier and the Minister of Mines and Energy have indicated that they would amend the indenture under certain circumstances, for example, in relation to the storage of tailings from the mine, the terms of employment of mine workers and the threat by the joint venturers not to fulfil its obligation in providing housing to the Roxby Downs township.

The significant economic factor about this matter needs to be brought out probably more emphatically than any other feature in this debate, because the carping criticism of our move and the petty objection to it is that the economics of Roxby Downs will be threatened by such a prohibition. That is absolute nonsense, and any honourable member who saw the *7.30 Report*, as I did last night, will remember that John Reynolds, spokesman for Western Mining Corporation, said quite specifically that the Roxby Downs joint venturers had not planned on sales of uranium to France, and that whether the sales went ahead or not was not of particular concern to the joint venturers.

He also indicated, as I confirmed with the interviewer on the *7.30 Report*, that nothing has been done at this stage in seeking contracts with France and it is my understanding that there has not even been initial contact. Therefore, it is quite fatuous to say that the economics of Roxby are in any way threatened by this opportunity for the Government to have some vestige of conscience in its attitude to selling uranium to France.

It is quite plain that that view was shared by the Premier (Mr Bannon) on 5 August when, in the *Advertiser* in an article written by Kym Tilbrook (whose impeccable accuracy everyone here recognises), he is referred to in the following way:

> The Premier, Mr Bannon, said last night he did not support lifting the ban on uranium sales to France.
>
> He said that while France refused to sign the nuclear non-proliferation treaty and continued to test atomic weapons it was not a suitable customer for Australian uranium.

He said, further:

> Sales to France had not been 'part of the equation in terms of decisions made by Roxby'. The work that is in progress and the commitment has not been based on the possibility of sales to France.

If that is not clear enough, how else can I make it plain to honourable members that there is no dependence on the Roxby Downs viability or the mine on sales of uranium to France?

I was pleased to hear the Premier (Mr Bannon), I presume supported by large chunks of the Government and his parliamentary colleagues, express abhorrence about selling South Australian uranium to France. I was hopeful we would see some backbone in this vast volume of words that has poured out of the ALP about how sensitive it is, and about what great conscience it has in relation to the sales and treatment of uranium around the world, yet on the first acid test the ALP buckles.

It is a disgrace. I would be ashamed to be a member of the Australian Labor Party. I hope that in some small way this motion gives the Labor Party an opportunity to hang on at least to a vestige of integrity, if only by the coat tails. However, compared to the Liberals, the Labor Party still holds a good head and a half lead. In the same article published on 5 August, Mr Goldsworthy is quoted as saying that France had demonstrated that it was a safe and responsible user of nuclear energy for peaceful purposes, and that he therefore had no objection to selling uranium to France.

In fact, France has shown itself to be utterly irresponsible in its use of uranium. Its record in dealing with uranium for the provision of electrical energy is far from perfect, and anyone who shows a continuing concern about the risk of contamination from uranium used for peaceful purposes would have been sorely disturbed to read an article in this morning's *Advertiser* about the result of the accident that occurred at Chernobyl. Anyone in South Australia who is selling uranium to any other country in the world, even for energy production, must weigh up in their conscience whether they are prepared to accept that our uranium could be involved in the sort of accident that took place at Chernobyl. I remind members of the article in this morning's *Advertiser*, as follows:

> The 26 April nuclear disaster at Chernobyl emitted as much radiation into the environment as all the nuclear tests and bombs ever exploded, the *New York Times* says, quoting a scientific survey. The study, by the Lawrence Livermore National Laboratory in California—

a highly reputable scientific entity—

> says the Soviet reactor may even have emitted 50 per cent more radioactive cesium, the primary long-term component in fall-out, than have the total of all atmospheric tests and bombs. Cesium does not decay into harmless substances for more than 100 years and has been associated with health effects such as cancer and genetic diseases.

So, in view of the risk of that sort of accident occurring again, we cannot take any form of consolation that the uranium which we sell will be used for so-called peaceful purposes.

Finally, I urge the Government to recognise that South Australia is an independent and autonomous body in this matter. Certainly, we cannot dictate from the national point of view where uranium will or will not be sold, but we do have the very effective lever of discussion in the context of our indenture. South Australia has committed itself to a substantial and, in our opinion, ridiculously generous commitment to the indenture for the development of Roxby Downs. South Australia can speak quite clearly in this context about what is or is not acceptable in relation to treatment of the product coming from the Roxby Downs mine. So, there is no question in my mind that this Parliament has every right to make the decision as referred to in my motion.

I plead with the Premier and the Government for the State to show some backbone. Where are the State's rights? Where is the independence and autonomy of South Australia? What is the point of being an independent State if we offer to sell uranium to France—and it is our uranium, as we get the royalties from it—but it is sold to that country. Why can we not say that we will not tolerate that and that we do not want uranium sold to France until the two perfectly reasonable conditions, as outlined in my motion, are agreed to. In fact, the world pleads with the users of uranium to comply with these requirements, namely, that there be no nuclear testing and that the country importing uranium be a signatory to the Non-Proliferation Treaty.

I urge all members to examine their conscience in relation to this motion. I remind members that this is a serious attempt by the Democrats to allow us all to express our abhorrence about the blatant abuses of uranium. If the previously frequently avowed intention of the Government to sell uranium was supposed to discipline the use of uranium around the world, then is this motion not a prime example of that intention? If the Government does not support this motion, I can come to only one conclusion and that is that the words mean nothing and that the dollar means everything and that the Bannon Government does not care if weapons testing goes on booming and blasting away in the South Pacific or if nations refuse to sign the Non-Proliferation Treaty. I urge the Government and all members of this place to support the motion, which attempts to put some integrity and some ethic back into the way in which South Australia, at least, views the sale of this incredibly dangerous product, uranium, from Roxby Downs.

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

LEGISLATIVE COUNCIL LOBBY

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

That this Council—

1. Affirms the practice, procedure and tradition of the Council that, while the Council is sitting, the lobby is out of bounds to everyone other than members of both Houses, officers of the Chambers, Parliamentary Counsel, messengers and public servants moving to the Council to assist a Minister in consideration of any Bill;
2. Requests the President to ensure that the robing room in the lobby is not occupied by a person other than those referred to in paragraph 1.

In my view, the forum of this Council is an appropriate place in which to raise issues of privilege and the rights of

the Council and its presiding officer. I raise this matter only for the purpose of endeavouring to clarify what I, as a member, have believed to be the position that has existed in the 8½ years that I have been here and, from my reading, what I have understand to be the position for many years before that. I have no particular axe to grind or any animosity in relation to this matter but simply the desire that the matter be considered responsibly by the Council and the questions involved resolved.

From the outset, I should say that I appreciate the basis on which the President has indicated that the decision was taken to allow a member of the President's staff to occupy the robing room permanently, particularly as that relates to the shortage of space, although I suppose it relates not really to a shortage of space but to the inadequacy of the design of the building, since this part of the building has been here since 1939 and was designed in the days when there were fewer members and certainly not the intense pressure for staff, in particular, which now prevails in both parts of the building. So, one could hardly say that the building is designed to achieve maximum efficient and comfortable use of all space in the building. What one could say, though, is that for the purpose for which it was designed originally it certainly provides comfortable accommodation—according to the standards of 50 years ago and the needs of that time.

So, I appreciate the difficulty with which the President was confronted in determining what location would be appropriate for other members of staff. Notwithstanding that, there is a difficulty, as I indicated when I made a statement in explaining a question last week, and that is that the lobbies have been the place which traditionally—and I mean by that, in practice for a long time—has been used by members of all Parties for the purpose of conducting discussions.

Some of those discussions may be sensitive and confidential; others may have no such connotation or consequence but, in those circumstances, it is fair and reasonable that the members who occupy seats in this Chamber should feel that, regardless of the Party to which they belong, they can conduct free and open discussions without strangers becoming privy in any way to the discussion. It is that which is the major concern of members to whom I have spoken across the spectrum of political affinity within this Council about the permanent occupancy of that robing room.

The President has a heavy responsibility under the Standing Orders. Standing Order 1, going wider than the powers of the President, provides that where our Standing Orders do not cover a particular matter, then—

> The President shall decide, taking as his guide—

and that, in my parlance, means 'her' as well—

> the rules, forms and usages of the House of Commons of the Parliament of the United Kingdom of Great Britain and Northern Ireland in force from time to time so far as the same can be applied to the proceedings of the Council or any committee thereof.

Quite obviously, the President as the elected presiding officer of this Chamber has not only responsibilities with respect to the conduct of the proceedings of the Chamber but also in communicating with the Speaker of the House of Assembly and His Excellency the Governor. The person occupying the office of President has responsibility also for the maintenance of order within the Chamber and, by virtue of the office of President, sits on committees which, either separately or conjointly with the House of Assembly, have responsibility for providing services to the Parliament and to each Chamber.

The President also has a general responsibility for the oversight of the Legislative Council side of the Parliament House building, but in all respects the President is a servant of the Council and no President, either the incumbent or her predecessors, have ever sought to do other than be a servant of the Council. The responsibility as President within this Chamber is always subject to the overriding wish of the members of the Council, which can be reflected either by amendments to Standing Orders approved by His Excellency the Governor—if it is of such serious moment as to require an amendment to the Standing Orders—or a suspension of Standing Orders or, if a ruling of the President is not agreed with, then it is the right of any member to move disagreement with that ruling in order to establish the majority view of members of the Council.

The Hon. T.G. Roberts: She made an offer for you to meet her and discuss it.

The Hon. K.T. GRIFFIN: I am not talking about anything like that. I am talking about what the procedures and practice of the Council will be, and this is the appropriate place in which to discuss all these sorts of issues. There is no other appropriate place in which to do that, and I am trying responsibly and quietly to just explore the issues without any animosity towards any person, and to get the matter resolved. This motion gives every member an opportunity to hear the basis for the debate, to put a different point of view or to agree with the point of view which I present. All the matters involved can be on the record for open consideration. I think that is the best way to deal with an issue such as this. If other members have a different point of view, they are entitled to put it, and I will maintain at all times that it is the right of a member to put that point of view publicly on the record in this Chamber, and that is accompanied by all the privileges and protections of the Chamber. That is why I am moving this motion—to explore the issue and to, hopefully, resolve it at some time in the future.

The President's powers, as I was indicating before answering that interjection from the Hon. Mr Roberts, are governed by Standing Orders. Specific Standing Orders deal with the authority of the President in respect of votes and divisions, and chairing the committee of the whole Council. Standing Orders 429, 430 and 431 deal with the summonsing of witnesses. Witnesses ordered to attend before the Council or a committee of the whole at the bar of the Council are to be summoned under the hand of the President and, if desired by a select committee, by summons under the hand of the clerk. Consequences follow in subsequent Standing Orders to deal with persons who do not obey the summons of the Council issued under the hand of the President as the representative of the Council. Standing Orders 445, 446 and 447 deal with strangers. Standing Order 445 states:

> The President alone shall have the privilege of admitting Strangers, not being members of the House of Assembly or of the Commonwealth Parliament, to the body of the Council Chamber, either within or without the bar while the Council or a Committee of the Whole is sitting.

The President, of whatever political persuasion, has exercised that privilege in relation to visiting ambassadors and other diplomats. Only last week the President recognised a visiting member of Parliament from Italy, and all of that is appropriate, because the President exercises that privilege within the Chamber of the Legislative Council. Standing Order 446 provides:

> Members of the House of Assembly and of the Commonwealth Parliament shall have the privilege of admission, without order, to the body of the Council Chamber without the bar.

That refers to sitting in the President's gallery. Traditionally there has been a practice that persons admitted to the President's gallery do so at the invitation of the President. I know that is honoured more in the breach than in the observance at present, but it nevertheless is part of the Chamber and comes within the overriding power of the President. Standing Order 447 reads:

> If at any sitting of the Council, or in Committee, any member shall take notice that strangers are present, the President or the Chairman (as the case may be) shall forthwith put the question 'That strangers be ordered to withdraw' without permitting any discussion or amendment: provided that the President, or the Chairman, may, whenever he [or she] thinks fit, order the withdrawal of strangers from any or every part of the Chamber.

It is quite clear that the President has the responsibility for the general oversight of admission by other than members of the Legislative Council to this Chamber. It is not so clear whether the question of the lobbies is under the responsibility of the President or any other person, but under the practices and procedures of the House of Commons there are provisions which relate to the lobbies of that House. The set-up is a little different there, because when there is a division in the House of Commons members file past the tellers into the lobbies whereas here we are counted in our places rather than filing past. I think the practice adopted by the House of Commons is largely because of the number of members in the House and the fact that, if they were all present at the one time, many of them would not get a seat. The presence of persons within the House of Commons Chamber who are not members is treated somewhat differently, again because of the way in which the House of Commons Chamber is structured but, notwithstanding that, the Speaker in the House of Commons has authority over the occupancy of seats within the House of Commons Chamber.

Whilst comments in Erskine May deal with the position of the Lord Chancellor, who is the presiding officer in the House of Lords, there is a quite significant distinction between the role of the Lord Chancellor in the House of Lords and that of the Speaker in the House of Commons. In the House of Lords the Lord Chancellor does not have any special powers either to maintain order or to act as the representative or mouthpiece of the House unless the House confers the necessary authority upon him. I presume that that is one of the reasons why we have Standing Order 1, which refers specifically to the practice, rules, forms and usages of the House of Commons being appropriate to this Council if our own Standing Orders do not in fact cover any particular matter which might be subject to question or debate. Under the Standing Orders of the House of Commons the Speaker is the representative of the House in its powers, proceedings and dignity. Erskine May states:

> His functions fall into two main categories. On the one hand, he is the spokesman or representative of the House in its relations with the Crown, the House of Lords and other authorities and persons outside Parliament. On the other hand he presides over the debates of the House of Commons and enforces the observance of all rules for preserving order in its proceedings.

That seems to suggest that, so far as the lobby is concerned, there are different practices and procedures which relate to the lobby as distinct from the Chamber of the House of Commons but, while some strangers may be allowed in the lobby of the House of Commons, nevertheless the Chamber has certain powers which relate to that area and, as I have indicated, ordinarily at least when there are divisions, all strangers are cleared from the lobby, except the messengers and officers of the House who are not ordinarily regarded as strangers.

As I indicated earlier, in relation to the Legislative Council, traditionally it has been the position that the lobby on this side of Parliament House is accessible by members of Parliament from both the House of Assembly and the Legislative Council, by the officers of the Parliament (particularly the officers of this Chamber), the Parliamentary Counsel to take his or her place in the box for the purpose of advising the Minister who has the conduct of a Bill, and public servants seeking to occupy the box during the Committee stage of a Bill as well as other stages, although during the Committee stage there is a practice in this Council which allows the appropriate public servants to occupy on the floor of the Chamber a seat beside the Minister having the conduct of a Bill. In the time that I have been here ministerial officers who are not in the same category as public servants have been denied access both to the box where public servants and Parliamentary Counsel sit and to a position beside the appropriate Minister for the purpose of giving advice to the Minister. They have been regarded as being inappropriate persons to take their place either in that box or on the floor of the Council. It is only those who have been granted access to either the Council or the lobby (and as I understand it the same position applies on the other side of the Parliament, in the House of Assembly) who are regarded as being appropriate.

Notwithstanding my recognition of the President's reason for allowing another person to occupy the robing room, it is my view that it is inappropriate, not only because it is a departure from the practices and procedures of the Legislative Council, but also because the lobbies need to be reserved, generally speaking, for the sole use of members of the Legislative Council and members of the House of Assembly who seek to conduct discussions with them. Strangers are permitted in many other places in Parliament House but, generally, only in the company of members of Parliament. I refer to the lounges, the strangers' dining room, and the Speaker's dining room, and I think that practice is appropriate. There are certain privileges of the Council that, because of the unique nature of Parliament, ought to be observed and maintained. Each House of Parliament has absolute authority over its members and non-members and it has wide ranging powers very much in excess of any of the powers conferred upon any of the courts of the land. In a sense, I suppose that each House of Parliament is a court, with power to bring persons to the bar, to sentence them and to deal with them in any way that the particular House deems appropriate. It is those sorts of privileges which, whilst not impinged upon by the occupation of the robing room by a stranger, nevertheless ought to be taken into consideration when dealing with this matter. It is in that context that I bring forward this motion for consideration by all members of the Chamber.

The Hon. M.B. CAMERON: I wish to make only a very brief contribution to this debate. I regret that it is necessary to move this motion. However, I understand the problems that you face as President in providing accommodation on this side of Parliament House. Unfortunately, we have limited areas and I know that you, Madam President, needed a specific area for the person who will assist you in your job as President. However, there is one area that I believe should be available only to members of Parliament, particularly during sitting times, and that is the lobbies because, as members would know, there have been some very interesting conversations and confrontations in that area.

The Hon. T.G. Roberts: Seconds out.

The Hon. M.B. CAMERON: I will not go into details but I have seen some interesting confrontations. It is one of the places we can go where the press cannot see our confrontations. It is important to have an area where people

either of the same side or opposite sides can meet to discuss problems that have arisen in the Chamber and where some differences can be sorted out. That is the basic reason for the lobbies, and always has been in the Westminster system.

For that reason, I support the motion, although I have an understanding of the problems about accommodation that you have, Madam President. The Hon. Mr Griffin has clearly put the case about precedents and the position of privilege. It is clear that there are plenty of precedents for the lobbies to be available to the members of Parliament or people authorised by the Chamber for particular reasons—not least of which is access to ministerial advisers or Parliamentary Counsel who have to come through the lobbies on their way to assist us in our duties as members of Parliament. I appeal to the Chamber, and perhaps more particularly to you, Madam President, to make certain that the lobbies are clear of people who would make members uncomfortable about their conversations or confrontations with one another. I have used that area many times to have perhaps a heated discussion with the Leader of the Government to resolve important matters. If we do not have that area we shall have to find another area, and that is difficult.

The PRESIDENT: There is another area.

The Hon. M.B. CAMERON: I know, Madam President, but the former President used to get irate with me when I stood behind your Chair. It is difficult to raise one's voice to the volume that is sometimes required to convince a Leader of the Government, because people can be pigheaded. I sometimes have a loud voice, as honourable members will recall. I have to use it in this place to be heard above the Minister of Health who sometimes takes exception to what is being said.

This is a serious matter because it is necessary for us to have an area where we can discuss problems and where members of the Assembly, who cannot enter the Chamber, can come to discuss matters with us, as they often do. You, Madam President, would not allow them to come into the Chamber because it is a clear requirement of Parliament that we are elected to only one Chamber. I support the motion.

The Hon. G.L. BRUCE secured the adjournment of the debate.

PROSTITUTION BILL

Adjourned debate on second reading.

(Continued from 17 September. Page 906.)

The Hon. T.G. ROBERTS: I rise to support the Bill because I think that its purpose is, as far as possible, to find some way to provide protection to adult prostitutes from violence, intimidation and exploitation, and to protect young people from sexual exploitation. It also regulates and restricts advertising for prostitutes or prostitution services, removes penalties for offstreet prostitution, and controls the location of brothels.

The question of decriminalisation or legalisation of prostitution has been around for some time. A select committee was set up in August 1978 and chaired by the late Don Simmons. Victoria and New South Wales also had major inquiries and acted upon the information gathered. In New South Wales the criminal penalties for both street and brothel prostitution were repealed, with some restrictions. In September 1984 the Victorian Government established another inquiry into prositution which was conducted by Professor Marcia Mead, now a professor of law at the University of Adelaide, to examine the social, economic, legal and health aspects of prostitution. The Victorian Government intends to introduce legislation to effect changes later this year.

The Hon. Ms Laidlaw contended—or at least she made a confident prediction—in her second reading speech that if the Bill were to pass, the number of brothels and the practice of prostitution would increase. I contend—or make the confident prediction—that the legislation will not facilitate an increase in prostitution, but if it comes to pass, other factors will have a far greater bearing on an increase in prostitution than that. Those factors will mainly be economic and socially inherited circumstances.

A phone-in conducted by the Prostitutes Association of South Australia, supplied figures that showed that in 1986, 88 per cent of the callers said that they had entered prostitution because they were broke and/or unemployed, which supports my hypothesis. Society is made up of people whose moral and social values vary and it would be out of place for me to make judgments on behalf of other people whose circumstances in moving through life's difficult cycle have led to their being caught up in an occupation that society hypocrisy deems to be criminal.

With the President's permission, I shall read the words of a song to illustrate the circumstances of a family caught up in prostitution, but still maintaining the dignity and family warmth that is expected of the *Women's Weekly* perfect family, tinsel and all. I shall not sing the song as I am not sure whether Standing Orders will allow me to do so. The words of the song are American and so it relates to a American situation, and the terminology is different. I do not know whether Eric Bogle has an Australianised version. If so, I have not heard it. The song says:

> The corn was dry, the weeds were high when daddy took to drinkin';
> Then him and Lucy Walker they took up and run away.
> Mama cried a tear and then she promised fourteen children:
> 'I swear you'll never see a hungry day'.
> When Mama sacrificed her pride the neighbours started talkin'.
> But I was much too young to understand the things they said.
> The things that mattered most of all was Mama's chicken dumplings and a good-night kiss before we went to bed.
> Last summer Mama passed away and left the ones who loved her:
> Each and everyone is more than grateful for their birth.
> Each Sunday she receives a fresh bouquet of fourteen roses and a card that says: The greatest mom on earth.

That throws some light on the debate. It shows that it is a human problem and not just one of making regulations or drawing up legislation that does not have some reflection on how people interact in society.

Even inquiries do not turn up many of the real reasons why people go into prostitution. Poverty alone is not a trap: the combination of poverty, early child abuse and many other factors are the trap for prostitution. The elimination of poverty, through a vibrant economy which provides equitable income distribution, and a caring society which eliminates drug abuse, child abuse, sex abuse and violence will do more to eliminate prostitution than any legislation. Until we reach that point, this Bill will help to alleviate some of the excesses which turn people to prostitution.

The Bill will eliminate some of the factors which tend to lead prostitutes into violent and intimidatory situations, as a result of ownership and control, and into exploitation by over-zealous investigators. The Bill goes as far as society will now allow to minimise violence, exploitation and child abuse in the industry of prostitution.

Much of the contribution made by groups through submissions and by personal approaches miss the point that the Bill does not legalise prostitution but decriminalises it. Hopefully, it allows prostitutes to break some of the intimidatory traps which form part of organised prostitution.

This is probably not the last that we will hear about the Bill. There will probably be much more debate. After its implementation many people will examine its effects, which will be analysed constantly by those who act on behalf of prostitutes to allow them to operate with some dignity. It will also be scrutinised by people who for moral or political reasons want to change the law back to hiding the problem under the covers.

Some people believe that, as with other aspects of poverty, if it is hidden in ghettos, one can make out that it does not exist and some people can go through life feeling satisfied that there is no poverty, intimidation or violence. They are protected from such elements and can believe that all is well. Legislators should be able to remove those blinkers and look behind the tinselly facade. Legislation such as this goes part of the way to what is required to protect people who are in the industry through no fault of their own or through economic circumstances. Prostitutes and others involved in the industry will thank the legislators for introducing such a Bill.

The Hon. J.C. IRWIN: This morning I had the pleasure of attending with you, Madam President, a seminar on biotechnology in agriculture. I admit that I would far sooner debate that subject or a related one than this Bill. I acknowledge, however, that there are social issues which we must face up to and which are equally important. Seven other honourable members have spoken so far in this debate and it is clear that two sides are emerging. The debate here and in the community will highlight the Bill's shortcomings as time passes. That is right and proper and I hope that I can add to the community debate.

The Bill has been labelled the Prostitution Bill, but that is misleading—it would be much better known as the Brothel Bill. The written media has played a part in misleading the people on this point. Prostitution is not illegal in South Australia when it involves two consenting adults. What is illegal is the trading in prostitution where people live off the profits or the earnings. The *Advertiser* of 21 August ran a front page story as follows:

> Legislation to decriminalise prostitution in South Australia is expected to pass . . . early next year.

Most talk-back radio programs that I have heard have been hampered by the fact that people have not read the Bill. They have all concentrated on the question of decriminalising prostitution. An editorial in the *Advertiser* of 21 August said:

> But such a Bill, already introduced without the fuss of previous similar attempts, deserves a calm and rational passage through Parliament.

I wonder whether the editor who wrote that will read the speeches made on both sides of the Council and have the courage to change his analysis, which in many areas has to be seen as patently wrong. When the Bill was introduced, five objectives were outlined. They were to protect young people from involvement with prostitution, to protect adult prostitutes from violence and intimidation, to restrict and regulate advertisements for prostitution services, to remove criminal penalties for off-street prostitution services and to control the location of brothels. I should add a sixth objective, which is to protect the health of prostitutes and the community.

My research and thinking on those six points, and the general philosophy in the Bill, leads me to believe that the community will not be better served by the Bill being passed, even if it is heavily amended. It must be thrown out or heavily amended.

I shall take some time to deal with the matters that have already been raised. It seems basic, perhaps unnecessary and an intrusion on the intelligence of honourable members to quote from a dictionary, but the meaning of 'prostitute' is a man or woman who engages in promiscuous sexual intercourse for pay. 'Promiscuous' is defined as engaging in sexual intercourse with many persons casually. I am led to believe, somewhat to my amazement, that there are people in the community and some in the Council who believe that the tag of prostitute is given only to women. The Prostitution Association, in its red covered submission which we received last week, referred to a survey which was responded to by 67 prostitutes, of whom 57 were female and 10 were male.

There are, in fact, women prostitutes, male prostitutes, homosexual and lesbian prostitutes, and child prostitutes of both sexes. This Bill has to deal, therefore, with all these forms of prostitution. I do not enter this debate with a defeatist attitude by any means; nor is my mind totally closed, as I would not expect the minds of other members to be totally closed to arguments put up for what is, after all, a conscience vote, we are told.

The proponents of the Bill have not yet persuaded me that they are right and I am wrong. This Bill does not represent the first occasion on which there has been precious little evidence provided to confirm any sort of public demand that would persuade this Council to take a particular course of action, in this case for the decriminalisation of brothels and other matters. Indeed, the only public responses of which I am aware came, first, when there was talk of a private member's Bill being introduced and, secondly, when the Bill was finally introduced on 20 August.

The overwhelming response in my mail has been against most of the objectives contained in the Bill. The only statistical evidence given by the Hon. Carolyn Pickles relates to a Victorian *Age* poll in 1985. The number of people reading and responding to an *Age* poll in South Australia would have to be quite small. However, given the accuracy of small polls, the results quoted do not mean anything to me at all. The second question, in fact, asked: should prostitutes be allowed to work legally on the streets in certain areas or not be allowed to work on the streets at all? The response was that 79 per cent of South Australians surveyed did not consider that street prostitution should be allowed at all. I note that there was no basic question in relation to whether prostitution should be legal in any form. I ask, as many people would want me to ask: what information does anyone have that an overwhelming number of people approve of the prostitution trade?

I will wait with interest to see whether anyone can give me any evidence on this matter. In the meantime, I am dismayed by the number of people in this place, and indeed in this debate, who say that they are against such and such a measure and who then go to great lengths to try to justify to the people, and I suppose their own conscience, why they are going to compromise their principles. For instance, the Hon. Mario Feleppa's contribution in support of the Bill leaves me with the distinct impression that he is very uncomfortable with prostitution: he has tried to convince himself that if it cannot be wiped out it can be better controlled by this Bill. He has not indicated any concern about any area of the Bill, or said that he will not support any part of the Bill. Neither has any other speaker who spoke in support of this Bill given evidence of any area in the Bill with which they are not happy. I hope that he and others supporting the Bill as it stands will listen to and act on arguments put to at least make good some of its shortcomings.

His argument, for instance, 'that human actions in themselves are amoral; they are neither good nor bad,' leaves

me more than somewhat aghast. After all, the Ten Commandments have served for a very long time as a basis of human law and behaviour and still do not do a bad job in defining what is right and what is wrong. He is right that prostitution will not be wiped out by legislation: he is wrong, however, and so are others in thinking that this Bill as it stands will do anything, except in a few areas, to improve anything. But because something cannot be wiped out, does not alter the moral stance that prostitution is wrong. The Hon. Mr Feleppa went on in his speech to say;

> Slavery is wrong, no matter how many members of our society think it is right. Apartheid is wrong, no matter how many people think it is right.

Why does he not go on with that sort of logic and apply it to prostitution? There is not a great deal of slavery, I put it to the Council, in the world now. Why? Because people have acted in a positive way to wipe it out. There would be less apartheid in the world if we in Australia helped by taking the correct action. The honourable member's Party goes on throwing stones at apartheid in South Africa when his Party supports our very own apartheid here in Australia—not only apartheid between black and white, but between males and females.

Further, the ALP, by its insistence on going ahead with supporting sanctions against South Africa that will do untold harm to the very people it seeks to help, knows that the South African Government will find ways around and survive any sanctions imposed. On the other hand, the ALP sells its soul for dollars by allowing uranium exports to France using the stated reason that France will not be, or has not been, harmed by Australia's refusal up to now to sell uranium to that country: it can get that uranium no matter what Australia does. The Federal Government is using the very same reasons for taking two very different courses of action; You cannot have it both ways.

When we pluck convenient courses of action out of the air without any semblance of consistency, the only result is utter confusion, not to mention blatant hypocrisy. On the uranium issue, and I will not say any more about this, the Premier and his Party tread a moral minefield. There will be plenty of opportunity, I know, at another time and in another place, to debate this uranium argument. There is a moral in this for all political Parties, not just for mine. Indeed, the Democrats implore others to have regard for the mining and sale of uranium. This was evidenced as late as 13 August when, in introducing a Bill in this Council to amend the Roxby Downs (Indenture Ratification) Act, they could not support this Bill as it stands; nor could they support anything short of trying to wipe out the sale of women.

I am saying this to define some moral issues as others have done in their speeches, and relating that to the Bill before us. The Hon. Carolyn Pickles, when introducing the Bill, stated:

> I make it quite clear I do not support prostitution. Neither do I view prostitutes as criminals.

She states that prostitution laws have never succeeded in eradicating prostitution, but only in affecting its forms. The Hon. John Burdett made an excellent point in his speech on that matter. Further to that, Father Fleming picked up that point in a recent *Advertiser* article, as follows:

> That prostitution laws in South Australia have never been enacted to eradicate prostitution is obvious since prostitution *per se* is simply not illegal. How can these laws be blamed for not achieving something for which they were not designed? But those same laws have controlled and suppressed the trade in prostitution, for which I would have thought we would all be very grateful. To the best of my knowledge, no social crime has been eradicated by laws and, if eradication of undesired behaviour is to be the test, we should seek to decriminalise theft, murder, exploitation, assault, tax evasion, and the drug trade.

Indeed, as this Council knows, there are moves afoot to decriminalise the drug trade and we have a Bill before us on that matter with regard to marijuana. I put it to the Council that the majority of people are not amused. The Hon. Ian Gilfillan says:

> I am personally strongly opposed to prostitution, but want to explain why I will be supporting the Bill.

What I said before in relation to the Hon. Mario Feleppa applies equally to the Hon. Ms Pickles and to the Hon. Mr Gilfillan; how can anyone be strongly opposed to prostitution, or anything for that matter, and then argue to support it? There is enough evidence to persuade me to believe that the trade will be worse, not better, because of the passing of this Bill.

The area, for instance, of stopping child prostitution is patently deficient in the Bill, and I will enlarge on that at length later on. Are we to believe that the Hon. Mr Gilfillan and other supporters of this Bill are in the business of supporting child prostitution? Or do they really have a genuine desire to at least stamp out this aspect of prostitution? I am sure that the people of this State would want us as legislators not to be giving in in any way at all, but to use our ability to stamp out child prostitution if we cannot stamp anything else out. The people whom I mentioned before have given up on adult prostitution; are they giving up on this as well? It is beyond my comprehension that the family and institutionalised education of young people can be so compromised by the philosophy in this Bill.

This Bill does not stop a family, including children, living and growing up in a brothel. I put to the Council—what better apprenticeship, for want of a better word, could young people have than living and breathing the trade of one or both of their parents?

In their speeches supporting the Bill, the Hon. Mr Gilfillan and the Hon. Ms Pickles cited article 6 of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women. The Hon. Mr Gilfillan said that that had his personal support and that by supporting a Bill that sought to address some of the grosser violations in relation to discrimination he was acting in the spirit of the convention. Well, you could have fooled me! He and others must live with their consciences and with their actions, as we all do. The honourable member can fool himself for as long as he likes; he may even fool enough people to vote for him and his Party, but his actions and certainly what he says in his speeches leave me perplexed. The United Nations Convention article 6 provides:

> State Parties shall take all appropriate measures, including legislation, to suppress all forms of trafficking in women and exploitation of prostitution of women.

Australia became a signatory to that convention in July 1980, I believe, signed by Bob Ellicott, on behalf of the Federal Government, under the Prime Ministership of Malcolm Fraser. It was more properly signed later by Attorney-General Bowen in 1983. If any member wants to read that, I have it here.

The Council is therefore bound to reject this Bill because it contravenes and contradicts our international obligations. I do not have the legal knowledge necessary to debate this point to the nth degree, but I pass on the advice that I have been given. The fundamental direction of article 6 concerns the use of women as an article of trade. The use of the words 'traffic' and 'exploitation' in the context of the convention connote the use of women by a third party as an economic unit. It does not appear to be directed to women prostituting themselves. For example, a corporate body

formed to run a brothel or prostitutes would be exploitation, but a prostitute being a sole trader may not infringe upon the spirit of article 6. I hope that others in this debate will attempt to develop this point with more expertise. I also hope that the Hon. Carolyn Pickles will answer my challenge.

It continues to confound me, and I expect many others, how we can pay lip service to our obligations only when it is convenient to do so. I expect that we get away with it because there are no penalties involved. But if the international community judges us by our actions in these matters, as it judges our fiscal mismanagement by the value of our dollar and our credit rating, then as a nation we will be seen to be devalued out of sight, both morally and fiscally bankrupt.

Exactly how serious are we about United Nations conventions? I would rather that we in Australia reach our own conclusions about our own actions and that we do not get locked into United Nations conventions, however good they may appear to be. Let us not forget that the Australian people have rarely, if ever, been consulted before these conventions are signed. The ill-fated Bill of Rights is based on a United Nations convention, but we seem to be able to pluck out bits that we want and discard other bits that we do not want. What sort of a comedy farce is that?

We are now being asked by at least two Labor women—the Hon. Ms Pickles and Ms Lenehan, the member for Mawson—to support a Bill which in no way conforms to article 6 in the sense of eliminating discrimination against women or suppressing the traffic in women or the exploitation or prostitution of women. I hope that this massive piece of hypocrisy and that those supporting it are seen and judged for what they are. If the feminist movement really wants to be taken seriously, it must do better than support this sort of legislation.

Where are the women of Australia who support article 6? They should be blasting the support of the Bill. Is their support simply mythical, or have they suddenly become mute? If this Bill passes, one can only assume that the supporters of it do not give a damn about the United Nations conventions.

The Anglican Archbishop of Adelaide, Dr Keith Rayner, had this to say in the September *Church Guardian*:

It is argued that prostitution exists and will continue to exist, so the best course is to decriminalise the trade and regulate it. That sounds plausible. However, what it fails to recognise is that positive encouragement will be given to prostitution and the acceptability and incidence will increase markedly if legal sanctions are removed. Do we want to see the growth of prositition? We should be looking for ways of freeing women from this kind of life, and not increasing its acceptability, so that others, particularly young people, may be pressured into it. Make no mistake: the extent of prostitution will grow if this Bill is passed. It will be portrayed as a respectable business. It will be further glamorised, and once it becomes legal there is a possibility that anti-discrimination legislation will have the effect of making it illegal to discriminate by, for example, refusing to let premises for the purposes of prostitution.

We have already seen the ridiculous spectacle of the New South Wales anti discrimination commission ordering that a private home owner cannot decide who can use his premises. The Archbishop of Adelaide concluded by saying:

We must not be misled by certain positive proposals in the Bill. Of course child prostitution must be prohibited. Of course prostitutes should be protected from intimidation. Of course the advertising of prostitution should be prohibited on radio and television. Of course brothels should not be allowed next to schools or churches. But it does not need a Bill decriminalising the trade to give effect to those very proper measures.

From those words it is obvious that on this issue some members do not have the backing of the Anglican Church. I am not sure how the other major churches stand on this issue; I have not had the priviledge of reading what they have had to say. I am not arguing that prostitution will simply go away, if we reject this Bill, but I am arguing that prostitution will certainly not be reduced by the Bill. On the contrary, I believe that prostitution will increase. I am arguing as hard as I possibly can that persons under the age of 18 years engaging in prostitution will increase simply because, as it stands, the Bill reduces some of the penalties, while leaving others the same.

I turn now to two main objects of the Bill. Although not mentioned as being an object for improvement, it is implied that the Bill will help with health aspects involved. Indeed, the Hon. Carolyn Pickles mentioned health aspects in relation to the matter, and quotes at length from the Neave report. The Hon. Dr Ritson has covered this aspect very well, and I agree that the Bill will not address the health problems associated with prostitution.

The second main object of the Bill concerns the protection of young people. If prostitution is acceptable as a trade for the adult community, it will be difficult to persuade some minors not to follow a career in prostitution. I quote at length from a letter which I have received and which I believe was forwarded to all members of Parliament. The points raised have been covered, but I want to read this into the record so that people following the debate can easily comprehend the shortcomings of the Bill as it stands. It is as follows:

Ms Pickles quoted in a recent press release that the new Bill would strengthen the penalties associated with child prostitution. The following proves otherwise.

The proposed Pickles Bill section 3 states 'This Act operates to the exclusion of offences related to prostitution established by common law or by Act of the Imperial Parliament.' Section 4 states:

'(1) A person who causes or induces a child—

(a) to commit an act of prostitution;

or

(b) to have sexual relations with a prostitute,

is guilty of an indictable offence.

Penalty: Imprisonment for 7 years'.

The existing Criminal Law Consolidation Act 1935-1975 section 57 (2) states '... no person under the age of seventeen years shall be deemed capable of consenting to any indecent assault,' and in section 59 *(a)* of the same Act it states 'A person who ... detains against his will any other person—*(a)* with intent to ... have sexual intercourse with that other person; shall be guilty of a felony and liable to be imprisoned for a term not exceeding fourteen years.'

Since a child is incapable of consenting to any indecent assault, the offences 4 (1) and (2) would lie in the said section 59 *(a)*. This is reasonable to assume as the wording of the law has not been kept up to date with regards to child prostitution. Therefore the penalty has decreased by seven years in (1) and by two years in (2) of section 4 of the Pickles Bill.

The law is further weakened by section 4 (3) of the Pickles Bill which states 'A person who permits a child to enter or remain in a brothel for the purpose of committing an act of prostitution, or having sexual relations with a prostitute, is guilty of an indictable offence. Penalty: Imprisonment for five years.'

The existing Criminal Law Consolidation Act 1935-1975 section 65 states 'Any person who, being the owner or occupier of any premises, or having, or acting, or assisting in, the management or control thereof, induces or knowingly suffers any person under the age of seventeen years, to resort to or be in such premises for the purpose of having sexual intercourse shall be guilty of a misdemeanour, and liable to be imprisoned for any term not exceeding seven years.' The maximum penalty under the existing law is seven years. Under the Pickles Bill it is five years, a reduction of two years.

Further weaknesses to the law lie in section 4 (4) of the Pickles Bill which states 'A person who—*(a)* obtains, as a client, the services of a child prostitute; or *(b)* makes a payment or enters into an agreement or arrangement for the purpose of obtaining, as a client, the services of a child prostitute, is guilty of an indictable offence. Penalty: Imprisonment for five years.'

Since no child is capable of consenting to any indecent assault (section 57 (2)), if a person obtains the services of a child prostitute he or she is guilty of procuring another person to become

a prostitute. This felony is laid out under section 63 of the Criminal Law Consolidation Act 1935-1975 which states 'Any person who—*(a)* procures any other person to become a common prostitute shall be guilty of a misdemeanour, and liable to be imprisoned for any term not exceeding seven years.' The Pickles Bill provides for three years, a reduction of four years.

Section 4 (5) of the Pickles Bill states 'A person who—

(a) obtains money in respect of acts of prostitution committed by a child; or

(b) obtains money from a child (except in the ordinary course of a business unrelated to prostitution) knowing it to have been derived from acts of prostitution committed by the child, is guilty of an indictable offence. Penalty: Imprisonment for seven years.'

It is reasonable to assume the above person is a procurer of people to become prostitutes (a 'madam' or 'pimp' is the loose expression) who are guilty under section 63 *(a)* of the Criminal Law Consolidation Act 1935-1975 which states 'Any person who procures any person to become a common prostitute shall be guilty of a misdemeanour, and liable to be imprisoned for any term not exceeding seven years.' Here again no heavier penalty has been introduced.

Ms Pickles stated further in a recent press release that her Bill would introduce 'long mandatory gaol sentences for people who tried to coerce others into prostitution'. Unfortunately this is not correct. The Pickles Bill section 5 (1) states 'A person who, by coercion or undue influence, causes or induces another to commit an act of prostitution is guilty of an indictable offence. Penalty: Imprisonment for seven years.' Since the current penalty for this offence is seven years (under section 3 *(a)* as quoted above) no new long mandatory gaol sentences have been introduced.

The Pickles Bill section 5 (2) states 'A person who, by coercion or undue influence, obtains from a prostitute any proceeds of prostitution is guilty of an indictable offence. Penalty: Imprisonment for seven years.'

It is reasonable to assume the person here is a procurer of people to become prostitutes who are guilty under section 63 *(a)*. The penalty is seven years. Here again no heavier penalty has been introduced.

Sections 6 *(a)* and *(b)* of the Pickles Bill, soliciting, etc., is a repeat of the Summary Offences Act 1953, section 25. Here again, no legislation has been introduced.

Madam President, one of the Bill's main aims will be to protect young people from involvement with prostitution. This is hardly likely to happen if these arguments which I have just read into *Hansard* are an accurate interpretation and summary of the Bill and other provisions already working as cited. I thank my young correspondent for the intense interest shown in the debate on this Bill. I look forward to a detailed response on the matters raised by me and others by the sponsors of this Bill.

I oppose the Bill on principle. I may support amendments in Committee if, first, they make clients of prostitution more accountable in law for their part in the trade; secondly, make genuine attempts to protect young people from prostitution—in other words, stamp it out; thirdly, restrict advertising; and fourthly, make proper arrangements for the location of brothels.

The mail we have all been receiving from councils is pointing increasingly to the shortcomings of the Bill regarding their responsibility. That matter was very adequately covered by the Hon. Diana Laidlaw. Indeed, I find it difficult to locate the real intentions behind the Bill as there is so much evidence of sloppy preparation. I state again, in conclusion, that it does not need a Bill to decriminalise the trade to give effect to these measures.

The Hon. C.M. HILL: If Parliament passes legislation relative to prostitution, Parliament in this State should have two main aims. The first should be to minimise or reduce the extent of the practice of prostitution, and the second should be to overcome the existing inequality in the law whereby the prostitute is prosecuted but the client is not. I have had strong representations from those supporting the Bill, which representations have come mainly from women involved in or with a very close knowledge of prostitution, and I have given careful consideration to the Bill. Having done that, I do not support the measure.

The Bill strengthens penalties for child prostitution and related offences. It deals with unlawful inducements under coercion or undue influence and soliciting through advertising, with the exception of the signs outside brothels. It allows for the establishment of what would be known as 'small' brothels in certain areas. Generally speaking, prostitution mainly involves women. In all social legislation affecting women, promotion of the true dignity of womanhood should be of paramount importance, but the practice of prostitution is degrading to womanhood. That is my strong view, and I believe that it is the view of the public at large.

If Parliament formalises the establishment of brothels—and this Bill does that—I fear that certain consequences will emerge. The new lawful business of operating brothels will tend, in time, to be seen by some as an acceptable small business form, and some women who, unfortunately, are out of work or seeking larger incomes will be tempted to enter the trade. I believe that such a real possibility should be avoided. Indeed, the whole Bill might be said to be full of unknowns. I accept the sincerity of Ms Pickles and her earnest desire to correct the problems associated with this whole difficult question, but there is no real justification for assuming that large illegal brothels will not continue or will not spring up as new establishments in the future.

There is no real evidence that, if the Bill passes, the problems of drugs, violence, ill health and juvenile prostitution will lessen right across metropolitan Adelaide, but if it passes in its present form, what will happen to the small brothels approved in the legislation? Women will be able—and indeed some propose—to set up cooperatives or partnerships of two or more women within each group and they will lease buildings in other than zoned residential areas and start the business operations of lawful small brothels. No more than two women could be available for business at any one time and only two rooms must be available.

The brothels will have on their front walls signs which can, under Ms Pickles' Bill, be illuminated. The size of the signs is restricted to an area of 2 500 square centimetres which, in rough imperial terms, is approximately one foot by three feet. The signs are not restricted to one sign per brothel. Those small brothels must not be close to churches, schools and kindergartens and, indeed, they must be at least 100 metres from such institutions. There may be more than two women to each cooperative because, as the Bill reads, shift work could be involved so that only two working women but not necessarily the same women can be within the premises at any one time.

The small brothels could be adjacent or close to housing, because we know that in zoned areas for commercial activity, for shops, for light industry and other non-residential zoning, often there are many homes. Indeed, the brothels could and will be, I suggest, in shopping centres. The brothel sign will take its place alongside the signs of the delicatessen, the pharmacy, the butcher, the baker, the doctor's rooms and so forth. I believe that the public would strongly object to this, but it is all permissible under this Bill and one can imagine the situation even a little further where, in a shopping centre which was not very profitable for the owner and there were several vacant shops, each of those shops could be set up as a separate brothel. I suggest that members should not overlook the town planning aspect. In the city, town or suburban areas that I have just mentioned, no town planning or council approval is necessary in order to establish those small brothels. Understandably, this approach is

opposed violently by local government. No other trade or industry has the same privilege.

The Hon. R.J. Ritson: All you need is a block of flats, isn't it, with two in each?

The Hon. C.M. HILL: Yes, one could have a block of flats, provided that it was in one of those particularly zoned areas. Indeed, somebody other than the women involved could live in the back rooms. Local residents offended by new legal brothels opening up cannot expect help or protection from their local councils because the Bill bypasses the need for local council control or approval. In my view, Parliament should not allow any legislation that promotes such a situation. I believe therefore that the Bill will not minimise prostitution; that the Bill does not reflect community expectations; and that the Bill does not protect the community against nuisance or offence.

I am extremely doubtful that the hopes of prostitutes that exploitation will be removed through the proposed small brothel system in fact will be realised. I doubt also whether young people will be protected against sexual abuse as a result of the Bill. Under the present system most brothel operators are opposed to juvenile prostitution and, indeed, in some instances inform police where juveniles are being exploited. I am aware that my approach of opposing the Bill and maintaining the *status quo* results in the maintenance of the existing inequality being perpetuated in which the prostitute is prosecuted but the client is not. I am prepared to support legislation which deals with that inequality as a separate issue, but I cannot support this Bill.

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

HAWKERS ACT REPEAL BILL

The Hon. BARBARA WIESE (Minister of Tourism) obtained leave and introduced a Bill for an Act to repeal the Hawkers Act 1934. Read a first time.

The Hon. BARBARA WIESE: I move:

That this Bill be now read a second time.

The Hawkers Act 1934 was enacted for the purpose of regulating and controlling the activities of hawkers and visiting or itinerant traders by requiring persons who wished to engage in such activities to obtain a licence from the Commissioner of Police. The object of the legislation was to provide a degree of protection to consumers against unscrupulous or 'fly-by-night' traders. In 1983 a working party was appointed to review the Act, due to concerns that the Act had outlived its usefulness and that it had been superseded by more relevant provisions contained in the Door to Door Sales Act 1971 and the Local Government Act 1934. The working party found that with one exception, section 20 of the Act, which gives councils the power to make by-laws, to license visiting traders and to charge them a licence fee of $2 a day, all of the remaining provisions of the Act were more adequately dealt with in other legislation.

A survey conducted by the Local Government Association in 1984 revealed that the Act was a non-issue with councils, although 23 councils did express some interest in having the ability to impose controls on visiting traders. The working party considered the relative merits of recommending that a similar provision to section 20 be inserted into the Local Government Act. However, the working party decided against making such a recommendation for the following reasons:

(a) The existing power enables the making of by-laws to license visiting trades and to charge a licence fee of $2 a day. These by-laws have not provided any useful form of control over the activities of visiting traders for some time and the present licence fee is insignificant as a revenue source for councils.

(b) Visiting traders usually operate from either halls and buildings leased from councils, which provides councils with adequate powers to control their activities, or from other leased premises, where councils have certain powers under the Planning Act 1982.

(c) The Crown Solicitor has expressed the view that the power to license visiting traders may be a contravention of the Trade Practices Act 1974 of the Commonwealth.

The working party has, therefore, concluded that the Hawkers Act 1934 has outlived its useful life and could safely be repealed. I commend this Bill to honourable members.

Clause 1 of the Bill is formal.

Clause 2 provides for the repeal of the Hawkers Act 1934.

The Hon. J.C. BURDETT secured the adjournment of the debate.

PRIVATE PARKING AREAS BILL

The Hon. BARBARA WIESE (Minister of Local Government) obtained leave and introduced a Bill for an Act to regulate, restrict or prohibit the use by the public of private access roads, private walkways and private parking areas; to make special provision for the enforcement of provisions relating to private parking areas; to repeal the Private Parking Areas Act 1965, and for other purposes. Read a first time.

The Hon. BARBARA WIESE: I move:

That this this Bill be now read a second time.

This Bill repeals the Private Parking Areas Act 1965 and enacts new legislation to regulate, restrict or prohibit the use by the public of private access roads, private walkways and private parking areas and to make special provision for enforcement of provisions relating to private parking areas. The Private Parking Areas Act 1965 was enacted for the purpose of controlling land used by the public, with the consent of the owners thereof, as private access roads, parking areas, or pedestrian walkways to premises. The owners of private parking areas and interest groups representing disabled persons have become concerned that the Act in its present form is ineffective.

The principal areas of concern are the need for proper enforcement of the Act, the adequacy of signs indicating the nature of controls, method of dealing with offences, and abuse of the right to use a private parking area.The Bill addresses these concerns by—

(1) Providing that the owner of a private parking area may enter into an agreement with a council to enforce the Act.

(2) Not including a requirement contained in certain provisions of the Private Parking Areas Act 1965 that a driver of a vehicle must be requested to remove the vehicle before an offence is committed.

(3) Providing that offences under the Act shall be committed by leaving a vehicle parked or standing contrary to instructions or directions appearing on or indicated by any sign, road marking or notice with respect to the parking or standing of vehicles.

(4) Providing that only vehicles displaying a disabled persons permit issued by the Registrar of Motor Vehicles pursuant to section 98r of the Motor Vehicles Act or a similar permit issued by a State, or a Territory of the Commonwealth, may stand in areas set aside for disabled persons.

(5) Providing for the prescribing by regulation of a code of practice for signs and/or road markings.

(6) Providing that both the owner and the driver of a vehicle shall be guilty of offences under the Act.

(7) Providing that where an agreement referred to in (1) is entered into offences reported by authorised officers under the Local Government Act 1934 may be expiated upon payment of a prescribed expiation fee. The proposed amendments are not intended to introduce parking controls of the complexity of those currently operating in relation to on street parking but to put in place such controls as will ensure the orderly and safe use of private parking areas. I seek leave to have the explanation of the clauses of the Bill inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 repeals the Private Parking Areas Act 1965.

Clause 4 provides for the definition of expressions contained in the measure. The following definitions are noted:

'Authorized officer' is defined as a person who is an authorized officer for the purposes of the Local Government Act 1934 and includes a member of the Police Force:

'Exempt vehicle' is defined firstly as any exempt vehicle within the meaning of section 40 of the Road Traffic Act 1961 and, secondly, as a vehicle that is being used by an authorized officer in the course of the officer's duties.

'Owner', in relation to land, is defined as—the holder of an estate in fee simple in that land; any person who has possession of the land by virtue of a registered estate or interest in that land; and in relation to land that is not alienated from the Crown—the Minister or instrumentality of the Crown that has the care, control and management of the land, a reference to the 'owner' of a private walkway, private access road or private parking area is a reference to the owner of the land on which the walkway, access road or parking area is situated.

The clause also contains definitions of 'disabled persons parking area', 'disabled persons parking permit', 'loading area', 'no standing area', 'permit parking area' and 'restricted parking area'. The areas in which the use by the public is regulated, restricted or prohibited pursuant to the Bill are also defined. 'Private access road' is defined as a road provided on land by the owner for access by vehicles or pedestrians (or both) to premises on that land, and marked by a notice denoting it as a private access road. 'Private parking area' is defined as an area provided on land by the owner for the parking of vehicles used by persons frequenting premises of the owner, and marked by a notice denoting it to be a private parking area, (and an area is capable of constituting a private parking area notwithstanding that certain parts of that area are not parking areas). 'Private walkway' is defined as a pedestrian thoroughfare provided on land by the owner for use by pedestrians for access to premises of the owner and marked by a notice denoting it to be a private parking area.

Clause 5 provides in subsection (1) that the owner of a private walkway or private access road may impose any one or more of the following conditions in relation to the private walkway: a condition regulating or restricting access to or egress from the private walkway; a condition prohibiting use of the private walkway or a private access road for any purpose except access to or egress from premises of the owner; and a condition limiting the times within which vehicles or pedestrians may enter or remain in the private walkway. Subsection (2) provides that the owner of the private access road may impose any one or more of the following conditions; a condition regulating or restricting access to or egress from the private access road; a condition prohibiting use of the private access road for any purpose except access to or egress from premises of the owner; a condition regulating, restricting or prohibiting the parking of vehicles on the private access road or any part of the private access road; and a condition limiting the times within which vehicles or pedestrians may enter or remain in the private access road. Under subsection (3) any conditions imposed under the proposed section in relation to a private walkway or private access road must be clearly shown on a notice at the entrance to the private walkway or private access road.

Clause 6 provides that a pedestrian who uses a private walkway or private access road in breach of a condition imposed under Part II of the proposed Act is guilty of an offence. A penalty of $200 is imposed for this offence. Under subsection (2) if a vehicle is parked or driven in breach of a condition imposed under Part II of the proposed Act or is parked or driven on a private pedestrian walkway, the owner of that vehicle is guilty of an offence and if the owner is not the driver of the vehicle the owner and the driver are each guilty of an offence. A penalty of $200 is imposed for a breach of the subsection.

Clause 7 provides in subsection (1) that the owner of a private parking area may by notice fixed in a prominent position at or near the entrance to the private parking area impose time limits on the parking of vehicles in the private parking area. Under subsection (2) the owner of a private parking area may set aside any part of the private parking area as a disabled persons parking area, a loading area, a no parking area, a restricted parking area or a permit parking area.

Clause 8 provides in subsection (1) that a motor vehicle must not be parked in a no parking area. Under subsection (2) a motor vehicle must not be parked in a disabled persons parking area unless a disabled persons parking permit is exhibited in the vehicle and subsection (3) provides that a motor vehicle must not be parked in a permit parking area unless a permit issued by the owner authorizing the parking of the vehicle in the permit parking area is exhibited in the vehicle. Under subsection (4) a motor vehicle must not be parked in a loading area unless the vehicle is a commercial vehicle that is being used for the delivery of goods to premises of the owner. Subsection (5) provides that a motor vehicle must not be parked in a restricted parking area unless the vehicle is of the class for which the restricted area is established. Under subsection (6) where a time limit is in force under the proposed Act in relation to the parking of vehicles in a private parking area, a motor vehicle must not be parked in the private parking area for a period in excess of the time limit (unless a permit issued by the owner authorising the parking of the vehicle beyond the time limit is exhibited in the vehicle). Subsection (7) provides that a permit is exhibited in a vehicle if, and only if, the permit is exhibited on the inside of the windscreen of that vehicle in a position adjacent to the registration label so that it is easily visible by a person outside the vehicle. Under sub-

section (8) if a motor vehicle is parked in contravention of this section the owner is guilty of an offence and if the owner is not the driver, the owner and the driver are each guilty of an offence. The penalty for an offence is $200.

Clause 9 provides in subsection (1) that the owner of a private parking area and the council for the area in which the private parking area is situated may make an agreement to enforce the provisions of Part III of the proposed Act in relation to that private parking area. Under subsection (2) where an agreement is in force under subsection (1) the following provisions apply. First, no person except an authorised officer shall commence a prosecution for an offence alleged to have been committed in the private parking area against Part III of the Act without the prior approval of the Commissioner of Police or the chief executive officer of the council. Secondly, an authorized officer is empowered to exercise in relation to the private parking area any of the powers of the authorized officer in relation to the enforcement of the Local Government Act 1934. Thirdly, any fine or penalty imposed in respect of offences relating to the private parking area shall be paid to the council. Fourthly, where it is alleged that a person has committed an offence relating to the private parking area, the council may cause to be served personally or by post on that person a notice to the effect that the offence may be expiated by payment to the council of the prescribed expiation fee within 21 days of the date of service, and, if the offence is so expiated, no proceedings shall be commenced in any court with respect to the alleged offence. Subsection (3) provides that an agreement under subsection (1) may be revoked by either party to that agreement on giving 3 months notice in writing to the other party of the revocation.

Clause 10 is an aid to proof and provides that in proceedings for an offence against this Act an allegation in a complaint that certain land referred to in the complaint constitutes a private walkway, private access road or private parking area shall be accepted as proved in the absence of proof to the contrary.

Clause 11 provides an exemption for fire, ambulance and other vehicles. Under this clause it is provided that notwithstanding any other provisions of this Act, no offence arises from the driving or parking of an exempt vehicle on a private access road, private parking area or private pedestrian walkway.

Clause 12 provides that the use of a private access road, private parking area or private pedestrian walkway does not create any right by prescription or adverse possession in or over the private access road, private parking area, or private pedestrian walkway and does not constitute, or provide ground for constituting, the private access road, private parking area or private pedestrian walkway, a highway, street or road.

Clause 13 provides that offences constituted by the Act are summary offences.

Clause 14 provides in subsection (1) that the Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act. Subsection (2) provides that the Governor may make the following regulations. Firstly, the Governor may make regulations providing for the establishment of a code of notices, signs, road markings and other devices to denote areas, parking spaces, conditions, limitations, restrictions or prohibitions relating to private parking areas, private access roads, or private walkways. Secondly, the Governor may make regulations imposing, modifying or excluding any evidentiary burden in proceedings for an offence against the proposed Act. Thirdly, the Governor may make regulations providing for, or excluding, defences for persons charged with offences against the proposed Act and fourthly prescribing penalties, not exceeding $200, for contravention of, or non-compliance with, a regulation.

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

CONSTITUTION ACT AMENDMENT BILL (No. 3)

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

CORONERS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

FIREARMS ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

This short Bill repeals and re-enacts in an amended form the provisions of the Firearms Act which empower the Registrar to issue firearms licences. The amendment has as its principal objective the modification of the total prohibition on the possession of dangerous firearms. It is proposed that the Registrar may on application issue a special firearms permit authorising the possession of dangerous firearms for theatrical and other purposes. The Registrar will be empowered to impose such conditions as he sees fit in issuing a special firearms permit to ensure that the security and general safety of the public are protected.

The amendment will facilitate the activities of film makers and production companies in this State and will ensure that this State can be used as a location for the making of films involving the use of automatic and other types of dangerous firearms. In the past, this was only possible through the use of serving police officers and special constables as custodians of the dangerous firearms. The practice, although not improper, did result in a good deal of inconvenience and some additional expense to local and interstate film makers using the State for their locations.

The Government considers it highly desirable that these disincentives be removed while at the same time ensuring proper control. Honourable members may care to note that two large productions involving the use of firearms are schedule for filming in South Australia over the remainder of this year. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides for commencement on a proclaimed day.

Clause 3 amends section 5 of the Act to insert two new definitions in consequence of the new sections 11 and 12.

Clause 4 repeals the existing sections 11 and 12 and inserts new sections. The existing provisions for firearms licences are restated and new provisons are introduced for special firearms permits authorising possession of dangerous firearms. Such permits may be granted to persons of or over the age of 18 years for the purpose of theatrical pro-

ductions or for purposes authorised by the regulations. The Registrar of Firearms is empowered to grant or refuse to grant such permits and to impose conditions on such permits in addition to conditions applying under the regulations. The Registrar may exempt the holder of such a permit from the conditions applying under the regulations if satisfied that it is safe to do so.

Clause 5 makes a consequential amendment to section 16 of the Act in relation to the sale of firearms.

Clause 6 inserts a new section 17a to provide that special firearms permits will be in force for the period determined by the Registrar but are not renewable.

Clause 7 amends section 22 of the Act so that dangerous firearms in the possession of the holder of a special firearms permit are not required to be registered.

Clause 8 repeals the existing section 29 and inserts a new section relating to silencers only. The new section 11 contains the offence relating to possession of dangerous firearms.

Clause 9 makes a consequential amendment to section 34 of the Act in relation to seizure and forfeiture of firearms.

The Hon. PETER DUNN secured the adjournment of the debate.

ESTIMATES COMMITTEES

A message was received from the House of Assembly requesting that the Legislative Council give permission to the Attorney-General (Hon. C.J. Sumner), the Minister of Health (Hon. J.R. Cornwall), and the Minister of Tourism (Hon. Barbara Wiese), members of the Legislative Council, to attend and give evidence before the Estimates Committees of the House of Assembly on the Appropriation Bill.

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

That the Attorney-General, the Minister of Health, and the Minister of Tourism have leave to attend and give evidence before the Estimates Committees of the House of Assembly on the Appropriation Bill, if they think fit.

Motion carried.

ANIMAL AND PLANT CONTROL (AGRICULTURAL PROTECTION AND OTHER PURPOSES) BILL

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

CONTROLLED SUBSTANCES ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 September. Page 1054.)

The Hon. M.B. CAMERON (Leader of the Opposition): Madam President—

An honourable member: No injurious reflection?

The Hon. M.B. CAMERON: There will be no injurious reflections, although I am surprised that the person who has recently been crowned father of the year should be introducing a piece of legislation which contains an obnoxious provision which virtually decriminalises marijuana. He should be stripped of his crown as I am sure he would not have the support of the majority of fathers and mothers in the State on that issue. Indeed, they will see him in a completely different light if the Bill passes, as it appears it might.

I challenge the Minister to test the reaction in the community—the reaction of fathers and mothers in the State—to the Bill. Perhaps he will consider resigning his crown so recently acquired, for goodness knows what reason. That is a matter on which others made their judgment.

In 1983, the Minister of Health was one of the key speakers in favour of the legalisation of marijuana for personal use. It was an astounding and irresponsible action for a Minister of Health. It was well known at that time that the numbers necessary for the decriminalisation of marijuana existed in the Labor Party, and the Minister, who does not have a factional base and is always looking for support, was prepared to support such a move and give way. I believe that same pressure was put on him this time and again at the Labor Party conference. Unfortunately, we will get the change because of the Minister's obvious preselection desires and his search for support in the Labor Party. It is no use saying that he does not believe in the decriminalisation of marijuana. He did then and he does now. That part of the legislation is just a tricky way of getting it through.

The reason for the change is that the new found expert on youth affairs, the Hon. Mr Elliott, who is now in the Council, has indicated his support for the legislation. He stood to his feet, as he often does, and said that he had had two years experience in advising youth.

The Hon. M.J. Elliott: Five years.

The Hon. M.B. CAMERON: I apologise. He has had five years experience in advising youth and teaching. I believe that his background is in teaching, and I accept that he has done some work with youth, but that does not make him the State expert on youth affairs. There are not many people in the State who would support his stance on this matter. The Hon. Mr Elliott has set himself up as a new expert who will bring this matter into the State because, in the end, it will be his vote and those of Labor Party members which will bring in the Minister's proposed legislation.

In 1983, when the Minister did not have the same numbers in the House, he sought public support. He had a survey done—probably by ANOP, if the truth is known. The public showed its clear and absolute disapproval of the notion. Three out of four people in the State disapproved of what the Minister was doing. He ran for cover. He disappeared and was told to pull his woolly head in by the Party. This time, however, he has the necessary numbers through the Hon. Mr Elliott, so he has not gone back to the people with a survey. Irrespective of whether he likes it, this step is decriminalisation. If he wants to argue about that, I am happy to oblige. He should survey the people before taking that step.

The Minister's second reading explanation makes it clear that the payment of an expiation fee will not constitute an admission of guilt or amount to a criminal conviction or record. If people are not admitting guilt, they are merely paying the State a ransom and doing it all again.

The Hon. Peter Dunn: They are paying a licence fee.

The Hon. M.B. CAMERON: Yes, it is a licence in a way. The Minister is imposing his own stupid ideas on the people of the State without going back to them. I find that inexplicable. Why does he not have another survey? I guarantee that, if he did, he would find no change whatever in public opinion. I challenge the Minister to conduct another survey, and to pull the Bill out for a while. He is not doing that, because he knows how a survey would turn out. He knows that the people and his Party would force him to back off. After realising in 1983 that people opposed decriminalisation, he made it clear that he would leave marijuana use as

a criminal offence. He issued a press release saying that he would not change anything. He boasted about that.

What has brought about the change? I suggest that it is the fact that he has the numbers in Parliament and does not give a damn about the public this time. He has changed his mind without giving any logical reason for it. He is a very tricky man. I find it utterly irresponsible that the Minister of Health should support the virtual decriminalisation of marijuana when the road toll is climbing. If the Minister wants some evidence about that toll, he should read some of the papers about road deaths and injuries. A study in New South Wales and another in Tasmania shows that approximately 20 per cent of people killed on the road had marijuana in their blood. The Minister of Health will know that, or at least he should. Decriminalisation will have a disastrous effect and possibly double the number of road deaths.

At a time when Governments of all political persuasions are taking desperate measures to control alcohol consumption because of its clear association with accidents, it seems absolutely ludicrous to introduce another element and another encouragement. A recent newspaper article on marijuana use in Victoria says scientific and medical evidence is turning against the drug. I quote:

> Increasingly, marijuana is now found to be physically damaging and a menace on the road, particularly when mixed with alcohol.

I repeat those words 'particularly when mixed with alcohol'. As we all know, people who get into a situation of smoking marijuana are almost inevitably at parties where alcohol is being consumed. People in the medical profession have expressed their views on the rainbow effect that this has on people.

While it is relatively easy to test for blood alcohol levels, it is very hard to check on drug consumption. To allow marijuana to be more freely available will cause the cost of the road toll and general health costs to rise. The drug is a danger to the whole community. I quote from that press article again:

> Dr Sherman's [a St Kilda doctor] description of his cannabis-addicted patients is not much different from descriptions of addictions to the harder drugs, including heroin. 'They all have the features of cannabis psychosis,' he said. 'They have a mixture of problems: aggression, hostility, poor motivation, apathy, drug craving, loss of weight and short-term memory, paranoid feelings and diminished sociability, work performance and intellectual pursuits.'

His argument is supported by an international authority on the effects of marijuana use on motoring, Dr Ron Parsons, of the University of Tasmania, who said recently, and I want the Minister to listen carefully to this:

> If they are going to decriminalise it, they are bloody idiots.

They are not my words but the words of a professional person dealing with this particular problem. He went on to say:

> Also, it is only through the discomfort of legal problems that people recognise their drug use as an addictive problem and seek advice to deal with it.

Later, the article stated:

> ... of 200 Tasmanian drivers either pulled up by police or killed in crashes, 39 had been using drugs and alcohol. They were mainly aged 20 to 25. In five road fatalities, he said, the dead drivers had been smoking marijuana.

Those figures are from Tasmania, but figures from New South Wales show that some 20 per cent had, in fact, been doing this.

The Hon. R.J. Ritson: That is the tip of the iceberg.

The Hon. M.B. CAMERON: It is. He went on to say:

> ... that drivers' skills deteriorated when they were 'high'. A driver who smoked marijuana tended to believe that objects were farther away than was really the case. As a result, some crashed into corners.

One can well understand that, if they do not know where the corner is. Sergeant Des Blackwell, who heads the Western Australian police breath analysis section, is referred to in the following way:

> Sergeant Des Blackwell, who heads the Western Australian police breath analysis section, said dangerous drivers were often found to have a combination of drugs and alcohol. 'Booze and drugs put people in a worse condition than when they use one or the other,' he said.
>
> 'Marijuana makes reactions slower,' he said. 'In this, it is much the same as alcohol.' Drivers who had used drugs had fallen asleep when he was interviewing them. One had been sitting with his legs crossed, stood up and tried to walk with his legs still crossed. Another driver, booked at 10.30 in the morning, was worried that he had failed to take his wife to the films ... he thought it was 10.30 p.m.
>
> A study over two years found that one person in five killed on Victoria's roads had the THC component of marijuana in their blood or urine. All of these people were under 40 and most of them were under 30.

I hope that members are listening very carefully to these figures. Tasmanian authorities have become so worried about the deadly impact of drugs on driving that a 'pot bag' similar in principle to a breathalyser is likely to be used by police on the roads by Christmas. The 1979 report of the Royal Commission on the Non-medical Use of Drugs in South Australia, headed by Professor Ronald Sackville, carried an analysis of cannabis seized by police. In almost every sample the level of the active components of marijuana was below 2 per cent. According to police sources, the analysis of most seized cannabis is now far higher than 2 per cent and sometimes up to 8 per cent. This means that the drug available on the streets today is much stronger than it was—and deliberately so.

The article I quoted earlier says that of the 200 Tasmanian drivers mentioned 39 had been using drugs and alcohol. While alcohol lasted only 12 hours in a person's bloodstream, cannabis was present for eight days. In August 1982, the United States National Institute on Drug Abuse issued a list of what it said were the known or suspected chronic effects of marijuana. They included the following: short-term memory impairment and slowness of learning; impaired lung function; interference with ovulation and pre-natal development; and by-products of marijuana remaining in body fat for several weeks with unknown consequences. The institute went on to say:

> Acute intoxication with marijuana interferes with many aspects of mental functioning and has serious acute effects on perception and skilled performance, such as driving and other complex tasks involving judgment or fine motor skills.

It says research has established that the three main physiological effects of marijuana are impairment to the brain, reproductive system and immunity. New studies show that: smoking pot is up to 18 times more damaging to airway passages than cigarettes; one gram of marijuana has 50 per cent more cancer-causing substances than one gram of cigarette tobacco; marijuana is about five times more addictive than alcohol; and 28 per cent of people who smoke pot daily turn to harder drugs such as heroin and cocaine.

An article put together by the Council of Scientific Affairs in the United States says:

> Rats who inhaled marijuana smoke daily for a period of one-eighth to one-half of their life spans suffered degenerative changes in their lungs more severe than those caused by cigarette tobacco.
>
> Cigarette for cigarette, the difference between tobacco and marijuana may be even more significant because of the way marijuana typically is smoked—down to a minuscule butt—and because the smoke itself is retained in the lung for a longer period than tobacco smoke.

Dr R.D. McEvoy, Secretary of the South Australian Branch of the Thoracic Society of Australia (a group representing doctors specialising in the chest and lungs), is quoted in the *Advertiser* last year as saying there was good recent scientific

evidence that marijuana smoke had an even more deleterious effect on lungs than tobacco smoke, and I quote:

> Polynuclear aromatic hydrocarbons formed during the incomplete combustion of organic matter were found in both tobacco and marijuana smoke. Compared with tobacco, marijuana produced smoke that contained a higher concentration of PAH. Marijuana smoke also produces greater cell-destroying effects on airway cells than tobacco in hamsters.

I repeat what the Minister said in his second reading explanation:

> The payment of an expiation fee will not constitute an admission of guilt and will not amount to a criminal conviction or record.

That is an absolutely ridiculous statement that the Minister made. Does this then mean that people will be paying fines for something of which they are not guilty? So, what they are doing is perfectly all right, but the Government will take their money, anyway. It is obviously merely a revenue-raiser and serves no purpose whatsoever as a deterrent. This legislation can only encourage the use of marijuana. On-the-spot fines are quite ineffective and people will no longer fear convictions being recorded against their names. But probably the saddest part is that the majority of people in this State who are appalled at this proposal are being completely ignored.

I know that the theorists will get up and say 'We are doing the right thing,' and 'We do not want to be heavy on the victims of this problem; we do not want to fine them.' However, the simple facts are that if there is a problem in the community there have to be penalties which are sufficient to try to curb that problem. If a problem is growing, reducing the penalties will have absolutely no effect on the growth of that problem. That is absolute madness, and if the Minister wants an example of that he should have a look at the Tobacco Products Control Bill in which we have seen an attempt to double fines and increase penalties for people committing offences, yet here we are going the other way. I do not understand it! I know that the Minister will say that we are dealing with people who are the victims—the users—but that is not what we are on about.

The people who use marijuana in society are in fact creating a problem for other people. In relation to the 1983 argument, the Chairman of the Council of Civil Liberties said:

> Whether or not likely harm to the user is sufficient to justify criminal prescription, is at least in part, a philosophical question. The argument is that users should be protected, in effect, from themselves. Seat belts save lives and reduce injuries in motor vehicle accidents. The criminal sanction against failing to wear a seat belt is justifiable because of its acceptance by the majority of the citizens as being in the community interest. On the other hand, occasional marijuana use is unlikely to cause physiological damage. The criminal sanction for using marijuana is not so justifiable.

I would like to know just exactly what is the situation for the majority of citizens. I believe that the citizens expressed clearly their views in 1983 and they would do so again if the Minister gave them the opportunity. However, worse still is the effect of marijuana on people on the roads. When driving, one has enough problems dealing with people who are affected by alcohol. Can the Minister tell me that we have any way at all of picking the people driving on the road who are affected by marijuana? Of course there is no way to do that. You and I both know that, and yet you are going to reduce the penalties and in fact sanction—

The Hon. J.R. CORNWALL: On a point of order, Mr Acting President. Apart from the remarkable tirade of personal abuse that is being directed at me, the speaker is addressing me directly which, of course, is quite out of order. The speaker ought to direct his remarks to the Chair.

The ACTING PRESIDENT (Hon. B.A. Chatterton): The honourable member will address his remarks to the Chair.

The Hon. M.B. CAMERON: Mr Acting President, I am directing these remarks right at the Minister, through you, of course, because you are sitting in the Chair. I am directing my remarks at the Minister because he is the person who has introduced this Bill into the Council; he is the person who brought into this place this stupid proposition that will have such a disastrous effect on not only the young people in this country but also the people who will be affected by his promotion of the use of this drug. That is what I regard it as being: regardless of all the theories and all the other ideas that have been put forward, I regard it as being the promotion of the use of marijuana and as the Minister's giving in to the people in his Party who have been at him for a long time, and I find that absolutely unacceptable. I urge members to reject the part of the legislation that relates to marijuana. I think it is most unfortunate that that part of the legislation has been included with the other sensible provisions in the Bill.

The Hon. PETER DUNN: I support much of what is in the Bill, but not the provisions of clause 10. The shadow Minister referred to all the health problems that marijuana causes. Not long ago the Minister of Health and his Leader said that this legislation was not decriminalisation. However, if that is the case, I wonder how we can restructure the English language so that the Bill does not in fact decriminalise the use of marijuana. New section 45a (5) provides that the payment of an expiation fee shall not be regarded as being an admission of guilt. If one is not guilty, in my terms that amounts to decriminalisation, because if it is a criminal offence, one would be guilty. It is a bit like wearing a crash helmet. There is a penalty for not wearing a crash helmet. The reason for wearing one is to prevent brain damage or damage to one's person. By decriminalising marijuana, one is maintaining that one should not take precautions in relation to taking a drug that may cause great harm. I think that past speakers have clearly proved that marijuana can cause great harm.

However, not one speaker from the Government side or the Democrat ranks has suggested that there is anything good about smoking marijuana, apart from self-indulgence. I do not take marijuana, because I have enough trouble driving a motor vehicle now and coping with people driving at 220 km/h passing within six or eight feet on the road, and I do not want my judgment impaired. However, I understand that the smoking of marijuana gives a person a good feeling but that it gives one red eyes and sometimes aggravates the mucous membranes in one's nose causing it to drip. So, I cannot really see the advantages of it, because when my nose drips I have a cold and I feel terrible. When I have red eyes, it is usually because I have been working on a very dusty day on a header—and that is very unpleasant. So, I do not think there can be much that is very pleasant about taking marijuana.

In his second reading explanation, the Minister referred at some length to the problems of youth today. I do not deny that there are problems in relation to young people. The Minister said that today's young people live in a world marked by stress and uncertainty—but so did my parents, and so did I at the beginning of the war. There has always been stress and uncertainty, so do not feed that one to me—it is a load of cobblers. To attempt to relieve stress and uncertainty by taking a drug such as marijuana is really a sick man's way out. It is a very poor way of elimating stress and uncertainty.

I find it very difficult to justify the decriminalisation of the smoking of marijuana. The Minister refers to a person

being found with just a little bit on their person. However, that is like being a little bit pregnant. One either is or is not smoking marijuana. Is one committing a crime? A crime is committed if one trades in marijuana, and trading arises from someone wanting to procure it. The Minister is maintaining that if someone wants it they can have it. The Minister is not here at present, but a question that I want to put to the Minister is whether a person can sit in their car in Hindley Street and smoke marijuana. According to the Minister's amendment, it appears that a person can smoke marijuana in a car with the windows up in Hindley Street and that that is quite legal. I will ask the Minister for his opinion on that during the Committee stage. However, the point is that if an avenue is provided for the use of marijuana there will also be someone wishing to sell it and grow it. Growing it is very easy today. Not 20 miles from me—

The Hon. R.I. Lucas: At Rudall!

The Hon. PETER DUNN: No, a little farther west of that, where there is plenty of water. I was called over there one day to look at several acres of crop under drip irrigation. They were very healthy plants and, unfortunately, at that stage they had been harvested, and someone was out selling it in 'little bits'—which the Minister says is quite all right. I do not know how the Minister will determine whether someone is trading in it or whether the person has a supply for his own personal use. I cannot work out what a 'little bit' is.

The Minister refers to an offence arising as being a 'simple cannabis offence'. One would want to be simple to smoke marijuana, that is all I can say. If that is the case, why does not the Minister introduce a demerit points system. Some time ago I turned left at a place where there was a sign stipulating 'no left turn', and I got three demerit points, as is the case with offences of that nature. Why can we not introduce a system of that nature, whereby a person caught smoking marijuana would incur demerit points, and have that recorded, whether on one, two or three occasions—whatever was deemed to be a sensible number? Under this Bill, there is absolutely no record. One can pay a fine and that is it. If you have enough money you can smoke it until your hair falls out. Cannabis is very easy to produce, unlike alcohol and hard drugs which are either difficult to manufacture or controlled by big industries. It is very difficult to get them and they are much easier to control, but one can grow cannabis under the tank stand in the backyard—and plenty of people do.

I saw another stand of it in the pit of someone's garage. They had filled it with dirt, put lights in it, covered it over and were growing it in there. It is very easy to grow: just a few seeds in your pocket and drop them out. If people continue to have access to it and if it is not illegal to smoke it, there will always be people wanting to grow it.

Decriminalisation gives an air of respectability to the smoking of marijuana and that is quite stupid when we are trying to control all the other drugs we have. It is a gross act of hypocrisy by the Minister, I believe, to introduce one Bill which says we have to control tobacco smoking yet we loosen up in another area. The Minister has always indicated that it has been his object to decriminalise the smoking of marijuana, and I think the Hon. Mr Cameron pointed that out fairly clearly, because in 1983 the Minister is on record as doing that. He puts up a brave front with heavy penalties for trafficking in the drug, but says that people may smoke it.

How will the police control this? It will put them in an invidious position. As has been stated previously, this provision has only become a serious possibility since the Hon. Mike Elliott has decided to lend his support to it. I do not know whether the Hon. Mr Elliott comes under the category the Minister pointed out in his second reading speech, that he is under duress, strain and stress; that he needs to smoke it. Why he would want to support it in his position I have yet to know. He will win over a few young people but will lose a lot of parents; I can assure him of that. It is quite a remarkable act on his part. The Hon. Lance Milne—that great Democrat who was here in past years—

The Hon. R.I. Lucas: A man of principle.

The Hon. PETER DUNN: Indeed; he would never have stood for this nonsense. I conclude with the question: what is good about marijuana that we should want to decriminalise it? Will someone explain that to me? If it is so good and essential, why has not someone explained that? I have heard plenty said about why it is dangerous, and I understand that can be backed up with good evidence.

The Hon. J.R. Cornwall interjecting:

The Hon. PETER DUNN: I have had no experience of it but, from all the evidence, there is nothing very good in it. The Minister has introduced it along with a Bill which moves in exactly the opposite way to the tobacco legislation. This is just a crass act of hypocrisy.

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

[*Sitting suspended from 6 to 7.45 p.m.*]

GOODS SECURITIES BILL

Adjourned debate on second reading.
(Continued from 16 September. Page 848.)

The Hon. C.J. SUMNER (Attorney-General): I thank the Opposition for its expression of support for the second reading of this Bill and for the detailed attention given to it. While supporting the Bill in general terms, the Opposition, through the Hon. Mr Griffin, raised many points of detail. Those points have been considered along with matters raised in other representations which the Government has continued to receive on this Bill. As a result of that consideration I propose to move several amendments at the appropriate stage. That course of action was foreshadowed at the time that the Bill was introduced. One concern of the Hon. Mr Griffin in relation to the discharge of prior interest has been picked up. I will seek to move an amendment in Committee to clarify that when a security interest would be extinguished by the operation of the Act it would only be extinguished to the extent that it related to the prescribed goods—that is, the motor vehicle affected by subsequent dealings.

Another group of amendments will clarify and simplify some of the provisions concerning priorities of secured interests, about which the Hon. Mr Griffin, among others, also raised some matters. The result will be that, for all purposes concerning secured interests in motor vehicles, the register to be set up by this Bill will be paramount. This will mean that some interests will have to be entered on more than one register if the interest holder wants the benefits conferred by this Bill, but that is a small price to pay for simplicity and certainty. I propose to offer detailed responses to the many points raised by the Hon. Mr Griffin, in the hope that by doing so I will assist the debates of the Committee on the clauses. But before I do so, I will set the scene with some general observations about the trend of comments that have been made.

It is true that the Bill does not deal comprehensively with all contests of title in relation to motor vehicles. In particular, it does not address the problems that arise in relation to stolen vehicles, where even a purchaser in good faith may not get good title. The purpose of this Bill is not to create a comprehensive new regime of title to prescribed goods. Its purpose is to provide a scheme by which the holders of security interests can protect their positions. It also avoids the situation created by the operation of section 36 of the Consumer Transactions Act where dealers can unwittingly—and I stress unwittingly—be subject to interests in vehicles to which a consumer has gained good title and it gives a purchaser who has checked the register, or bought from a dealer, safety from competing secured interests if they are not on the register. In fact, as I have pointed out, this Bill makes some modification of the consumer protection given by section 36 by requiring people to refer to the proposed register, although only in the case of a private sale. In general, it provides, in a simple way, very significant advantages of certainty for people involved in transactions concerning motor vehicles. However, it was not thought an appropriate occasion to reconsider the whole question of passage of title at this stage. I point out that there are other safeguards in the vehicle registration system which help protect possible purchasers of stolen vehicles.

The other general point I make is that many of the matters of detail that have been raised have been to do with situations in which more than one person takes, or proposes to take, a secured interest over a motor vehicle. I do not deny the importance of getting the system right so far as this type of situation is concerned, but I make two observations. The first is that the vast majority of situations which will be affected by this Bill will be straight-out cases of a person purchasing a vehicle and wanting to be able to check the position in relation to possible loans secured by that vehicle. The creation of second and subsequent interests in motor vehicles is very much a minority situation. Commonsense tells us that most motor vehicles do not have enough residual value to be attractive propositions for someone to lend money on them in situations where the lender is not first in the queue, but the Government has sought to go beyond that most common situation and to establish an effective regime for setting priorities of interests in motor vehicles.

This leads me to my second observation. The fact is that this Bill leads the way in this area. No legislation in other States attempts to deal with the possible problems of priorities. We have done so because it seems to be a logical consequence of having a registration system. The objective is to make the register work to settle all contests of legitimate interests in motor vehicles. That is something which I would expect the commercial community will welcome just as much as consumers who buy motor vehicles will welcome the increased certainty, simplicity and savings that the Bill offers to them. Some concern was expressed also about the fact that the register will not require the lodgment of documents embodying one or other of the various security interests that may be taken over motor vehicles and that, correspondingly, those seeking to consult the register will not have direct access to the primary documents. The short answer is that that is true, and it is done because the intention is to develop a system that will accommodate a wide range of registerable interests, is convenient, and minimises the amount of documents that have to be stored. In all other States which have similar registers, the system is the same.

So far as those who consult the register are concerned, they will have enough information to allow them to make contact with the registered interest holder if they wish to do so, and clarify the position. In any event, it will then in practical terms be for the intending vendor or interest giver to satisfy the third party who has notice of the adverse prior interest. As well, in those cases where the vehicle can secure more than one interest, I am informed that all interested parties will be advised by the Registrar of any other registered interests. It is true that, in cases where a motor vehicle is the subject of complex commercial dealings, this system does not offer all the convenience that is provided by lodgment of the primary documents. But, as I have said, the overwhelming majority use of this register will be to register consumer mortgages and to check the title to the vehicle before a consumer purchase. The costs of an elaborate registration system would destroy the economies of the system by comparision with the existing title insurance.

Dealing quickly with the other general points raised by the Hon. Mr Griffin, priority of registered interests will be by entry on the register. The simplicity of the system, allied with the facility for amendment, makes it unlikely that a person would have an application rejected and thereby be exposed to be postponed to an intervening registration. The Bill will enable variation of any particulars, including assignment, without prejudice to priority.

I turn now to the detailed comments on the clauses, some of which I have already replied to. Regarding clause 2, questions were raised about the effect of the transitional period on existing security interests. It is anticipated that there will be a transitional period of approximately six months. During this period the register will be set up; no certificates of security interests will be issued; and the discharge and priority provisions of the legislation will not be in operation. Applications for registration of both existing interests and interests created during the transitional period will be accepted. The time of registration will be the time of entry in the goods securities register unless the interest is a bill of sale or company charge that has been entered in the bills of sale register or Companies Code register at an earlier time. In the latter case the time of registration in the goods securities register will be taken to be that earlier time. The earlier time will be given to those interests registered under other systems in recognition of the advantages given by those registrations, but to let other existing interests take their time back to the time of creation would be, in effect, to provide a retrospective registration system.

On clause 3, the Hon. Mr Griffin raised the point that the Bill only covered South Australian goods. Until a national register is established each State's register will be limited to goods of that State. Until all States agree to participate in the scheme there is no alternative. Administrative arrangements will be made to notify registered security holders where motor vehicles are transferred from one participating State to another.

Also on clause 3, it was suggested that the term 'goods lease' should be defined. This concept is clear. The ordinary meaning of a lease of goods is intended. On other points raised, the definition of security interest is broad enough to allow registration of interests involved in floor-plan arrangements, and to allow a security interest that relates not only to prescribed goods, but also other goods to be registered. In the latter case, the interest is only registered in respect of the goods. In respect of other than prescribed goods the existing law relating to security interest in the goods is untouched.

A point was made about the width of the Registrar's discretion in clause 4 as to what can be entered in the register. This is an enabling provision to provide flexibility for movement towards a national register in due course, but it is not as though the Registrar has an open discretion.

Clause 4 (2) *(a)* compels the registration of information required by this Bill, and these requirements are detailed in clause 5 (2).

On clause 6, the Hon. Mr Griffin asked what sort of variations to particulars of entries in the register would be permitted and what effect would variations have on priority. Only variation of the details of the debt or other pecuniary obligation secured could give rise to a priority problem and this is dealt with in clause 12, subclauses (6) and (7).

On clause 7, a question was raised from several quarters about the requirement for interest holders to apply for cancellation of registration within 14 days of discharge. If the register is to serve its purpose and give a service to the consumer and the credit provider, it is important that it be as accurate as possible and that registrations not be allowed to linger unduly. However, the Government acknowledges the problems that could be created by the 14 day requirement, and I foreshadow a further amendment to the defence provision of that clause, which will make it possible for interest holders to act within 14 days of their actual notice of discharge, rather than being tied to the date of discharge.

Clause 8 gives the Registrar power to correct particulars incorrectly entered on the register. This power is created to allow correction of administrative error. It would not of itself affect priority. If, however, the error is not detected until after interests have been affected by it, the Bill makes provisions for compensation to persons who suffer loss by reasons of registry error. In cases of cancellation of registration under the same clause, the Registrar must post the notice of proposed cancallation to the address provided by the applicant for the purpose of registration. This is a commonplace of registration schemes and there is no need for further spelling-out of the requirement.

The Hon. Mr Griffin, in relation to clause 9 which provides for registration certificates to be issued, described the lack of file copies of documents raising security interests as 'a major flaw' in the legislation. For reasons I have already given, I do not accept that proposition. He also made considerable play of the time for which a certificate would be conclusive, and suggested that the different procedures for this register from those associated with the Lands Titles Office would create some sort of problem for purchasers, motor vehicles dealers and financiers. He urged the Government to address this problem. The Government already has done so. It is true, as the Hon. Mr Griffin suggests it should be, that the certificate will be a conclusive statement of the position as at the time of its issue. Of course, no-one can sensibly rely on that a week or a month later. But, as I said in introducing this Bill, provision will be made for quick and easy updating of references, including by telephone inquiry.

Clause 11 (1) provides for unregistered interests to be discharged. As I have said, the Government is prepared to accept that it is worthwhile to make absolutely clear that the discharge only relates to the interest in the motor vehicle, and a proposed amendment to this effect is on file. Some lack of clarity was alleged in relation to clause 11 (3), which makes dealers responsible for any loss incurred by a registered interest-holder as a result of a dealer's sale to an innocent consumer. The word 'loss' means what it says: it is simply the actual loss sustained as a result of the operation of clause 11 (1) or 11 (2), as the case may be.

It is not correct to say that clause 12 appears to ignore principles of priority in relation to securities that provide for further advances. Interest-holders will get priority, in order of registration, for what they register, and if they register securities that contemplate further advances up to some limit, or even without express limit, then that is what they will get priority for. Other issues about the priorities provided for in clause 12 were raised by the Hon. Mr Griffin and by the Law Society, and as a result I propose to make some amendments to that clause.

As amended, clause 12 will provide a simple priority system of registered interests (subject to express postponement), followed by unregistered interests. In the transitional period, registration as a company charge or bill of sale will be recognised if an application for registration in the goods securities register is made. After that time, company charges and bills of sale will be treated in the same way as any other security interests. So far as they relate to motor vehicles, they will need to be entered on this register. This will require dual registration in order to protect other registered interests over vehicles. That is perhaps unfortunate, but is unavoidable if the system is to be effective. The alternative would be to require dual search—of the goods register and the companies register. That would be highly inconvenient, but, worse, as the Law Society says, it would be largely ineffectual. Furthermore, a search might not even be attempted if, as is not unusual, the vehicle which is an asset of the company (and may be subject to a charge) is registered under the Motor Vehicles Act in the name of an individual. In short, it will be up to interest-holders who intend to assert an interest over a vehicle to indicate their interest and fully protect it against clause 11 by registering it under this Act.

As to the question of 'what priority really gives to the person taking a security interest', this is best left to the general law. The provisions would become very complicated and convoluted if an attempt was made to provide for all issues that might arise in respect of priorities.

On Clause 14, I indicate that an amendment is proposed so that compensation will be available without reference to the cause of any error that appears on the register. As to clause 17, the time limit on the presentation of a report to Parliament by the Minister is clearly set out in clause 17 (3). The Government does not accept the proposition that a wider offence, similar to section 37 of the Bills of Sale Act, should be created in this Bill for mis-dealings in secured goods. The offence in clause 19 is designed simply to extend the effect of section 35 of the Consumer Transactions Act to all forms of security over motor vehicles. What the Hon. Mr Griffin proposes would be better done in a general review of goods law, rather than at this stage making yet another piecemeal addition.

The Hon. Mr Griffin also identified the need to provide in this Bill for the purposes of the Consumer Credit Act. Under the latter Act, provision is made for a lender to pass on title insurance charges to the consumer borrower, by deducting them from the total of the loan. It will not be necessary to amend the Act, but it is true that an amendment to the first schedule to the regulations will be needed at the appropriate time to allow similar deductions of the charges under this Act, which will largely supersede title insurance.

There is one other amendment of a technical nature. Attention has been drawn to section 4 of the Mercantile Law Act, which would in some circumstances defeat an interest registered under this Bill. An amendment will be proposed to the first schedule, to similar effect as the existing amendment in that schedule of the Sale of Goods Act. I hope that, in responding in detail at this stage, I will have assisted the later consideration of the Bill in Committee.

This Bill seeks to remedy a situation in which consumers pay twice: they pay for title insurance, and then they pay again because of the increased overheads sustained by dealers who are pursued for defects in title, notwithstanding the

existence of insurance. It will provide a cheap, comprehensive and convenient means for people acting with ordinary prudence to protect their interests in motor vehicles and for purchasers to reassure themselves that vehicles are unencumbered. There are practical complexities which would be reduced if we had a truly national system, but this Bill, with its proposed amendments, will provide a simple and workable system.

There will be continuing negotiations towards a national scheme. Queensland, New South Wales, Victoria, South Australia and Tasmania are interested in introducing a similar scheme and in some instances legislation has been passed and schemes have already been set up. I thank the Hon. Mr Griffin for his support for the Bill. We shall pursue the Committee stages after he has given consideration to this response.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

SALE OF GOODS (VIENNA CONVENTION) BILL

Adjourned debate on second reading.

(Continued from 17 September. Page 913.)

The Hon. K.T. GRIFFIN: The Opposition supports the Bill. It gives effect in South Australia to the United Nations convention on contracts for the international sale of goods. The convention was adopted by a diplomatic conference in 1980 but, as the Attorney-General said in the second reading explanation, before Australia can accede to it, the domestic laws of the States and the Territories in so far as they relate to international contracts, have to be brought into line with the convention. I note from what the Attorney-General said that all States and the Commonwealth have agreed to amend their domestic laws to implement the convention. When that has been done, I understand that Australia will accede to the convention and that it will then apply after adoption by other countries to international contracts entered into by Australian exporters and importers.

The Attorney-General notes that, in some contexts, the convention may apply to certain contracts where one of the parties has its place of business in Australia, or the rules of private international law lead to the application of the law of South Australia. Accession to the convention will facilitate our international trading activity.

Although one might pick up certain matters which adopt civil law procedures and raise some questions about them, I do not think that there is any point in doing so, because we have no say in what is in the convention. I am not sure that the States were represented in any of the discussions in the lead up to the convention, although Senator Durack, who was probably the Federal Attorney-General at the time, tried to involve the States in discussions on these types of issues, which affect their relevant domestic law. Be that as it may, the convention has now been crystallised and it is up to us to dedice whether to concur in the Commonwealth's accession to the convention.

The Liberal Party sees some benefits for our businesses in their international trading activities by our being covered by the convention. Accordingly I support the second reading of the Bill.

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

STATUTES AMENDMENT (PAROLE) BILL

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

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL

In Committee.

(Continued from 17 September. Page 919.)

Clauses 2 and 3 passed.

Clause 4—'Unlawful threats.'

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

Page 2, line 22—Leave out 'whether communicated' and substitute 'directly or indirectly communicated'.

Proposed new section 19 deals with unlawful threats to kill or endanger the life of another where the person making the threat intends to arouse a fear that the threat will be, or is likely to be, carried out. Proposed new subsection (3) really seeks to ensure that the penal provisions apply to a threat made by words (written or spoken) or by conduct, or partially by words and partially by conduct. I raise the point that those words may not be directly communicated by the person making the threat, but may be made indirectly through, say, a third party, or even by transmission by way of facsimile machine or computer. That might be a bit extreme; nevertheless, I think that it is important to cover that situation and that is why I have moved my amendment.

The Hon. C.J. SUMNER: The amendment is acceptable.

Amendment carried; clause as amended passed.

Clause 5—'Repeal of ss. 29 to 37 (inclusive) and substitution of new sections.'

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

Page 2, after line 45—Insert new subsection as follows:

(3) Where a person, without lawful excuse, does an act or makes an omission—

(a) knowing that the act or omission is likely to cause harm to another;

and

(b) intending to cause such harm or being recklessly indifferent as to whether such harm is caused,

the person shall be guilty of an indictable offence and liable to be imprisoned for a term not exceeding five years.

The criminal law is not my specialty, so it has been hard work dealing with this Bill. I appreciate the assistance given to me by members of the private profession and the response given by the Attorney-General at the second reading stage of the Bill. It is particularly difficult, because we are compressing 40 or 50 sections of the Criminal Law Consolidation Act into about five new sections. This makes it difficult to ensure that everything is covered adequately.

There are also a lot of diverse penalties provided. I appreciate that the object of this Bill is, among other things, to try to rationalise penalties presently contained in the Criminal Law Consolidation Act and to at least endeavour to get some consistency. There will be consistency in respect of the provisions being enacted, but in other parts of the Criminal Law Consolidation Act the wide divergence of penalties for differing criminal acts still creates difficulties.

In clause 5 there are two new sections to replace sections 29 to 37 inclusive of the Criminal Law Consolidation Act. They deal with the doing of an act or making an omission which is known to be likely to endanger the life of another, or intending to endanger the life of another. The maximum penalty for that is 14 years. The next stage down is the doing of an act or making an omission knowing that the act or omission is likely to cause grievous bodily harm to

another, and intending to cause that harm: the maximum penalty involved there is eight years.

There is a third level, which is doing an act or making an omission that is likely to cause harm, and intending to cause harm. I think that that is an omission from the drafting which needs to be covered and my amendment seeks to do that and to put in a third level of criminal act which is less serious than the two to which I have just referred and for which a maximum penalty of five years imprisonment will apply. There are other amendments to this clause to which I will refer later. However, I will focus on this amendment initially, and that will help with consideration of the clause. I hope that the Attorney-General is persuaded to support my amendment.

The CHAIRPERSON: As the amendments to the clause are not connected, we should treat them separately.

The Hon. K.T. GRIFFIN: I addressed my remarks to the amendment concerning line 45. It inserts a new subsection (3). I did not address the question of penalty.

The Hon. C.J. SUMNER: I will respond to the comments made by the Hon. Mr Griffin in relation to the provision creating a new offence after line 45, and respond to the question of penalty later. Then you, Madam Chair, can put them in the order they have to be put.

The CHAIRPERSON: This has to occur under Standing Orders.

The Hon. C.J. SUMNER: I am not being critical in any way. I do not wish to become confused and, as the Hon. Mr Griffin has launched into line 45, I will do that also. That amendment is basically acceptable to the Government. It accords with the Mitchell committee's recommendations except in one particular, that is (and I put this to the honourable member for his consideration), that the new offence of doing something which is likely to cause harm to another (that is his formulation) should be amended in a minor way to indicate that the offence, where it is in the Act, is likely to cause bodily harm to another. In other words, we should insert 'bodily' before the word 'harm' in proposed subsection (3) *(a)*. The reason for doing that is that if one only has the word 'harm' then it could have an interpretation that goes well beyond what is intended by the criminal law. Whether we are considering injury to feelings or whether that is intended to be picked up by the honourable member, I do not know.

My suggestion to the honourable member is that 'causing harm' is too broad because it may well capture a whole range of things that are not really contemplated by the criminal law. The Mitchell committee suggested 'causing a bodily harm', and I suggest that amendment to the honourable member. Subject to that and any comments he wishes to make on it, the amendment is acceptable.

The Hon. K.T. GRIFFIN: I am receptive to what the Attorney-General is proposing. I deliberately left out the word 'bodily' because I was concerned that maybe, in the context of a child being subject to verbal threats without any bodily harm, if the provision were limited to bodily harm that sort of verbal tormenting of a child might not be covered by this part of the criminal law. If the Attorney-General is satisfied that bodily harm can extend to that sort of situation where a child is tormented verbally and psychologically, creating a great deal of difficulty for and mental harm to the child, and that is covered by the concept of bodily harm, I am prepared to accept his proposal. When I come to moving it in the proper order, I will then insert that clause. However, I would certainly like that issue clarified before I make a final decision on it.

The Hon. C.J. SUMNER: I think that the sorts of acts that the honourable member is concerned about would probably be picked up under the provisions relating to unlawful threats. The provisions in subsections (1) *(a)* and, in particular, (2) of proposed new section 19 relate to the offence of threatening to cause harm to person or property and where the intention is to arouse fear that the threat will be or is likely to be carried out, in which case an indictable offence is created, which carries with it a term of imprisonment for a term not exceeding five years. I think that that probably covers the circumstances outlined by the honourable member. As I have said, my concern was with just using the word 'harm', particularly in relation to the offence of grievous bodily harm. The work 'bodily' is in that provision and it is consistent that we refer to bodily harm in this case, because that is what the legislation is directed to.

From the point of view of civil law, any damages or criminal injuries compensation, even though the criminal offence is causing assault causing grievous or actual bodily harm, it has been known for compensation or damages to be awarded for any psychological trauma that follows that physical act. In that context, I would think that, even though there might be some psychological harm that would flow from the bodily harm, the causation would be established from the point of view of criminal injuries compensation or common law damages for assault. Having said that, and taking into account proposed new section 19, if the honourable member believes that there is any hiatus, I guess the only alternative would be to give some specific consideration to the issue that he has raised. However, I think that the matter is probably adequately covered.

The Hon. K.T. GRIFFIN: I certainly do not want to extend the provision to injury to feelings. I think that that would be casting the net too widely. On the other hand, one can envisage a situation—which might be uncommon but, nevertheless, might occur—where a child is subject to all sorts of verbal torment, which may not necessarily be threats but just verbal abuse which, over a long, or even short, period of time might be regarded, in the context in which that verbal abuse was delivered, as being sufficient to warrant concern on the part of the child for that child's well-being and cause the child to go off his or her food or to demonstrate all sorts of consequences of that behaviour. I do not want to prolong the debate on this matter, but I make the point to the Attorney-General that either we can deal with this in the form in which I have moved it so that it can then come back positively and be further considered or I can accede to the Attorney-General's request on an undertaking that the matter will be fully explored and the necessary answers provided before the Bill finally passes the House of Assembly. I am not too concerned about which way it goes, as long as the matter is considered and decisions are made on it before the Bill passes both Houses of Parliament.

The Hon. C.J. SUMNER: The point has been made. I am happy either way. However, I suggest that we pass the honourable member's amendment as proposed. When the matter is debated in the other place, we will examine the matter and consider whether or not an amendment might be necessary.

The Hon. K.T. GRIFFIN: I appreciate the Attorney-General's consideration of that point. I think that is a satisfactory way of dealing with it. I now turn to the amendment put earlier. I know that there is a difficulty in trying to rationalise the penalties in the legislation and in the proposed new sections, because the penalties in the present Act are all over the place. The present penalty in section 19 of the Act (sending letters threatening to murder) is 10 years imprisonment; in section 31 (causing bodily injury by explosives) the penalty is three years imprisonment; in section

32 (using explosives, etc., with intent to do grievous bodily harm—that is, whether or not any bodily injury is caused) the penalty is life imprisonment; in section 33 (placing gun powder near a building, ship, etc., with intent to do bodily injury) the penalty is 14 years imprisonment; in section 34 (setting or placing a spring gun, mantrap, or other device calculated to destroy human life or inflict grievous bodily harm) the surprisingly low maximum penalty is two years imprisonment; in section 35 (the unlawful and malicious throwing or causing to fall or strike a railway vehicle with intent to injure or to endanger the safety of any person in the vehicle) the penalty is life imprisonment; in section 36 (acts done with intent to endanger persons travelling on any railway by the placing of wood, stone or other thing across the railway, moving or displacing any railway sleeper, manipulating points or changing any signal or light) the penalty is life imprisonment and in section 37 (the doing of any unlawful act or by any wilful omission or neglect endangering or causing to be endangered the safety of any person being conveyed on a railway) the maximum penalty is two years imprisonment. So there is a bewildering diversity of maximum penalties applied to these criminal acts which are now the subject of attention in this clause. New section 29 provides, in part:

(1) Where a person, without lawful excuse, does an act or makes an omission—

(a) knowing that the act or omission is likely to endanger the life of another;

and

(b) intending to endanger the life of another or being recklessly indifferent as to whether the life of another is endangered. . .

I propose that the maximum penalty for that offence should be life imprisonment, allowing the courts, however, a discretion as to what should be the appropriate penalty in relation to the circumstances of a particular criminal act falling within that provision. New section 29 (2) provides, in part:

Where a person without lawful excuse, does an act or makes an omission—

(a) knowing that the act or omission is likely to cause grievous bodily harm to another;

and

(b) intending to cause such harm or being recklessly indifferent as to whether such harm is caused. . .

I propose that the penalty for that offence should be increased from eight years to 10 years imprisonment. The amendment in relation to causing harm, which I discussed earlier but which has not yet been moved, carries a penalty of five years imprisonment. Therefore, there is a graduation which picks up the maximum penalties that are presently in the Criminal Law Consolidation Act and brings the two lesser offences into some reasonable gradation downwards.

It is a matter of judgment as to what is the most appropriate maximum penalty, but it seems to me that, as life imprisonment is presently in the Act for several of the crimes which are replaced by new section 29, it would be appropriate to use that as the standard for this section. I draw attention to the fact that in a later clause of the Bill, dealing with offences with respect to property, arson for damage over $2 000 has a maximum penalty of life imprisonment for a completed offence. An attempt has a lesser penalty and that, of course, is consistent with the provisions in the Act at present.

It seems to me that if the Committee were to accept my amendments it would bring it more in line with that maximum penalty for arson which I see as probably on a par with the sort of act or omission which is likely to endanger the life of another and is intended to endanger the life of another. I therefore move:

Page 2, line 36—Leave out 'a term not exceeding 14 years' and insert 'life'.

The Hon. C.J. SUMNER: The Government does not support this amendment, although I would be prepared to support an amendment which set the term of imprisonment at 15 years in the first instance and 10 years in the second. The reason for not agreeing to it is that I think the honourable member is misconceiving the effect and intent of new section 29. It is admitted that that new section 29 may overlap in certain circumstances with attempted murder or attempted manslaughter. However, it could be a useful addition to the prosecutorial armory, so that, in certain cases of gravely irresponsible conduct which do not lead to fatal consequences but which are conduct of an offender which require strong disapproval, this particular offence can be used.

Where there are no fatal consequences, where the elements of attempted murder or manslaughter are not available the proposition is that this offence slots into that category in terms of the gradation of offences. Already, as the honourable member has said, in sections 29 to 37 of the Criminal Law Consolidation Act there are specific types of conduct which are rendered criminal. New section 29 generalises those offences in sections 29 to 37 of the Criminal Law Consolidation Act, and they would provide concrete examples of what is intended to be covered by the new section 29.

From the examples the honourable member has already given to the Council, new section 29, in most cases he put, constitutes a significant increase in the penalties for those offences. However, the generalisation proposed in new section 29 also means that other types of conduct—reprehensible non-fatal conduct—may be rendered criminal, even though they are not the specific ones now covered by sections 29 to 37 of the Criminal Law Consolidation Act.

If, for example, a specific intent, that is, an intent to kill, is lacking, and cannot be inferred from all the circumstances, the lesser intent, that is to endangered life, etc. may be open to be inferred and it may be appropriate for section 29 to apply. This will ensure that juries may need to consider the facts to see if the lesser offences in proposed section 29 are satisfied. Clearly section 29 may only apply where any of the elements of attempted murder or manslaughter are lacking. In the more serious cases that the honourable member has envisaged that section 29 may be used, for example, where there are no fatal consequences but there is a clear intention to kill, then the appropriate charge will not be under section 29 but will be under the intent section for which there is a penalty of life imprisonment. If the intent is not so plain as to establish a case of attempted murder, then the charge of attempted manslaughter could be laid.

Proposed section 29 may only apply where any of the elements of attempted manslaughter or murder are lacking. When all the elements of those offences are present section 27 would not normally be used, but the offences of attempted murder or manslaughter would be proceeded with. So, proposed section 29 applies to non-fatal consequences, which needs to be emphasised. It applies where there is no specific intent or criminal recklessness to cause the death of another, such as in murder. It does not apply where there is the necessary intention to constitute manslaughter, Manslaughter is a diverse crime covering all unlawful homicides that are not murder. Voluntary manslaughter, as the honourable member knows, is involved where there is an intent to kill but circumstances such as provocation mitigate that act and reduce the conduct from murder to manslaughter and invalid voluntary manslaughter where there is an absence of direct

intention to kill but is nevertheless a recklessness or unlawfulness about the act.

So, the point I make relates to conduct (and we have to remember that in this case we are talking about a situation where there are no fatal consequences of the acts which are the subject of the charge, in other words, no-one has been killed by the actions) where there was clear intention of the perpetrator of the act. So we are therefore dealing in section 29 with those circumstances that do not constitute murder or manslaughter because, first, there are no fatal consequences and, secondly, because the requisite intention to enable a charge of attempted murder or manslaughter are not there and therefore the perpetrator cannot be charged with those offences. That then leaves this category of offence in section 29 which deals with an act or omission which is likely to endanger the life of another where someone is reckless or indifferent to someone's life being in danger. It may be that the circumstances of section 29 would overlap with attempted murder or manslaughter in certain circumstances, but in serious cases, which may need life imprisonment as the ultimate penalty, if they can be proved then the prosecution presumably would proceed with the more serious offences of attempted murder or manslaughter and section 29 would pick up those things currently contained in sections 29 to 37 of the Criminal Law Consolidation Act and other actions that could not constitute attempted murder or manslaughter.

For those reasons, Madam Chair, I believe that the imposition of a sentence of life imprisonment is too heavy in these circumstances, given that in fact there are no fatal consequences. I suggest that 15 years would be appropriate and I say that for the reason that the Government is currently working on a schedule of penalties which can apply across the whole range of offences in State legislation and, apart from life and some other exceptional categories, the highest category in fact is 15 years. I suggest therefore that if the honourable member's amendment were from 15 years to 10 years, that would be acceptable to the Government but, for the reasons I have outlined, I believe that life imprisonment is too extreme in these circumstances in comparison with an offence of acts endangering life or creating risk of grievous bodily harm.

The Hon. I. GILFILLAN: I thank the Hon. Mr Griffin for conceding, because he may be able to comment on what I have to say. As one who is not versed in law in anything like the depth that the two people who are principally debating this issue are, I make what I regard as only superficial observations of the wording of the Bill. After listening to the debate to date, I find that I am persuaded that the penalties as listed in the Bill are probably satisfactory for the intention of the Government, but it contains some rather quaint wording. I cannot see why one should have a lawful excuse for knowing an act or omission is likely to endanger the life of another and intending to endanger the life of another. That seems to be a sort of contradiction in what I understand to be the purpose of the law. If anyone can have a lawful excuse for knowing an act or omission is likely to endanger the life of another and intending to endanger the life of another strikes me as very quaint.

I point out also that it perhaps hinges on the semantics of the word 'intending'. If one intends to do these two things that are spelt out in section 29 (1) *(a)* and *(b)*, it strikes me as being perilously close to the intention of murder. If it fails, the offence is really only the lesser because the person was a bungler. It is a sort of clause for the bungler rather than for the successful operator. Under those circumstances it is very fine tuning to say what should be the applicable penalty. I will not enter into that, because I do not know enough about it and I think that it would be presumptuous for me to say it. I think that the difference between subclauses (1) and (2) also involves semantics. It relates to the difference between endangering a life or likely to cause grievous bodily harm. The person who makes that calculated effort will be a master at making a refined calculation that a certain action will not endanger a life, but possibly will do grievous bodily harm.

The Hon. C.J. Sumner interjecting:

The Hon. I. GILFILLAN: Maybe that can be answered. I accept that I am a layman observing the wording of the Bill, but it is our intention to support the Attorney-General's attitude to this and, if he feels that there are grounds for a slight increase based on a genuine conviction that it is right, he can count on our support.

The Hon. K.T. GRIFFIN: Madam Chair, I understand the complexities and the difficulty in trying to arrive at a reasonable conclusion as to what the penalties ought to be. Having moved my amendment providing for a term not exceeding 14 years be amended to 'life', at the appropriate time I will seek leave to withdraw that amendment and move a new one to include the Attorney's suggestion of 15, as well as my other amendment on file, because it appears that the Attorney is willing to accept that. Before I do that, I should like to give the Attorney a chance to reply to the Hon. Mr Gilfillan. Initially I had the same sort of question about the words 'without lawful excuse' in clause 4 as well as in clause 5.

I presumed that they were basically related to the police officer who said, 'Stop, or I will shoot to kill' or in circumstances where there is a threat to the life of others or where a citizen uses such force as is reasonably necessary to defend himself or herself and says, 'I will kill you if you do not keep away from me.' That is the context in which I understood it to be used. I must confess that I could not see another basis upon which it would be there.

The Hon. C.J. SUMNER: I do not know about the precise examples given by the Hon. Mr Griffin, but the circumstances covered by 'without lawful excuse' would be limited. That is almost certain, but it may be that a police officer acting in certain circumstances may be able to bring himself or herself within the exculpatory phrase of 'without lawful excuse'. Of course, that would not be the case where a police officer was deliberate in the intention to murder or kill in that sense, but there may be circumstances where a police officer is engaged in a situation where clearly what the officer is doing is likely to endanger the life of another.

The Hon. K.T. Griffin: Intending—

The Hon. C.J. SUMNER: It is not just intending but being recklessly indifferent. One would not expect a police officer to be recklessly indifferent in those circumstances. There may be a fine line that has to be drawn in some cases. I would agree with the honourable member that the circumstances in which there was a lawful excuse for this kind of action would be limited, but it is a phrase that is used in the constitution of offences in a number of areas. As the Hon. Mr Griffin pointed out, it is used in the earlier section 19, it is in section 30, and property offences talk about lawful authority. The circumstances in which it will be covered by those words are limited but there may be some circumstances, in particular involving police officers, who are the most obvious examples.

The Hon. K.T. GRIFFIN: I seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

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

Page 2—
Line 36—Leave out '14' and insert '15'.
Line 45—Leave out '8' and inset '10'.

Amendments carried.

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

Page 2, after line 45—Insert new subsection as follows:
(3) Where a person, without lawful excuse, does an act or makes an omission—
(a) knowing that the act or omission is likely to cause harm to another;
and
(b) intending to cause such harm or being recklessly indifferent as to whether such harm is caused,
the person shall be guilty of an indictable offence and liable to be imprisoned for a term not exceeding 5 years.

The Hon. I. GILFILLAN: I am a little unclear because I have not understood the point at issue, nor do I have clearly in mind the position of the Attorney-General. He gave an undertaking that there would be answers to questions. I would like him to indicate the Government's attitude before I declare how I shall vote.

The Hon. C.J. SUMNER: We do not have any problem with the principle of the amendment. The only question is whether the harm should be limited to bodily harm. I put that to the Chamber earlier, and in the final analysis it was decided that we would proceed with the amendment proposed by the Hon. Mr Griffin and consider whether it should be tightened up before the matter was debated in the House of Assembly.

While I am on my feet, I indicate that another possibility is that instead of using the phrase 'likely to cause bodily harm to another' we would use the phrase 'likely to cause harm to the person of another'. That may be broader than 'bodily harm' but not as broad as the proposal of just 'harm'. I suggest that the matter proceed, the amendment be passed, but we then consider the technical aspects of it before it is considered in another place.

Amendment carried.

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

Page 2—After proposed new section 29 insert new section as follows:
29a. Where—
(a) a person is liable to provide necessary food, clothing or accommodation to another person who is a minor, suffering from an illness or disabled;
and
(b) the person, without lawful excuse, fails to provide that food, clothing or accommodation,
that person shall be guilty of an indictable offence and liable to be imprisoned for a term not exceeding 3 years.
Any person who being legally liable, either as a husband, parent, guardian, committee, master, mistress, nurse, or otherwise, to provide for any person as a wife, child, ward, lunatic, idiot, apprentice, servant, infant, or otherwise, necessary food, clothing or lodging—
(a) wilfully and without lawful excuse refuses or neglects to provide the same; or
(b) unlawfully and maliciously does, or causes to be done, any bodily harm to any such person as a wife, child, ward, lunatic, idiot, apprentice, servant, infant, or otherwise, so that the life of such person is endangered, or the health of such person is or is likely to be permanently injured,
shall be guilty of a misdemeanour, and liable to be imprisoned for any term not exceeding three years.

The second part of the crime has been picked up in the new section 29. The concern which I had was that the provision 'wilfully and without lawful excuse refuses or neglects to provide' food, clothing or lodging particularly to children and those suffering from mental illness or intellectual handicap was not adequately covered. My object in moving this amendment is to ensure that there is no doubt that this act or omission is covered by the criminal law. There is some argument that it may be covered by the Community Welfare Act or other legislation, but I think it is serious enough to have included in the criminal law and hope that the Attorney will be able to accept it so that there can be no debate among lawyers in the courts whether or not this sort of behaviour is covered.

The Hon. C.J. SUMNER: It is acceptable.

The Hon. I. GILFILLAN: I suggest that the additional clause will read a little more satisfactorily if, in the fourth line it read 'suffering from an illness or disability', or 'suffering from an illness or is disabled'. The wording is cumbersome at present.

The Hon. K.T. GRIFFIN: It probably includes another person who is a minor, suffering from an illness or disability, so three categories are covered: a minor, a person suffering an illness, or a person suffering a disability. I suggest a further amendment to read, 'who is a minor or who is suffering from an illness or a disability'.

The CHAIRPERSON: It seems to refer to a person who is a minor, who is suffering from an illness or who is disabled.

The Hon. C.J. SUMNER: This is the Hon. Mr Griffin's amendment prepared by no less an authority than Parliamentary Counsel. They take the view, as expressed by the Chair, that it is intended to cover a person who is a minor, who is suffering from an illness, or who is disabled. The way it is expressed, 'is', the verb, refers to the minor, the suffering from an illness or the disabled. That is Parliamentary Counsel's drafting of the matter.

The Hon. K.T. GRIFFIN: Leave it as it has been amended and we will sort it out later.

The Hon. C.J. SUMNER: If the Hon. Mr Griffin is happy to do so.

Amendment carried.

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

Page 3, after line 8—Insert new subsection as follows:
(2) A person who, without lawful excuse, has the custody or control of an object that the person intends to use, or to cause or permit another to use, to cause harm to another, shall be guilty of an indictable offence and liable to be imprisoned for a term not exceeding 5 years.

This amendment is really complementary to the amendment which has already been accepted to add a new subsection (3) to new section 29 to deal with the person who causes harm.

The Hon. C.J. SUMNER: The amendment is acceptable, subject to the same qualification in relation to the previous debate as to whether the harm should be limited to bodily harm, to which we will give further attention.

Amendment carried; clause as amended passed.

Clauses 6 to 10 passed.

Schedule.

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

Part II, page 6—After paragraph *(c)* of subsection (1) of proposed new section 43—
Insert new word and paragraph as follows:
or
(d) do anything else that is likely to result in damage to a vehicle using any such railway, tramway or track;
Strike out 'Penalty: $4 000 or imprisonment for 1 year' and insert 'Penalty: $8 000 or imprisonment for 2 years'.

The first of these amendments to the schedule seeks to add an extra paragraph *(d)* to ensure that the ambit of the new section 43 of the Summary Offences Act is properly extended, and to increase the penalty from that which is proposed, namely, $4 000 or imprisonment for one year to $8 000 or imprisonment for two years. The one year or $4 000 penalty is very much less than that provided for in the present sections of the Criminal Law Consolidation Act in relation to interfering with railways and tramways. They can have quite serious consequences for passengers, in particular.

What I am seeking to do is toughen things up a bit. I think that doubling the penalty still enables the matter to be dealt with under the Summary Offences Act but dem-

onstrates that anyone not caught by other provisions of this Bill in respect of any act affecting railway, tramway, busway or other track has a fairly stiff penalty to face up to in those circumstances.

The Hon. C.J. SUMNER: These amendments are acceptable.

Amendments carried; schedule as amended passed.

Title passed.

Bill read a third time and passed.

CONTROLLED SUBSTANCES ACT AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1130.)

The Hon. R.I. LUCAS: I support the second reading. I do not wish to canvass all the matters that have been canvassed by previous speakers and only wish to address in detail one particular matter; that is, the controversial matter of on-the-spot fines for the personal use of marijuana. Some two years ago we first debated the controlled substances legislation at some length in this Chamber. On that occasion the clause that drew most controversy was the clause that sought to reduce the penalty in relation to personal use of marijuana from a maximum fine of $2 000 and a term of imprisonment to a fine of $500 with no possibility of imprisonment.

As members will be aware, there were many differing views in this Chamber in relation to that provision. On that occasion I took a view different to the majority of my colleagues and supported the removal of the imprisonment penalty for the personal use of marijuana. At that time I believed that the penalty for personal use of marijuana should more closely fit the crime as it was then, and that a term of imprisonment was too harsh a penalty for the personal use of marijuana. That was the substantive reason for my support of the removal of the term of imprisonment.

The question of the reduction of the fine from $2 000 to $500 was neither here nor there, because at that time the figures that the Office of Crime Statistics had taken out for me indicated that the average fine imposed in 1979 and 1980 had been only $135, and that over the subsequent two years it had dropped to $119 and $117. So, even with that maximum penalty of $2 000 being set, it was then quite clear that the courts were setting average fines of only a little more than $100.

I was not particularly fussed about the provision to reduce the penalty from $2 000 to $500, whilst I did hold strong views that the penalty of imprisonment was not appropriate and was too harsh, and should be removed. Two years ago I indicated that whilst I supported the removal of the term of imprisonment for the personal use of marijuana I did not support decriminalisation or legalisation of marijuana at that particular time.

The view I expressed two years ago about the decriminalisation or legalisation of marijuana for personal use remains my view. I will not repeat the arguments I used two years ago. Suffice to say that I think the second reading contribution from the Hon. Mr Cameron on this occasion, in particular the evidence of the harmful effects of marijuana use on road safety throughout this nation, was important. As legislators we need to consider that evidence most closely.

The Hon. Mr Cameron indicated that statistics from a number of studies undertaken throughout the nation showed that up to 20 per cent of people involved in road accidents when tested showed some evidence of marijuana in the body or in the blood level at the time of the accident.

Members interjecting:

The ACTING PRESIDENT (Hon. T.G. Roberts): Order! We are not in Committee.

The Hon. R.I. LUCAS: I believe the question of marijuana usage and road safety is an important matter for us to consider. It is certainly a matter that weighs heavily on my mind in deciding what my view is on this provision. I believe that we need to err on the side of caution, on the side of conservatism, and on this occasion I will not support the Minister's proposition.

The Hon. J.R. Cornwall: No—of the Government.

The Hon. C.M. Hill: You are the architect of it.

The Hon. R.I. LUCAS: The Minister is trying to back away from his own provision.

The Hon. C.M. Hill: He has been backing away for the last couple of weeks.

The Hon. R.I. LUCAS: That is true: the Minister has been in some trouble. His colleagues, in the other place in particular, are most upset at the Minister's views on this matter and on the tobacco smoking matter. It is quite common knowledge that the Minister has some problems in Caucus, particularly relating to members of the other place who are in marginal seats. As I have said, that is quite common knowledge. I suppose that it is not such a worry for members of the Legislative Council, but certainly most members downstairs in marginal seats are most concerned at the Minister's meanderings on the matters of marijuana, tobacco smoking and the prohibition of advertising tobacco. The tobacco lobby is a fearsome one, as the Minister well knows, and that is one of the reasons why he wants this provision passed.

The Hon. J.R. Cornwall: I agree that they lack my panache and breeding!

The Hon. R.I. LUCAS: I should have thought that in another life the Minister would be a perfect employee of a tobacco company. I would think that the Minister's lack of subtlety would fit him well for a marketing position, say, in the tobacco industry. However, as you would appreciate, Mr Acting President, matters of Caucus are not matters for debate here in the Chamber this evening.

The Hon. C.M. Hill: They are very secret.

The Hon. R.I. LUCAS: Yes, and, if they are matters upon which the Minister is suffering at the moment at the hands of some of his Lower House colleagues, they are certainly not matters that I will address in this contribution on the second reading of the Bill. Perhaps I will do so when speaking to the tobacco Bill, but I will not do so in relation to this Bill. The Minister said by way of interjection that this is not his proposition and that it is the Government's proposition. As the Hon. Mr Hill quite correctly pointed out, for many years the Minister of Health has within the forums of the Labor Party and publicly been carrying the torch for legalisation and decriminalisation of marijuana use. The Minister has been rolled on many occasions by his Cabinet colleagues and, in particular, by the Premier, who loves marching him up to his office and telling him, 'Roll over, John; you are not getting your way on this particular matter.' We are informed that the Premier uses rather more harsh language with the Minister than the language I used just then. The Minister well knows the trouble that he gets himself into with the Premier and with some of his more pragmatic colleagues in Cabinet.

The Hon. J.R. Cornwall: Like Geoff Anderson.

The Hon. R.I. LUCAS: No, not like Geoff Anderson. I think 'pragmatic' is the last word that one would use to describe Mr Geoff Anderson. As I said, the Minister cannot resile from this Bill—it is his alone and, as I have said, he has carried the torch for it. It is quite evident that there is

a lack of support from the Minister's colleagues either in this Chamber or in another place when it comes to debating the propositions in this Bill and in the tobacco legislation that we will discuss, I suspect, early tomorrow morning.

In his approach to this Bill, the Minister set out to deceive members of Parliament and the public as to the true nature and intent of the legislation, and he did that quite intentionally. Some years ago, and again more recently, the Minister said that he was not about seeking the decriminalisation of the use of marijuana and that in effect all he was looking at on this occasion was the introduction of on-the-spot fines for the use of marijuana to try to speed up the backlog (hundreds and possibly thousands) of marijuana cases that were clogging up the court system of South Australia.

The Minister tried to have us believe that this Bill, as I said, was just an administrative mechanism to introduce on-the-spot fines, as exist with traffic infringement notices, to unclog the courts. Well, as members now know, the Minister has been caught out. It was quite clear that, when one looked at the legislation more closely, any similarity between on-the-spot fines for the use of marijuana and on-the-spot fines for a traffic infringement was quite accidental. In fact, a closer examination showed that there were quite significant differences between on-the-spot fines for traffic infringements and the provisions of this Bill. Section 98b (1a) of the Motor Vehicles Act provides:

> Where a person expiates an offence to which a traffic infringement notice given under the Police Offences Act 1953-1981 relates, he shall, for the purposes of this section, be deemed to have been convicted of that offence on the day upon which he expiated the offence.

It is quite clear under the Motor Vehicles Act and the Police Offences Act that an offender is deemed to have been convicted of an offence, for the purposes of incurring of demerit points and, of course, upon the accumulation of 12 demerit points, an offender can lose his or her driver's licence.

Under another provision of the Police Offences Act an offender has 28 days to expiate an infringement notice. Section 64 (10) of the Police Offences Act provides:

> Notwithstanding that the offence or offences, to which a traffic infringement notice relates have been expiated, the Commissioner of Police may decide that the recipient of the notice is to be prosecuted for that offence, those offences, or any one or more of them, or for any other prescribed offence arising out of the same incident, and for that purpose may withdraw the notice.

If a police officer pings someone with a traffic infringement notice and the Commissioner of Police decides, on closer inspection, that the penalty is not severe enough for the offender, he may decide that the offence should be prosecuted through the courts. That is what we understand by an on-the-spot fine for traffic offences. When the Minister portrayed the Bill as proposing on-the-spot fines for marijuana use, therefore, we naturally thought that he was talking about on-the-spot fines such as traffic infringement notices.

When we examined the fine print, however, we found significant differences. First, no conviction was to be recorded. The period in which the fine could be paid was not 28 but up to 60 days, and there was no provision for review by some higher authority, as with the traffic infringement notice. With a traffic infringement notice, the Commissioner of Police may decide that an on-the-spot fine is not appropriate and that full court procedures should be activated. No such provision appears in the Controlled Substances Act Amendment Bill—no review by the Commissioner or higher authority is available. An on-the-spot fine cannot be upgraded to full court procedures.

The Minister attempted to deceive us and the public about the Bill's true nature, and he was caught out. He also tried to sneak through in his original Bill the proposition that someone who openly and publicly smoked marijuana should suffer no further penalty if he paid the licence fee of $50 for possession of up to 25 grams.

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: That might have been an injurious reflection, Mr Acting President, much more serious than the reflection that I was deemed to have committed earlier today, but we will not pursue that.

The Minister wanted to sneak through Parliament, deceiving honourable members and the public, a situation in which Paul McCartney, Boy George and other rock stars—

Members interjecting:

The Hon. R.I. LUCAS: The Hon. Ms Pickles is laughing, but I do not know what she has to laugh about.

The Hon. I. Gilfillan: Her mouth is watering.

The Hon. R.I. LUCAS: Perhaps it is. That is not my suggestion, however, but that of the Hon. Mr Gilfillan. A rock star, much loved by the younger members of South Australia, could stand up at the Memorial Drive or Football Park before 40 000 or 50 000 young South Australians and flaunt the fact that he/she is smoking marijuana.

He could quite well have advocated the smoking of marijuana in front of those 40 000 to 50 000 young South Australians, and that was a provision which the Hon. Dr Cornwall—'Mr Cornwall' as the media are now calling him—and the Democrats wanted us to support and to accept. It was really only when members of the Opposition raised this matter publicly that 'roll over John' was rolled again, and was marched unceremoniously up to the Premier's office and told that that was not on and that members of the Cabinet were not aware that this provision was in the Bill.

The more sensible members, like the Hon. Mr Sumner and the Hon. Mr Bannon, the more pragmatic members of the Cabinet, said to the Hon. Dr Cornwall in the privacy of the Cabinet Room, 'John, roll over, it's just not on. You're not going to get away with this particular provision and you are going to have to back down publicly. It may be a humiliating exercise for you but, nevertheless, you will have to perform it.'

The Hon. Carolyn Pickles: It is amazing that you know what goes on in the Cabinet Room.

The Hon. R.I. LUCAS: I am well informed. I can assure the Hon. Ms Pickles that it was a very interesting debate. As I said, it was really only when the matter was raised publicly that the Hon. Dr Cornwall found that he had been caught out. In fact, on the very day that the Minister was somewhat embarrassed and shamefaced to receive the Father of the Year Award from the Lions Club of South Australia the matter was raised in the Adelaide *News* and the problem pointed out to the Minister.

The journalist, Mr Geoff De Luca—a much respected journalist in Adelaide—went to the Hon. Dr Cornwall ('Mr Cornwall') and asked him whether this was correct. I would like to quote for the benefit of members what 'Mr Cornwall' said before he was rolled on the matter. The Adelaide *News* of 4 September states:

> Mr Cornwall said if Mr Lucas could not make a more positive contribution to the fight against drug abuse he should give the game away.

If the Minister can parade this proposition as a fight against drug abuse he ought to give the game away, because he may well argue for decriminalisation of marijuana on other grounds but he certainly cannot argue for it on the basis that it is part of his fight against drug abuse. That is just nonsensical. It is further stated:

> 'We have had a constant parade of carping, cavilling and negative criticism by Mr Lucas since the Federal Government launched the joint national campaign against drug abuse,' he said. 'In South

Australia we have completely upgraded our protective and preventive education programs in schools'.

I may explore that on another day. The Hon. Mr Cornwall was still battling on at that stage: he had not yet been rolled. He believed that the Opposition was being negative, carping and critical, and there was really not any substance to the points we were raising. As I said, subsequent to that the Premier and saner heads like Mr Sumner held sway, and we had what is now the infamous press release of 17 September of the Hon. Mr Cornwall under the heading of 'Marijuana anomalies removed.' 'Anomalies' is the word that the Hon. Mr Cornwall would wish to use to describe the humiliating backdown of the Minister on the public use and smoking of marijuana. The press release said:

The State Government has moved to remove anomalies in proposed legislation concerning tobacco and marijuana smoking.

The Minister then went on to explain his backdown in relation to this matter. Certainly, it will be a matter we will explore at greater length in the Committee stage, but the Minister says that it was planned to include all public places, taxis and public transport in the definition of a prescribed place.

What the Minister wants in his amendment is that basically the old penalty, conviction and $500 fine will remain for smoking in public places and prescribed places. We will be exploring in greater detail in the Committee stage what the prescribed places will be. He indicated taxis and public transport. We in the Opposition are interested to know whether, for example, a private car parked in Hindley Street with the windows down and people inside the car smoking marijuana for all to see walking down Hindley Street, will constitute a public place. If not, will it be a prescribed place? Of course, a distinction will have to be made between a person who sits in the same car with the windows down in the privacy of their garage at home with the garage door down. Is the same person in the same car with the same window down, not doing it in Hindley Street but rather in the privacy of their garage at home, in a private, public or other situation? It will be up to the Minister or his advisers to indicate to all members in this place—

The Hon. I. Gilfillan: Are you in favour of this measure or not?

The Hon. R.I. LUCAS: We need to explore it.

The Hon. I. Gilfillan: You're not going to declare your hand too early.

The Hon. R.I. LUCAS: We never declare our hand too early in debate. We like to look at provisions in the Bill before we vote on them. I would have thought that, based on past Democrat performance and the rather frequent changes of mind the Democrats have had in the past, that it is probably the Democrat approach to things also.

The Hon. C.J. Sumner: Do you think the Hon. Mr Milne would have agreed?

The Hon. R.I. LUCAS: That great Democrat from days gone by certainly would not have supported it. There would have been a split Democrat vote—left and right wing—on this matter in this Chamber. On this occasion, with the two left wingers in the Democrats and with no right wing at all, the Government should not have too much to worry about.

We need to explore in great detail the prescribed and public places during the Committee stage of the Bill. With those few words I indicate that I support the second reading of this Bill. We will certainly be looking at amendments of the Minister and other members in greater detail in the Committee stage.

The Hon. J.C. BURDETT: I support the second reading of this Bill, which is very much a curate's egg Bill. Parts of it are very good and very necessary. I will address myself to clause 10 briefly as it has been adequately covered in most respects by other speakers. Clause 10, pertaining to simple cannabis offences, is quite crazy. It certainly does, to say the least, trivialise simple cannabis offences. It goes a long way towards decriminalisation and does amount to a licensing system, provided that the person is affluent. The disadvantaged will not be able to take advantage of that. It rather surprises me that this Government should introduce a measure of this kind.

I turn to clause 10 in some detail because, when one examines it and compares it with other on-the-spot fine systems in operation, it does become very enlightening, indeed. It is very clear that it does very much trivialise simple cannabis offences. The proposed new section 45a (2) provides:

Subject to this section, if a person (not being a child) is alleged to have committed a simple cannabis offence, then before a prosecution is commenced, an expiation notice must be given—

and I emphasise 'must'—

to the alleged offender stating that the offence may be expiated by payment to the Commissioner of Police of the prescribed expiation fee before the expiration of 60 days of the day of the notice.

The point is that the police have no option. They are obliged, before they commence a prosecution, to issue the expiation notice within the longer period, as we noted, of 60 days for payment. Whether it is the first time that the person has committed the offence, the second time, the 42nd time or the 102nd time, the police have no option—they are obliged to issue the expiation notice and they are not able to prosecute unless they do issue it. This is in very stark contrast to the other on the spot fine systems as set up in the Summary Offences Act (formerly the Police Offences Act). Section 64 (2) of that Act states:

If a member of the Police Force believes on reasonable grounds that a person has committed a prescribed offence or a number of prescribed offences arising out of the same incident, he may, subject to this section, give that person a written notice to the effect that the offence or each offence specified in the notice may be expiated by payment of the prescribed expiation fee or fees to the Commissioner within the period of 28 days [in this case] from the day on which the notice is issued.

The great contrast is that under clause 10 of this Bill that we are considering the police officer has no option—he cannot prosecute, whether for a first or subsequent offence, unless he has issued the expiation notice. When he does that, the person may take advantage of that notice and may expiate the offence.

In regard to the Summary Offences Act, the police officer has the option. He can decide whether he will issue the expiation notice or whether he will prosecute. Where the police officer considers that it is more appropriate that the person suspected of committing the offence should go through the full court procedures and, if convicted, that a conviction be recorded, then he may do that—he has that option but, under clause 10, he does not have the option. In addition, as the Hon. Mr Lucas pointed out (and I will not go into this in detail), even if an expiation notice is issued by the police officer in charge of the matter under the Summary Offences Act but not under this Bill, then the Commissioner of Police may withdraw it, but in this Bill there is no option: the police cannot prosecute; they must issue the notice no matter how many times that occurs.

As between the Summary Offences Act (particularly in regard to motor vehicles) and the Bill, under the Bill, if an offence is committed in the circumstances mentioned in the Bill, the expiation notice must be issued and there is absolutely no consequence, apart from the payment of the money, if the expiation fee is paid but, under the Motor Vehicles

Act, where it is a traffic offence, section 82 of that Act provides:

> Where a person expiates in accordance with the Police Offences Act 1953-1981 an offence that attracts demerit points under this Act he shall, for the purposes of subsection (1) (c), be deemed to have been convicted of that offence.

Subsection (1) (c) relates to the points demerit scheme. He is actually deemed to have committed an offence for certain purposes, that of the points demerit scheme, even though he has paid and has expiated his offence. He is not convicted but he is deemed to have been convicted for a certain purpose. As has been said in this debate, if he accumulates 12 demerit points he necessarily loses his licence. Here is another difference between other on-the-spot fine systems where there is an effect of continuing to commit the offence and where, although the expiation fee has been paid, it is deemed to be a conviction for certain purposes.

This provision for on-the-spot fines is the softest one provided in the South Australian law that I know of, because there is absolutely no effect at all if the fee, which has been called with some justification a licence fee, is paid—it does not matter how many times the offence is committed. For these reasons I do have objections to clause 10 and will certainly consider proposals in Committee to vote against the clause or to amend it but, because as I have said there are many other good provisions in the Bill, I support the second reading.

The Hon. J.R. CORNWALL (Minister of Health): It is normal when winding up a second reading debate to thank honourable members for their constructive and useful contributions. In this case that would be going a little beyond what is reasonable. I do not believe that the level of debate in this Chamber over what is one of the prongs of a multi-faceted approach to overcome the serious problems of substance abuse generally in the community has been conducted at anything like the level that I would find acceptable. I do not believe that there has been anything positive in any way contributed to the discussion.

In fact, from what I have heard, I believe that some members opposite at least might have felt more comfortable if they had flown north to Queensland for the winter, where the new Drugs Misuse Act was recently proclaimed. They would have found that that legislation renders a person in possession of 100 grams or more of cannabis liable to a mandatory sentence of hard labour for life, a sentence which cannot be mitigated or varied by a court. It also carries a maximum penalty of 15 years for simple possession of cannabis and confiscation of any property associated with the commission of that offence, so that parents are now in an insidious position if their young adult children hold a party in the family home while the parents are out one evening and cannabis is possessed or smoked; or if they are busted for simple possession of cannabis while driving the family car—I am talking about possession and not even about smoking—the family car can be confiscated.

Young adults between 18 and 20 years can attract a maximum penalty of 15 years for that simple possession offence. The Queensland Minister for Correctional Services (Mr Muntz) boasted recently, and in fact when I was in Queensland less than two weeks ago, that Queensland would need at least one extra prison accommodating 300 prisoners to cope with the long-term gaol sentences to be handed down compulsorily under its legislation. Is that what members opposite want—life without remission?

That is literally what is being proposed in Queensland. Perhaps they would content themselves with the lesser penalty. It seems that the least they want is a criminal conviction for life for experimentation at the age of 18, 19 or 20. I do not accept that this is appropriate, and I never have accepted that. I have consistently said that, whatever one does, one should not smoke marijuana. I do not regard it as a harmless drug, and I never have. It is a psycho-active drug and nobody contests that, in the spectrum of drug abuse, marijuana is one of the numerous substances abused by people when they get into that scene.

However, it is clear from experience overseas and here that all we do by creating severe penalties for simple possession is to make, potentially at least, criminals out of young people who are inevitably experimenting, and we make multi-millionaires out of the criminal scum who traffic. We artificially create a black market through a prohibition approach. It has never worked that simply. A simple minded approach will never work.

I am afraid that from where I stand, as somebody deeply concerned about this and wanting to do all that is possible to develop a comprehensive strategy to try to combat a complex set of social problems, I feel that the idea of whipping up hysteria for base political purposes and of pandering to ignorance and prejudice by suggesting that we can overcome the illicit use of drugs by a simple legislative approach is beneath contempt.

As I said when introducing the Bill, by proposing a system of expiation of simple cannabis offences the Government is in no way condoning the use of this psycho-active drug. No-one is saying that cannabis is good for you. I never have and never will. We are trying to put the matter into contemporary perspective. Members opposite are, regrettably, so far out of touch with the real world and the contemporary perspective, as the Hon. Mr Elliott pointed out, that perhaps it is not surprising that they have missed the point. In passing, I congratulate the Hon. Mr Elliott on his brief but cogent second reading speech. He got directly to the point.

In moving the expiation scheme, the Government did not intend to give any encouragement to the smoking of marijuana in public places, and particularly not to the flaunting of it in public places where families gather. Nor did we intend that there be anomalies in penalties between tobacco and marijuana smoking, in taxis or other public transport in particular. We have taken account of public attitudes and have had amendments drawn up and placed on file to clarify the matter and remove any anomalies. We shall deal with the details of both the expiation scheme and the amendments in Committee. However, they can be appropriately outlined in general now. The amendments will mean that people found smoking marijuana in public or other prescribed places such as taxis will be liable for a maximum fine of $500, with the charge being processed through the courts and a criminal conviction recorded.

A public place, of course, will be as understood by anybody conversant with the law as it applies in the common law. We will continue to have amongst the toughest penalties in Australia for trafficking, and I will say a little more about that in a moment. We are increasing more than tenfold the monetary penalty for trading. As I said at the time of introducing the Bill, drug trafficking—whether it involves cannabis or heroin—is one of the most reprehensible crimes against humanity.

I note that the Hon. Mr Griffin not only foreshadowed amendments during his second reading contribution but now has amendments on file to increase the penalties for trafficking and trading in illicit drugs. He proposes in those amendments that the penalties for trafficking in cannabis—that is, in amounts greater than 100 kilograms—should be increased from 25 years and $250 000 to life imprisonment and $500 000. We do not accept that, Ms President.

However, I will be moving to increase the monetary penalty to $500 000 and leaving the maximum imprisonment at 25 years. In practice, if the court sees fit to impose the maximum penalty of 25 years, given the reform to the parole system currently before the House of Assembly, the persons so convicted will serve almost 17 years, automatic remissions for good behaviour notwithstanding. When they are released at the end of that 17 years, they will still have stringent conditions of parole. That is substantially more than anybody has served for the crime of murder in this State, to the best of my knowledge, during the past 20 years. So, I would suggest that that penalty at $500 000 and 25 years for trafficking in cannabis will again be, with the exception of Queensland, the most severe penalty in the country.

The Hon. Mr Griffin has a further amendment on file with regard to trafficking in other illicit drugs. He proposes that the penalty for that should be life imprisonment and $500 000. I have carefully considered that matter. I have discussed it particularly with the Attorney-General and there has been consultation with the Premier. I am happy to be able to tell the Parliament that formally, as a Government, we accept that amendment. I am not sure in practice what the difference will be between life imprisonment and 25 years. That will be substantially at the discretion of the courts. However, I would both make and take the point that if the court imposes, for example, a non-parole period of 40 years, even with the one-third remission for good behaviour, the person attracting that penalty will serve almost 27 years and still be subject to conditions of parole at the end of that period. I point out that again, with the exception of Queensland which has a mandatory life sentence without remissions, that will again make us the State in Australia with the highest penalty.

The Hon. K.T. Griffin interjecting:

The Hon. J.R. CORNWALL: No, let us be clear about the position in New South Wales. I do not believe that the Hon. Mr Griffin misled us there deliberately, but he was wrong perhaps in making the generalisation that we would be moving to the same position as New South Wales.

In New South Wales, for possessing amounts of heroin greater than 4 grammes but less than 1 000 grammes the maximum penalty is $200 000 and 15 years imprisonment. The more severe penalty of $500 000 and life, the penalty that we are proposing to go to, applies only in respect of seizures greater than one kilogram. We will be imposing that penalty under the proposed amendment and its administration for amounts of heroin in excess of 300 grammes; so we will, in fact, be tougher than New South Wales and for that I make no apology, as I think that that is appropriate.

The reality is that, given our position in South Australia, removed as we are substantially from the major centres of drug trafficking at this time, a seizure of one kilogram would be absolutely exceptional. I only hope that we can keep it that way. If, in fact, the move to life imprisonment and a maximum fine of $500 000 and confiscation of assets can serve any purpose at all in keeping us relatively better off than New South Wales then I, for one—and I know this applies to everybody in this Council and every right thinking South Australian—believe that we are doing the right thing. Let us be clear that the Government accepts that particular amendment, and does so with alacrity. We accept that it was moved in a spirit of wanting to use the legislative approach to the greatest extent possible to curb trafficking in illicit drugs.

The other amendment that the Hon. Mr Griffin has on file refers to trading in illicit drugs other than cannabis: he proposes that the current penalty of $100 000 or imprisonment for 25 years should be lifted to $200 000 or imprisonment for life. Again, we have considered that amendment, but as a Government are unable to accept it. We propose that imprisonment for 25 years should remain as it currently is, but I will be moving an amendment to double the monetary penalty to $200 000. So, in short, when this Bill emerges from this Chamber to go to the House of Assembly we will have reinstated penalties for trafficking and trading to the highest level in mainstream Australia. As I have said previously, they are not at the level of the penalties that exist in Queensland, because I do not believe that any right thinking member of this Parliament would want to see us impose 15 year penalties for simple possession of cannabis.

The other matter I can canvass at this stage, at least in general, is the way in which it is proposed the expiation scheme should work. There has been great speculation about the scales of justice, with policemen on the beat carrying $3 000 scales on their belts. People have tried to mock this matter to some extent, I think rather irresponsibly. Nobody has really waited to hear what we were able to negotiate. The principle was put up, of course—

The Hon. K.T. Griffin: Negotiate with whom?

The Hon. J.R. CORNWALL: I will tell the honourable member. The principle was put up in clause 10, and we immediately began negotiations with Assistant Commissioner, Crime, Kevin Harvey, and other senior commissioned officers of the Police Force. We negotiated with the analysts, botanists, and all of the people who would be involved, as to how we could get a simple, practical scheme. Let me say that it will operate as follows: the mechanisms for the operation of this offence and the appropriate amounts, as I have said, have been discussed with the police and other interested parties and we are confident that the scheme can be made to operate satisfactorily. The proposed expiation scheme highlights the way in which the administrative aspects will work, and I will described that in some detail in a moment.

Regulations will be required to set amounts for varying types of offences. The Bill imposes a 60 day period for payment of the fee. The administrative arrangement for disputed amounts, and so forth, will be implemented by the police as part of their administrative instructions. Those will be written instructions clearly set out for every member of the force. The expiation offence, of course, does not apply, first, to minors (that is, those under the age of 18 years) or, secondly, for smoking (as against possession) in a public or prescribed place. A public place is defined at law as 'a place to which the public can and do have access'.

It does not matter if they come at the invitation of the occupier or merely with the occupier's permission, or whether some payment is required before access can be had. That is the understanding in the law of 'public place'. This will cover streets, parks, restaurants, open air concerts, and so forth. If there is any doubt—for example, taxis—the Government can declare the interior of a taxi to be a prescribed place for the purposes of the provision.

With respect to the cultivation of cannabis, the police have been concerned that the phrase 'commercial purposes' as used is too vague. Parliamentary Counsel advises that this is the appropriate term and that it clearly covers any situation, whether a sale or barter occurs. The proposed expiation fee for cultivation, that is $150, is consistent with recent court cases. In February 1986 the Supreme Court on appeal substituted a fine of $150 for a person found growing 60 cannabis plants in his garage (the original fine was $400).

The police will have the discretion whether to charge for sale or supply under section 32, or issue an expiation notice.

It should be stressed that the matter is entirely within their discretion, based on the facts of each individual case. Currently, due to the amendment of section 43 (2) of the Crimes (Confiscation of Profits) Act 1986 introduced into this place by my colleague the Attorney-General, the police already have a discretion whether or not to proceed summarily or by indictment in respect of cultivation.

Turning to the proposed expiation scheme, it is proposed that for cannabis there be two categories of expiation fee —$50 and $150 as follows: up to 25 grams, the expiation fee will be $50; from 25 grams up to 100 grams the expiation fee will be $150. That system will operate with minimum administrative costs by relying on an agreed weight. In cases where the seizure is clearly less than 25 grams—for example, a small bag or one or two joints—a notice will be issued directly to the offender. He or she can elect to pay the amount of $50 within 60 days or contest the matter.

Where the amount is considered to be greater than 25 grams the police will issue a notice with a higher amount of $150. That notice will tell the offender that he or she can contest the weight by filling out a statement to that effect, which will be on the back of the notice. This notice must be returned to the police within 28 days of the seizure. In such a case the seizure will be weighed by the analysts and a final decision on the weight made.

If that seizure is less than 25 grams, the fee will be reduced to $50. If not, the offender will be advised accordingly. If he or she fails to pay within 60 days of the seizure, a summons will be issued. It is anticipated that a dispute will not be a common occurrence. Statistically 25 per cent of seizures, on a rough estimate, are within the 25 gram to 100 gram area, and 50 per cent are less than 25 grams. The remainder are over 100 grams.

For cannabis resin the scale will be: up to 5 grams, $50; from 5 grams to 20 grams, $150, with the system outlined above. For cultivation, a flat penalty of $150 will apply; for smoking in private, $50; for implements, $50; where that implement is seized together with cannabis or cannabis resin, $10.

In relation to the further two points that I should make, first, this scheme involving 28 days and 60 days has been introduced in order to cater for the person who has a change of mind or a change of heart. I am sure that on some occasions at least it will be argued that a policeman had said, 'I estimate that to be 50 grams—what do you think?', and that the person involved had agreed at the time, but had later said, 'There I was, the policeman was six foot two and 16 stone and I felt threatened and therefore under pressure to agree, but I have now changed my mind.' In the event that a person changes their mind as to the agreed weight—and I suspect that this will be quite uncommon—within a 28 day period, administratively we will be able to cater for that with a minimum of fuss.

Secondly, let me explain the proposed procedure when a person is busted, apprehended, with an amount of cannabis: that cannabis will be placed in a sealed 3M bag. The police are very anxious to obtain these, anyway, and had intended to use them under the existing law, particularly in relation to cannabis seizures. It protects the police officer who is apprehending the person for possession. It protects him or her from any allegation later on that an amount was substituted or that another substance was substituted. So, there is protection for the police officer in using these simple, sealed bags, which are now commercially available. Furthermore, we are told by the analysts that the period of 28 days is about the maximum time before desiccation takes place, that is, a loss of weight through loss of water, or deterioration of marijuana occurs to the extent that a botanist could not reasonably give an expert opinion that it was, in fact, cannabis.

So, following discussions, the relatively simply scheme, as outlined, was devised. Details will be in the Administrative Instructions issued to every police officer in this State. As we are going to agreed weights, rather than asking people to accurately weigh the cannabis to the nearest 10, 50 or 100 milligrams, as the case may be, it will be relatively quite simple to administer.

The Hon. K.T. Griffin: Why can you not put the expiation fee in the Statute rather than doing it this way?

The Hon. J.R. CORNWALL: Because we would like to retain some flexibility in the matter. I think that we have in the Controlled Substances Act, based on two years or 18 months of experience, undoubtedly the best and most comprehensive legislation in the country. Further, the range of amendments (and I am not talking about the expiation fee in particular) involves penalties up to and including life imprisonment, a fine of $500 000, and confiscation of assets for trafficking in illicit drugs other than cannabis. I know from going to ministerial committees and drug strategy meetings that we have the best, and most practical, progressive, flexible and sensible legislation in the country and that it is amongst the best in the world. Despite those facts, let me say that we are not naive enough to believe that the legislative approach alone is the solution to a very complex set of social problems.

If the law and order approach in isolation were a workable solution, why then would there be an estimated 180 000 heroin addicts in the city of New York alone? I have never been able to understand why people repeatedly try to buttress their arguments by referring to the United States of America.

The Hon. L.H. Davis: You used it for The Second Story, as I remember.

The Hon. J.R. CORNWALL: That had nothing to do with the legislative approach.

The Hon. L.H. Davis: New York is in the United States.

The Hon. J.R. CORNWALL: That had nothing to do with the legislative approach. We took the best elements of the philosophy and the policies underlying The Second Story in the approach—

The Hon. L.H. Davis: And wasted hundreds of thousands of dollars. It's disgraceful.

The Hon. J.R. CORNWALL: The man is a fool.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: Ms President, when you control him and when he is finished, I will continue.

The PRESIDENT: I have called for order; all interjections should cease.

The Hon. J.R. CORNWALL: We had the spectacle of President Reagan and his wife Nancy making impassioned speeches in their fight against drugs. However, there is currently in the United States an epidemic of substance abuse and illicit drug use the like of which the world has never seen before. At the same time as the President makes these impassioned pleas, he is slashing funding for drug prevention and treatment programs by between 30 and 40 per cent. Practical programs in this sort of situation are replaced by TV rhetoric and C grade acting performances. As a result, as I said, the United States now has a problem of previously unknown proportions.

In this State we need (and indeed have developed) a comprehensive strategy to tackle a complex set of problems which manifest themselves in substance abuse. I canvassed when I introduced the Bill some of the initiatives in the prevention and early intervention, treatment and rehabili-

tation that the Government has taken and is developing, and I do not propose to go over them again. Incidentally, it is relevant to this debate to point out that funding for The Second Story—Australia's most progressive adolescent health centre—comes from the national campaign against drug abuse budget. So, The Second Story itself is one of the major initiatives in the fight against substance abuse in this State.

I make a plea to members opposite that we do not debase the whole drug program and strategy into a sniping political exercise. This has already begun to occur in the Eastern States, fuelled by the pontificating of self-ordained leaders in the drug war. One has only to sit down and talk to some of the victims of substance abuse to realise just how complex the underlying causes of the problem are. I was privileged only a couple of weeks ago to spend some time with the staff, volunteers and clients of two therapeutic communities—the Buttery on the New South Wales far north coast and Mirikai at West Burleigh in Queensland.

The Buttery is a residential drug rehabilitation centre for up to 22 residents in a rural setting. Under the very capable direction of Caroline Stoney, residents are offered support and understanding in a drug-free environment. Based on the 12 step recovery program of Narcotics Anonymous—a movement which is gathering great support around the country—residents are given space and time to learn and experience new ways to live. The second half of the six month program aims to consolidate and build in added responsibilities to assist in a person's return to the community.

In South Australia we are very fortunate in having successfully recruited Ms Stoney's predecessor, Mr Andrew Biven, to run our own drug free therapeutic community at Ashbourne, which is currently going through the planning process. Mirikai, under the capable direction of John Dowd, is conducted by community support through the Gold Coast Drug Council. The Mirikai community is located at West Burleigh. The centre offers drug free detoxification, individual and group therapy, excercise and relaxation classes and health education programs.

Clients participate in the running of the house, relearning normal living and social skills. The Mirikai slogan 'Hugs not drugs' says it all: people are made to feel worthwhile, to feel wanted. They are assisted in a family atmosphere to rebuild their self-esteem and take their rightful place back in the community. I might say that, when one speaks to John Dowd and his volunteers and asks them what they think of the Queensland drug laws, many of the things that they say are not printable. People at the coalface will tell just how grossly counterproductive and dreadful are the new drug laws in Queensland.

I was privileged also, while I was at Mirikai, to speak to a group of clients who came from a wide variety of backgrounds. When one talks to people who have gone past experimentation and moved into the sub-culture—which I suspect no-one on the other side has ever taken the trouble to do, based on the extraordinary ignorance that they have shown during their contributions to this debate—one realises that they have really been on the merry-go-round.

There is no loyalty to a particular drug: it involves prescription drugs, marijuana, alcohol, narcotics, amphetamines—you name it, in varying combinations or all together. One young man said that he had spent the past 12 or 18 months on a national tour of doctors' surgeries. They all spoke in glowing terms of the Mirikai program and, having spent some time talking to the Director, I can see why it is not hard to understand why the clients are so enthusiastic.

A particularly interesting aspect is the extent to which the local community has got behind the program. The funding is primarily by public donation and there is extensive voluntary community involvement in the day-to-day running of the centre. I have digressed somewhat, Ms President, but I make no apology for doing so. I wish to emphasise the importance of not taking a blinkered approach to the whole area of drug abuse.

We must never glibly believe that the legislative solution will solve all our problems. We must look at the underlying causes of which substance abuse is a symptom. I would be the first to say that we must pursue with full vigour the scum who trade and traffic in and prey on other people's fallibility and vulnerability. However, we also need to be realists and put things in a contemporary perspective, as this Bill seeks to do. Again, I urge members to support it.

Bill read a second time.

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

That it be an instruction to the Committee of the whole Council on the Bill that it have power to divide the Bill into two Bills, one Bill comprising clauses Nos. 1 to 9 and 11 to 15, and the other to comprise clause No. 10, and that it be an instruction to the Committee of the whole Council on the No. 2 Bill that it have power to insert the words of enactment.

I have moved this motion because, as I indicated during the second reading debate, I believe that it is important to refer that part of the Bill dealing with on-the-spot fines for certain marijuana offences to a select committee to give the public an opportunity to present a point of view on this issue. I do not think that it is appropriate now to debate the issue of a select committee. If I am successful on this motion, there will be an opportunity later to debate the question of the select committee.

If I am not successful on this, then I shall move a contingent notice of motion, for which I will then need to seek a suspension of Standing Orders, to enable me to test the feeling of the Council on reference of the whole Bill to a select committee. Therefore, the appropriate course is to deal with the contingent notice of the motion that it be an instruction to the Committee to divide the Bill. If that is not carried I will then want to proceed, before we go into Committee, with another procedural motion.

The Hon. J.R. CORNWALL (Minister of Health): The Government does not intend to support the contingent notice of motion moved by the Hon. Mr Griffin. It is not our intention to support the splitting of the Bill—nothing would be gained by that. The public debate has ranged over a wide area for a very long time. In terms of looking at these issues, they have been under the microscope now for something like 16 years. It is interesting to reflect, when I say 16 years, that as recently as 1970, under the legislation that then existed in this State before the introduction of the Narcotic and Psychotropic Drugs Act, that the penalty for possession of marijuana and heroin was the same, so in fact one could possess relatively large amounts of one or the other and they attracted the same penalty.

It is very interesting to look at the history of the various attempts not only in this State or country but around the world to grapple by the legislative method with this very complex set of social problems that I described earlier. It is pretty clear that by and large the matter has been discussed, debated, dissected and scientifically examined with greater intensity than almost any other contemporary problem and has been looked at in every aspect from the legislative perspective to the psychopharmacology of marijuana. I do not believe that anything is to be gained by splitting the Bill or referring it to a select committee either into the whole Bill or into the expiation aspects of it. We do not

intend as a Government to support the contingent notice of motion.

The Hon. M.J. ELLIOTT: I have made my views clear. As in the case of the Minister of Health, I do not believe that there is any new important information that has not been canvassed over a long time likely to come forward to a select committee. When all is said and done, certain philosophical attitudes will come to bear and they are not likely to change, certainly not with the Democrats or the Government. It is one of the cases where a select committee would be nothing more than a point scoring exercise with no new information coming forward. I could not support such a move.

The Council divided on the motion:

Ayes (9)—The Hons. J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn, K.T. Griffin (teller), C.M. Hill, J.C. Irwin, R.I. Lucas, and R.J. Ritson.

Noes (10)—The Hons. G.L. Bruce, J.R. Cornwall (teller), M.J. Elliott, M.S. Feleppa, I. Gilfillan, Carolyn Pickles, T.G. Roberts, C.J. Sumner, G. Weatherill, and Barbara Wiese.

Pair—Aye—The Hon. Diana Laidlaw. No—The Hon. B.A. Chatterton.

Majority of 1 for the Noes.

Motion thus negatived.

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

That this Bill be referred to a select committee; that the committee consist of six members; that the quorum of members necessary to be present at all meetings of the committee be fixed at four members; and that Standing Order 389 be so far suspended as to enable the Chairman of the select committee to have a deliberative vote only; and that this Council permit the select committee to authorise the disclosure of publication as it thinks fit of any evidence presented to the committee prior to such evidence being reported to this Council.

I move this motion because I was unsuccessful in my last motion that it be an instruction to the Committee enabling the splitting of the Bill into two parts. If the Bill had been split it was my intention to move during the course of proceedings that the on the spot fines provision of the Bill be referred to a select committee, and on that basis the remaining parts of the Bill could have been debated, decisions taken, amendments moved and either carried or defeated as the numbers from time to time indicated, and some of the good apsects of the Bill could have been passed for consideration in another place without any delay.

The other part of the Bill dealing with on the spot fines for marijuana use I could have attempted to have referred to a select committee because I genuinely believe that, although the issue of marijuana itself has been the subject of widespread debate in the community and the question of decriminalisation or legalisation has been the subject of a number of debates in the community, we are now talking about a totally new concept concerning drug offences, that is, the on the spot fines procedure for simple possession and other related offences in respect of a drug—marijuana.

Everyone is acknowledging that marijuana has harmful effects and that it ought not to be used by members of the community because of those harmful consequences that will flow from the use of that drug. I have already indicated in my second reading contribution that there is well established evidence of progression from marijuana to the harder drugs. There is much concern in the community about the on the spot fine concept. A number of people and organisations have expressed that concern to me, to the Minister of Health and the Premier, but they are frustrated in the sense that it is virtually a one way traffic, that is, they express the concern and that is where it rests.

It is my view that this important social question has the potential to affect the lives of many thousands of South Australians and many young people in particular, and it is an appropriate issue upon which members of the community can express their views, whether in opposition to the proposal or in support of it. A considered view then can be achieved as a result of all the material being presented on that issue.

The Minister's indication and that of the Australian Democrats is that they will not support a select committee, and I am gravely disappointed that that is their attitude. We have select committees on issues like prostitution, poker machines and other social questions. The issue of on the spot fines for marijuana use is equally important, and I believe that a select committee will give the electors one of those rare opportunities to present their point of view and information on the proposal and for the evidence to be tabled for the public benefit in the Council and then for the final decision then to be taken on the on the spot fine concept.

I am strongly of the view that there ought to be a select committee. I would hope that the majority of the Council would support my motion. I do not agree with the Hon. Mr Elliott that there is nothing more to be learned or gained from it. That is a naive and ineffective response that ignores the fact of grave concern within the community about this matter.

It also ignores the findings of the Williams Royal Commission with respect to marijuana, when it reported in 1980 that there should be a 10 year research program into the effects of marijuana before any changes should be made to the law. As recently as April last year, our own Premier (Mr Bannon) said as a result of the drug summit that there had been unanimous agreement between the Prime Minister and all Premiers—Liberal, Labor and National Party—across Australia that there should be no change to the cannabis law at the present time. In that context, I believe that there is a very strong argument in favour of a select committee.

The Hon. M.J. ELLIOTT: My opinions on the need for a select committee have already been made quite clear, so I do not think I need to speak any further other than to say I will be opposing the setting up of such a committee.

The Hon. J.R. CORNWALL (Minister of Health): The Government also opposes the establishment of a select committee for the reasons which I outlined briefly a short time ago.

The Council divided on the motion:

Ayes (8)—The Hons. J.C. Burdett, L.H. Davis, Peter Dunn, K.T. Griffin (teller), C.M. Hill, J.C. Irwin, R.I. Lucas, and R.J. Ritson.

Noes (9)—The Hons. G.L. Bruce, J.R. Cornwall (teller), M.J. Elliott, M.S. Feleppa, I. Gilfillan, Carolyn Pickles, T.G. Roberts, G. Weatherill, and Barbara Wiese.

Pairs—Ayes—The Hons. M.B. Cameron and Diana Laidlaw. Noes—The Hons. B.A. Chatterton and C.J. Sumner.

Majority of 1 for the Noes.

Motion thus negatived.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. K.T. GRIFFIN: The Act is to come into operation on a day to be fixed by proclamation. This clause also gives the Governor power, by proclamation, to suspend the operation of certain provisions of the Act. When is the Act likely to come into operation and, secondly, what clauses

are likely to be suspended from operation, for what purpose and to what dates?

The Hon. J.R. CORNWALL: In practice, we might bring in the regulation making powers earlier to allow us to get the regulations in order before the rest of the Act is proclaimed but, speaking generally, I anticipate that all the provisions will be proclaimed in the first quarter of 1987.

Clause passed.

Clause 3 passed.

Clause 4—'Application of Act.'

The Hon. K.T. GRIFFIN: Section 5 of the principal Act provides that the Act binds the Crown, and subsection (2) provides that the provisions of the Act shall be in addition to, and shall not derogate from, the obligations imposed by the provisions of any other Act. Subsection (3) provides that the provisions of the Act shall not limit or derogate from any civil remedy at law or in equity The Minister's second reading explanation stated that clause 4 is a consequential amendment, but it seems to be an amendment of some substance. Unless there is a good reason why this provision is to be removed, I intend to oppose the clause. The principle under subsection (3) seems to be perfectly reasonable in the context in which it appears, so I prefer that it be left in rather than walking along a dark road, not knowing why it is proposed that the provision be deleted.

The Hon. J.R. CORNWALL: Our advice is that it should be deleted as part of what is proposed in section 5; in fact, clauses 4 and 5 ought to be seen as running together. Section 5 (3) states:

> The provisions of this Act shall not limit or derogate from any civil remedy at law or in equity.

This has been deleted on the advice of Parliamentary Counsel, because in view of the immunity from liability provision in clause 5, this provision is no longer accurate. In particular, clause 5, by providing immunity from liability does derogate from rights of law, in particular defamation, by providing a statutory immunity.

Perhaps it might be appropriate at this stage to explain why clauses 4 and 5 are proposed. The Hon. Mr Griffin referred to this proposal as the 'defamation proposal'. That is not so.

The Hon. K.T. Griffin: That is the consequence of it.

The Hon. J.R. CORNWALL: It is, but for very good reasons. The Controlled Substances Advisory Council recommends rescheduling, and so forth, and that rescheduling, and acting on some of the recommendations which it makes, could adversely affect a manufacturer's profit. My advice is that this could then leave the council open to being sued.

The advisory council in monitoring the operation of the Act may also wish at some time to make a public statement regarding a potentially hazardous substance or device. Again, if it does that without immunity, it could leave itself open to being sued. It is far better and far more flexible for it to be able to issue a warning about a product, hazardous substance or device than it is to leave that to regulation. The regulation making process may, in certain circumstances, be far too slow and ponderous. In those cases a power of exemption from liability, on the advice that I am given, is highly desirable.

If it is argued that this does not come within the monitoring and review functions of the council, its charter could be widened to ensure that the amendment would be unnecessary, or it could be assigned the function by section 11 (1) *(d)*.

I point out that the Commissioner of Consumer Affairs has a similar protection. There are times when he has a similar role: he may wish to issue a public warning about a particular product or device which may be dangerous, for example. He is granted immunity specifically for that purpose. I suppose that a good faith promise could be added if the Committee particularly wished to qualify the power. However, I do not think that that is particularly desirable. I think that the way to proceed is the way proposed.

The Hon. K.T. GRIFFIN: I have some very real concerns about enabling any body to make statements that might be defamatory and to do so under what is in effect absolute privilege. That means that they can make the statements without necessarily making them in good faith. It may be rare that that occurs, but even statements made in good faith may be made on a basis that is false or inaccurate. I know that the Commissioner of Consumer Affairs has power under the Prices Act, but that provision has been controversial.

I remember that only a year or two ago, when the Commissioner made a public statement about a swimming pool company and had not checked his facts, he got egg on his face because the swimming pool company had been taken over by another group and had no relationship then to the body that had been the subject of the public criticism. It did a lot of harm to that company's business. There is always an argument about the Commissioner making public statements as to whether the making of a statement causes the company to go broke, or the company is going broke and, therefore, the Commissioner has to give a warning. Therefore, it is a chicken and egg situation.

Looking at the functions that have been given to the Advisory Council under section 11, I would not have thought that it was the function of that Advisory Council to make public statements on particular drugs—the recall of drugs, side effects of drugs, or issues like that. It is an Advisory Council to keep under review substances and devices that are subject to the Act, and to advise the Minister on the measures that should, in the opinion of the Advisory Council, be taken in relation to imposing, withdrawing or varying controls, and to monitor the administration and operation of the Act.

If the Advisory Council is doing that and gives the Minister advice, and if the advice is defamatory, then the Advisory Council is covered by qualified privilege under the law relating to defamation. I do not believe that there is any doubt at all that there is no liability in the Advisory Council, its members or the Crown where the Advisory Council makes that sort of statement. If, by making a statement to the Minister which prompts the Minister then to have a regulation promulgated, and it causes a loss of profits, there cannot ever be an action for damages against the Advisory Council, the members or the Crown for the loss of profits that occurs.

If there is to be a power to make statements about the recall or suspension of drugs from being available for public purchase, then could I suggest to the Minister that it would be more appropriate to put a specific provision in the Act to deal with that, giving that power to the Minister or the Health Commission—and I think it is probably more appropriately the Health Commission, rather than the Advisory Council or the Minister, because the Health Commission would have the day-to-day responsibility for the oversight of the operation of this legislation. It is wrong in principle to give an Advisory Council this wide ranging immunity from liability in circumstances which cast the net very wide.

What can occur is that the Advisory Council, even if it is beyond its charter, could make a public statement not just on the effectiveness of a drug, but on any issue at all, whether it is related to the administration of the Act or otherwise and, if it is defamatory, be given immunity from liability. Only Parliament and the courts have that sort of

absolute privilege, and I do not think that anyone could disagree that it is wrong in principle to give that wide ranging power to a body such as this, or any other advisory council or Government body. It does not matter who is in power, the principle should be the same.

I have a very grave concern about this matter. I called it a licence to defame, and I was not being facetious, but trying to make a very strong point, namely, that it will enable an advisory council to have this very wide ranging immunity from any liability at all. That is what is provided: it can make any statement and be immune from liability. Relating that back to clause 4, if the removal of subsection (3) of section 5 of the Act is designed to be complementary to the amendment in clause 5, I would have thought that subsection (3) of section 5 could have remained but have been made subject to proposed new section 11a, thereby not totally removing subsection (3) but providing that it does not apply only in that special circumstance referred to. But, as I have indicated, I have a basic objection to clause 5, for the reasons that I have given. I really urge the Minister, on the question of principle, to give more consideration to it, and perhaps even consideration of the two clauses could be postponed so that the matter could be further explored, now that I have had the opportunity to put in detail the concerns which I have and the issues which I think the clause raises.

The Hon. J.R. CORNWALL: I want to make three points, which I hope might assist Hon. Mr Elliott and the other Democrat in deciding on this issue one way or the other. I do not intend to get locked into mortal combat with the Hon. Mr Griffin on this matter. I think that the matter that he has raised is important and that it needs airing in this place.

My first point is in regard to the charter and functions of the Controlled Substances Advisory Council. The functions of the council are set out in section 11. Section 11 (1) *(d)* refers to 'such other functions as the Minister may assign to the advisory council'. That is very wide ranging indeed. Any number of functions can be assigned to the advisory council and, so, it is not true to say that it has a limited charter. Under the spirit and intent of the legislation it has, quite intentionally, a very wide ranging charter.

Secondly, of course, it has very substantial powers. I am sure that the Hon. Mr Gilfillan would recall that he moved an amendment—and was supported by the Opposition—when the original Controlled Substances Bill was considered in this Chamber. Under the legislation, the amounts of drugs that attract certain penalties—for example, the levels of cannabis, heroin, cocaine, and so forth, which are deemed to be the amounts that attract various penalties for possession, trading and trafficking—are set by the Controlled Substances Advisory Council. That gives it very substantial power. The council can most certainly override the Minister in those matters. It can make a recommendation that might cause the Minister to scratch his head and say, 'That is not what I really wanted,' but there is very little that the Minister can do about it. So, clearly, it was the intention of this Council and the Parliament that the Controlled Substances Advisory Council should have a substantial degree of autonomy.

My second point relates to the timing of a statement *vis-a-vis* the promulgation of regulations. The simple fact is that to promulgate some regulations takes up to two or three months. If it comes to the attention of health professionals in the public health area that a particular drug or substance is believed to be hazardous to the well-being of human beings, the circumstances can arise where it is highly desirable to make a public announcement warning people of the possible dangers involved.

If it was brought to the attention of the Controlled Substances Advisory Council by public health personnel that a particular substance was under suspicion, the sensible thing to do would be to refrain from using that substance or product. In my submission it is highly desirable that the Controlled Substances Advisory Council ought to be able to do that: to err on the side of caution where human life and well-being may be involved, rather than wait until a particular substance is proved beyond all reasonable doubt to be either hazardous or safe. I think that flexibility really is highly desirable.

Thirdly, the Hon. Mr Griffin says that, if the recommendation is made to the Minister of Health (or to the Minister to whom the legislation is assigned), it would attract qualified privilege. I refer to the very real matter of credibility. I think it is stating the obvious to say that the Chairperson of the Controlled Substances Advisory Council who issues a public statement with regard to the possibility of a certain chemical, drug or substance being toxic or hazardous would attract substantially more status and credibility in the community than would the Minister of Health of the day (no matter who he or she may be). It just happens to be a fact in this country that politicians by and large are not held in particularly high regard. In those circumstances it is entirely possible for the public to simply yawn a little and say, 'The Minister is at it again' whereas, it would be most unlikely that they would take that sort of attitude if the announcement was circulated by the Chairperson of what is a technical and highly skilled body. The members of the advisory council are appointed because of their special skills and qualifications. I think, for the three reasons I have given, that the amendments are desirable.

The Hon. K.T. GRIFFIN: In drawing attention to the fact that other functions may be assigned by the Minister to the Advisory Council, the Minister is really strengthening my argument, that is, that the Advisory Council can make public statements on a range of matters, some of which may not be immediately within its purview but which at some time in the future may be assigned to it by the Minister. That creates a great deal of concern, because it may not be a statement in relation to the side effects of a particular drug or preparation; it may be in relation to a particular manufacturer or to some other aspect of the industry, or even something unrelated to the industry.

It is that wide ranging power to make a statement without any fear of being called to account that worries me. Ultimately, it is a matter of accountability. We must be very careful before we give anyone—other than Parliament and the courts—the power to make public statements which may be defamatory and against which no-one has a right of recourse either in the courts or in the Parliament.

The Commissioner for Consumer Affairs can make a statement publicly with impunity, and he is not subject to any recourse, any action for defamation or damages, even if it was quite irresponsible, factually wrong or even technically wrong. That very much concerns me. We are talking about the rights of individuals and corporations in the community. We must be talking about ensuring that we do not have the heavy hand of government or any other body calling people names or defaming them in other ways with them not having any recourse at all to put their point of view with the same level of impact which the original statement might have and, if the original statement is wrong, to seek recourse.

I think as a matter of basic principle that it is wrong to put individuals in the community in that position. Even

though the Controlled Substances Advisory Council has a very strong position in terms of making regulations, that is irrelevant, I would suggest, to the question of immunity from any liability for making a statement. It is merely advising the Minister. Although it may take two or three months to get a regulation through, I would suggest that, even with the Controlled Substances Advisory Council involved, if there was something urgent and of public importance, it could be done much more quickly.

If the Minister wishes to set up a scheme by which there can be public announcement about the side effects of drugs, much as the power which the Food and Drug Administration has in the United States of America, I would suggest that this is not the way to go about doing it; it ought to be a detailed and specific legislative scheme which we could all debate and give consideration to the implications and which we could have considered by those in the community who would be affected by it.

I think that is also important: that, if there is to be a legislative scheme which will enable this announcement of possible side effects of substances to be made, there ought to be some consultation with industry, the consumer groups and others in the community. We ought to be able to see that there is proper consultation on the statement to be made publicly with, say, a manufacturer or other person before it is made.

The difficulty we have, if we give this power or immunity to the Controlled Substances Advisory Council, is that there is no regime by which the advisory council is required to consult with the person or company that is likely to be prejudiced by the statement which is being made. Again, I think that is wrong. That is giving too much power to a body such as the Advisory Council and if the Minister desires to proceed with this sort of concept, let us have a specific detailed scheme which ensures that there is a proper balance and that the parties likely to be affected have had an opportunity to put their point of view to the advisory council before the public defamatory statement is made.

They are the issues; they are important issues of principle. I am not arguing on a partisan political basis, but I am trying to draw attention to an issue which I think is one of justice and which, I would suggest with respect, has not really been fully explored by the Government and its advisers in respect of this issue.

The Hon. M.J. ELLIOTT: I believe that the intention of these clauses and the motivations of the Government in introducing such clauses are correct and I support them. However, the arguments put forward by the Hon. Mr Griffin have convinced me at this time that I should support his proposed amendments, not because I disagree with what the Government is attempting to do but with what is the likely outcome of it. The issue of accountability is important and some other suggestions made, such as the necessity for consulting with the companies affected, would also be useful. I suggest that it would be worthwhile if the Government took back these clauses for further consideration and I would support the principle of what is being proposed here in a Bill brought forward at a later time.

The Hon. J.C. BURDETT: I support the remarks of the Hon. Mr Griffin and the Hon. Mr Elliott. The proposed new section 11a is too wide. The immunity given in that proposed section is too wide; indeed, it is absolute. It is absolute immunity whether or not the statement is made in accordance with the Act or in accordance with the functions of the advisory council. The Minister referred to the power of the Commissioner of Consumer Affairs. The Hon. Trevor Griffin criticised that power and gave examples of where that power can go wrong. I support what he said but I point out that the immunity given to the Commissioner of Consumer Affairs under the Prices Act is much more constrained, restricted and specific than that proposed in the proposed new section 11a. Under section 49a (1) of the Prices Act the immunity given to the Commissioner or an authorized officer is where he makes a statement in good faith.

The Minister mentioned at the outset that there could be a good faith provision in the proposed new section 11a, but certainly it is in the immunity given to the Commissioner of Consumer Affairs. However, under proposed new section 11a the advisory council is given immunity whether or not it acts in good faith. The restrictions on the immunity of the Commissioner of Consumer Affairs are even greater than that. The Commissioner has to act in good faith and in the course of the administration of the relevant Act or the performance of his duties or functions thereunder. Unless he is doing that, he does not get the immunity. Section 18a (1) *(b)* of the Prices Act includes, amongst the functions of the Commissioner, the publication of reports, the dissemination of information, the taking of such steps, etc. If his statement is made in accordance with that function and made in good faith, he then gets the immunity. Under the proposed section 11a the advisory council gets the immunity, whether or not it has acted in good faith and whether or not it is acting in accordance with its functions and so on under the Act. That is a very absolute and broad immunity and should be restricted to the circumstances set out.

The Hon. J.R. CORNWALL: To some extent the Hon. Mr Griffin and his colleague have drawn a long bow in this issue. I would have thought that the problem could easily be overcome by adding the words after 'advisory council' in new section 11a 'in good faith, without malice and in the administration of this Act'.

The Hon. K.T. Griffin: I do not think that overcomes the problem.

The Hon. J.R. CORNWALL: If the council fails to act in issuing a statement late one Friday night because of concern about it attracting legal action and, as a result of that, some harm befalls members of the South Australian public, then it will not be upon my head.

I think that it is desirable. Let us have a look at who these allegedly wild men and women are—and more importantly their backgrounds—who are allegedly going to act maliciously or irresponsibly and to do down the good character of individuals, pharmaceutical companies and chemical manufacturers. If we look at the composition of the Controlled Substances Advisory Council, we see that one (the Chairman) is an employee of the Health Commission, so that is a senior and permanent employee in public employment; one is a medical practitioner, a profession that is not renowned for either radicalism or a tendency to be irresponsible; one is a member of the Police Force (and the same could be said of them), and two are persons who, in the opinion of the Minister, have qualifications and extensive experience in the field of chemistry, pharmacy or pharmacology.

Without naming who the present members are, they are experienced and highly qualified professionals in their fields. One member is a person who, in the opinion of the Minister, has extensive experience in the manufacture or sale of substances or devices to which the Act applies and that person, almost inevitably, comes from the manufacturing sector of the pharmaceutical and drug industry; two are persons who, in the opinion of the Minister, have a wide knowledge of the factors and issues involved in controlling the manufacture, sale and supply of substances or devices to which this Act applies; and one is, in the opinion of the

Minister, a suitable person to represent the interests of the general public, so out of nine people there is one consumer advocate.

By the very composition of that council, it is a very responsible and somewhat conservative body of experts. It is almost inconceivable that it could be viewed as a group of wild men and women likely to make malicious or inaccurate statements. I would have thought that, had we added the words 'in good faith and without malice in the administration of this Act', that would take care of the concerns expressed by members. However, I can count and, in the event that we do not have the support of the Democrats as expressed by the Hon. Mr Elliott, it is not my intention to call for a division.

The Hon. K.T. GRIFFIN: The Minister knows that we are talking about the principle in this Bill. We are not talking about—

The Hon. J.R. Cornwall: We are talking about the possible saving of lives. We are not into words.

The Hon. K.T. GRIFFIN: We are talking about a principle of justice. If the Minister starts throwing back at me that he will not be liable and I will be, I suggest that that is an irresponsible statement. We are not talking about individuals whom we know on the Controlled Substances Advisory Council right at the moment. We are making a law which will enable Controlled Substances Advisory Councils in the future to make defamatory statements with immunity. It is all very well to say, 'Let us add a few words now,' but it does not deal effectively with the other issues of consultation or the opportunity to put a point of view to the Advisory Council before the statements are made public. I think that we all know what happens with councils or committees. They get advice which sounds good, so they make the statement or act according to the information that they have before them. I think that that commonly happens. In all good faith they may make a statement which is basically wrong. I think that there have to be more safeguards than those now proposed by the Minister.

Clause negatived.

Clause 5 negatived.

Clause 6 passed.

Clause 7—'Prohibition of possession or consumption of drug of dependence and prohibited substance.'

The CHAIRPERSON: Both the Hon. Mr Griffin and the Minister have amendments to the same line of this clause. It is probably best to discuss both amendments and then decide on them separately.

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

Page 2, line 12—After 'is amended' insert as follows:

(a) by striking out from subparagraph (i) of pargraph *(a)* of subsection (5) 'two hundred and fifty thousand dollars and imprisonment for a term not exceeding twenty-five years' and substituting '$500 000 and imprisonment for life or such lesser term as the court thinks fit';

I appreciate the Minister of Health's indication in his second reading reply that he and the Government were prepared to accept at least some of my proposals for the increase in penalties for trafficking offences. My amendment deals with section 32 of the principal Act, subsection (5) of which sets the penalties. It relates to a person who contravenes the section, which is involved with the manufacture or production of a drug of dependence or a prohibited substance, taking part in the manufacture or production of such a drug or substance, the selling, supplying or administering of such a drug or substance, taking part in the sale, supply or administration of such a drug or substance or having such a drug or substance in his possession for the purpose of the sale, supply or administration of that drug or substance to another person. That is the core of section 32. There are then certain exceptions and qualifications but subsection (5) relates to a person who contravenes the section and sets the penalties, as follows:

Where the substance the subject of the offence is cannabis or cannabis resin—

(i) if the quantity of the cannabis or cannabis resin involved in the commission of the offence equals or exceeds the amount prescribed in respect of cannabis or cannabis resin for the purposes of this subsection—a penalty of both a fine not exceeding two hunded and fifty thousand dollars and imprisonment for a term not exceeding twenty-five years;

or

(ii) in any other case—a penalty not exceeding four thousand dollars or imprisonment for ten years, or both;

What I am proposing is that the first penalty of $250 000 be increased to $500 000, and imprisonment for a term of 25 years be increased to a maximum of life. The Bill is dealing with the second category by increasing the $4 000 to $50 000. The section goes on further;

Where the substance the subject of the offence is a drug of dependence or a prohibited substance (not being cannabis or cannabis resin)—

and then, in the first category, if it is a quantity exceeding the amount prescribed, in respect of that substance, with a fine not exceeding $250 000 and imprisonment for 25 years. I want to increase that to $500 000 and life imprisonment. In any other case—$100 000 or imprisonment for 25 years—and I am seeking to increase that to $200 000 or imprisonment for life as a maximum.

One can perhaps argue about maximum penalties and, as I indicated in my second reading speech, argue whether life imprisonment is likely to attract a longer period actually in prison than a fixed maximum penalty as an indication to the court. However, I tend to the view that the seriousness of the offence is such that life imprisonment is an indication to the court of a longer period than a fixed maximum term. I recognise that, in respect of murder, the period of life imprisonment has not actually meant life imprisonment, and that has been one of our criticisms over a long period, particularly during the time that the Parole Board had an absolute discretion to release lifers at any time that it felt fit. When we were in Government, we changed that to give the Governor in Council the final say as to whether the recommendation of the Parole Board ought to be accepted. In some instances it was not: it was rejected. Under the present regime, it is correct that the courts have in fact been imposing longer non-parole periods and, even with the automatic remission of a third for good behaviour, those longer periods of imprisonment for murder have been gradually growing.

So, because of the heinousness of the drug trafficking crime, life imprisonment and the higher maximum monetary fine are appropriate, because there are large profits to be made from trafficking in all sorts of drugs of dependence and prohibited substances. Those involved in that criminal activity ought to feel the full force of the law because of the misery they bring to so many people who become hooked on those substances. So, it is in that context that I move my first amendment, if that is the most appropriate way that the matter can be dealt with procedurally, and I move it believing that it is in the best interests of the community.

The Hon. J.R. CORNWALL: Is there any objection to my speaking to the amendments at large? One has to do that to put it in context. I will very carefully go through the three and spell out the very simple terms of what are the consequences. First, the amendment that I have on file and the first amendment that the Hon. Mr Griffin has on file both refer to trafficking in cannabis and cannabis resin. The existing maximum penalty for trafficking in cannabis in

excess of 100 grams is 25 years imprisonment and a fine of $250 000 and sequestration of assets at the time of apprehension and first court appearance, with eventual confiscation if the crime is proved.

In terms of imprisonment, 25 years should be seen in context. The prosecutors tell my officers that they are satisfied with the operation of the Act. It would be unusual for this crime, unless it was on a massive scale and could be shown to be part of an organised criminal operation, to attract the maximum penalty of 25 years imprisonment. Given that the courts have the power to set a non-parole period, a sentence of 25 years imprisonment can mean, in practice, almost 17 years imprisonment with stringent parole conditions even when the 17 years is up. That sentence is substantially greater than prisoners who have been given mandatory life sentences for murder have been serving in this State over the past 20 years. It is a draconian penalty, one for which the Government does not apologise but, in terms of imprisonment, on all the legal advice given to me and all the advice that is tendered by criminologists, it is adequate.

We are happy to double the monetary penalty. If people are trafficking in large quantities of cannabis, obviously large quantities of money are involved, so we are happy for that penalty to be increased well beyond the inflation rate in the past two years since the original Controlled Substances Act was passed. I have an amendment on file that proposes an increase in the monetary penalty to $500 000, and that is in line with the Hon. Mr Griffin's amendment to double the monetary penalty to $500 000. I submit that that penalty, which is still draconian by any standards, short of capital punishment, is adequate.

The second penalty is for trafficking in other illicit drugs, and that includes the hard drugs such as heroin, cocaine, the amphetamines and so on—drugs of addiction, drugs which have a real potential to wreck young lives and to set people on paths of addiction. Those drugs can not only ruin lives but also bring people to a premature end. We all have an understandable hankering, as I said in the second reading stage, to adopt a simple and draconian legislative solution to a very complex set of problems, but we must be aware that in this ongoing fight against substance abuse we have to get to the underlying causes, which are unemployment, uncertainty, and fear of nuclear war.

Our young people in the 1980s face any number of problems that young people in the 1950s and 1960s did not face. When people of our generation were at school we were normally asked, 'What are you going to do when you grow up? What are you going to do when you leave school?' The simple answer would be, 'Well, I would like to do law, medicine, veterinary science or follow another tertiary path' given that one had the ability to matriculate.

I add that in my day there were no quotas at the universities. I sometimes look back, reflect and wonder where I would be in this day and age. I certainly look at consultants of my period, medical students who were contemporaries of mine and who are now quite eminent in the profession, particularly in Queensland, and ask myself what would be their position in the 1980s if they were matriculants trying to battle into medical school. I think that the same could be said for one or two people who are eminent in the law.

The Hon. L.H. Davis: A vet wasn't cut throat in those days.

The Hon. J.R. CORNWALL: It still required a high level of intelligence: the standards have always been high. Nevertheless, if one could matriculate, a post secondary or tertiary education—provided of course, one's parents could afford it—was there for the taking. One could also choose to go into secure employment in a bank. One certainly cannot do that any longer, because automatic tellers have taken over. One could choose to go into secure employment in teaching. One certainly cannot do that any more.

The Hon. R.I. Lucas: This is a filibuster.

The Hon. J.R. CORNWALL: No, I am simply saying that we live in a very complex and difficult world and that it is difficult, indeed, both for parents rearing teenage children—and I have had a vast experience in that area—

The Hon. R.I. Lucas: Father of the year.

The Hon. J.R. CORNWALL: That is right.

Members interjecting:

The CHAIRPERSON: Order!

The Hon. J.R. CORNWALL: It is a complex and difficult area and we will not get there by simple legislative solutions. However, we are pleased as a Government, following due consultation, to accept the amendment moved by the Hon. Mr Griffin that would see trafficking in hard drugs—for example, quantities of heroin of 300 grammes or more—attract a penalty of life imprisonment and a doubling of the monetary penalty to $500 000. I stress 'and' not 'or' $500 000 and, again, of course, there is also confiscation of assets. That will, again, with the exception of Queensland, give us the most draconian penalty for that particular offence in mainstream Australia.

The third amendment proposed by the Hon. Mr Griffin is to increase the penalty for trading in illicit drugs from 25 years or $100 000 to life imprisonment or $200 000. I argue that that is excessive; I could argue that it is manifestly excessive. It would mean in practice that one could attract a maximum penalty of life imprisonment for trading in an amount of heroin, for example, as low as three or four grammes. That starts to move us towards the Queensland model. I repeat that I have nothing but absolute contempt for the criminal scum who trade and traffic in illicit drugs, but there is, of course, the inevitable element of the dealer addict. I do not believe that the dealer addict in possession of perhaps three or four grammes of heroin—although it is a substantial amount—should potentially attract a penalty of life imprisonment.

I am happy to accept that we should increase the monetary penalty from $100 000 to $200 000. However, I believe that the period of imprisonment of 25 years, which in practice can mean up to 17 years before becoming eligible for parole, even with maximum remission, remains a draconian penalty by almost any standards among western democracies.

The Hon. M.J. ELLIOTT: It is pleasing to see that all three Parties are agreeing on the need for harsher penalties for the traffickers of drugs. During my second reading contribution I said that we needed to carefully distinguish between the users and suppliers of drugs. I see the users as being the victims of a number of things, the first being our society. There are severe problems in our society, and not just unemployment and some of the other matters that have been alluded to so far. The more important problems are the selfishness and materialism of the world in which we are now living. Those are things that Governments, unfortunately, cannot easily address.

However, certain people prey on drug users, and they are the suppliers of drugs. I have no sympathy for them at all, although I think we need to distinguish between the suppliers of various types of drugs. For that reason, while I will be supporting the increase in penalties proposed by both the Hon. Mr Griffin and the Minister, I am of a mind to support the amendments proposed by the Minister.

The Hon. K.T. GRIFFIN: We are moving closer together on the question of penalties, and I appreciate that the

Minister has indicated that he is largely in support of the sorts of propositions that I have raised. With respect to cannabis and cannabis resin, and trafficking in over 100 kilograms, I cannot agree with the Minister that the 25 years should not be increased to life imprisonment. I really see that kind of trafficking in no different a category from trafficking in other hard drugs. The Minister has indicated over 300 grams of heroin. Both have the potential to do a lot of harm to many individuals. Although the quantities are different, the consequences are similar.

I want to insist on my amendment in relation to trafficking in over 100 kilograms of cannabis and cannabis resin for life imprisonment and a $500 000 maximum fine. The Minister has indicated support, for trafficking in other hard drugs such as heroin over 300 grams, for an increase to $500 000 and life imprisonment; and the trading in other hard drugs, he would agree with the penalty being doubled from $100 000 to $200 000, but leaving the 25 years at that figure.

I am inclined to agree, with respect to that, that that latter proposal is a reasonable proposition. I will certainly not seek to divide on that amendment. However, the one where there is still some disagreement I regard still as being sufficiently important to divide on if the Australian Democrats will not support the increase in the period of imprisonment for that particular trafficking offence relating to cannabis over 100 kilograms.

The Hon. M.J. ELLIOTT: Very briefly, I want to explain the rationale. I would distinguish the difference between the trafficking of marijuana and the trafficking of heroin in the same way that the difference is drawn between a murderer and a person who causes grievous bodily harm. The difference between the two drugs has probably the same sort of relativity as do those two crimes and, therefore, I want to draw at least some distinction between the two.

The Committee divided on the Hon. K.T. Griffin's amendment:

Ayes (8)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn, K.T. Griffin (teller), C.M. Hill, R.I. Lucas, and R.J. Ritson.

Noes (9)—The Hons G.L. Bruce, J.R. Cornwall (teller), M.J. Elliott, M.S. Feleppa, I. Gilfillan, Carolyn Pickles, T.G. Roberts, G. Weatherill, and Barbara Wiese.

Pairs—Ayes—The Hons J.C. Irwin and Diana Laidlaw. Noes—The Hons B.A. Chatterton and C.J. Sumner.

Majority of 1 for the Noes.

Amendment thus negatived.

The Hon. J.R. CORNWALL: I move:

Page 2, line 12—After 'amended' insert paragraph as follows:

'—

(a) by striking out from subparagraph (i) of paragraph *(a)* of subsection (5) 'two hundred and fifty thousand dollars' and substituting '$500 000';

Amendment carried.

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

Page 2, after line 14—Insert new paragraph as follows:

(c) by striking out from subparagraph (i) of paragraph *(b)* of subsection (5) 'two hundred and fifty thousand dollars and imprisonment for a term not exceeding twenty-five years' and substituting '$500 000 and imprisonment for life or such lesser term as the court thinks fit';

Amendment carried.

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

Page 2, after paragraph *(c)*, insert new paragraph as follows:

(d) by striking out from subparagraph (ii) of paragraph *(b)* of subsection (5) 'one hundred thousand dollars or imprisonment for twenty-five years' and substituting '$200 000 or imprisonment for life or such lesser term as the court thinks fit'.

Amendment negatived.

The Hon. J.R. CORNWALL: I move:

Page 2, after line 14, insert paragraph as follows:

(d) by striking out from subparagraph (ii) of paragraph *(b)* of subsection (5) 'one hundred thousand dollars' and substituting '$200 000'.

Amendment carried; clause as amended passed.

The Hon. J.R. CORNWALL: It has been put to me that the details relating to procedures for expiation relevant to clause 10 were first explained to the Committee this evening. Many members would like time to thoroughly examine those details, and I think that is a reasonable request. Therefore, at this stage I suggest that progress be reported.

Progress reported; Committee to sit again.

TOBACCO PRODUCTS CONTROL BILL

Adjourned debate on second reading.

(Continued from 23 September. Page 1058.)

The Hon. J.C. BURDETT: I support the second reading of this Bill. The adverse effects of smoking on health have been well established. The cost to the community of treating smoking-related conditions is enormous. The difficulty with Labor Governments is that they seem to think that all we have to do about any problem in society is to pass a law about it and that will fix it up. We are largely talking in this Bill about people who are doing something quite legal. It does not fix it up and, quite often, legislating for inappropriate things is counter-productive.

Overseas experience indicates that draconian measures—and some of the provisions in this Bill are quite draconian—do not work. Comparisons, for example, have indicated that the reduction in the incidence of smoking has been greater in some countries where tobacco advertising has not been banned than it has in other countries where it has been banned. This Bill has provisions about advertising, although I do not pretend that it bans tobacco advertising: that was the Hon. Lance Milne's Bill. This Bill does produce one of the most restrictive sets of provisions regarding the sale and use of tobacco that one will find. One of the things, Madam President, which disturbs me about the Bill is that it is not in all respects uniform with what has been done or is contemplated in the other States.

In the matter of packaging and labelling in particular we are dealing with a product marketed nationally and, in some cases, internationally. On the advertising aspects of the Bill I will only say that there are different views as to the extent to which the advertising of tobacco products influences the total consumption of tobacco products. Research paper No. 302 by Lester W. Johnson, published by Macquarie University, says:

> We find no statistical evidence that aggregate advertising has any effect on aggregate cigarette demand, a result which is consistent with the view that advertising in the cigarette industry is used as a brand switching device.

The Hon. Martin Cameron has dealt with the detailed provisions of the Bill most comprehensively, and I shall refer only to a few aspects. The provisions of clause 12 prohibiting the smoking of a tobacco product in a taxi which is carrying or is available to carry passengers for the payment of a fare are very intrusive on the rights of the owner or driver of the taxi, in particular. By no means all research indicates harmful effects from side stream smoking. Dr H. Valentin and Dr E.H. Wynder, at the conclusion of the Vienna Symposium on *Passive Smoking from a Medical Point of View* in 1984, said:

> Should law-makers wish to take legislative measures with regard to environmental tobacco smoke, they will for the present not be able to base their efforts on a demonstrated health hazard from environmental tobacco smoke.

But, more importantly, why cannot the taxi driver make his own decision about whether or not legal practices should be carried out in his cab? If patrons object to his decision, his custom will suffer. That is his decision—and properly so. There seems to be no reason why there should not be smoking and non-smoking taxis, as has been mentioned before. This would offer patrons a choice.

I next refer to the provisions in regard to sponsorship from tobacco companies. I do not know whether the Minister really expects tobacco companies to publish a warning on advertisements exhibited at events which they have sponsored, or whether he thinks that those warnings would be effective, anyway. It appears to me that the voluntary industry code has been effective, as the Hon. Martin Cameron has said.

For the reason that many aspects of the Bill are good, I support the second reading and will consider in the Committee stages the amendments which have been outlined by the Hon. Martin Cameron and any other amendments which may be proposed. I support the second reading.

The Hon. C.M. HILL: I also support the second reading and commend those on this side of the Council who have contributed to this debate. It seems from the statements that they have made that amendments will obviously be moved, and those amendments which have already been discussed by members in their second reading speeches are changes that I will support.

I want to make two specific points in regard to the Bill. The first deals with the question of the dangers to the arts in this State if the sponsorship from companies with interests in the tobacco industry is withdrawn.

I do not know whether or not the Minister realises, but it would be simply calamitous, not only to the Adelaide Festival Centre Trust and the Adelaide Festival of Arts but also to the State generally if sponsorships from these companies were withdrawn. I had quite a deal to do with this question a year or two ago and from memory the State Theatre Company was receiving $55 000 in sponsorship from the Amatil organisation. The Peter Stuyvesant Cultural Foundation during the last festival gave a sponsorship, I recall, of $130 000 to the Adelaide Festival of Arts while the Benson and Hedges organisation provided a sponsorship of $30 000. The Adelaide Festival Centre Trust and the Board of the Festival of Arts have been promised a challenge grant if they are able to secure a certain amount of funds from the private sector. Naturally if the sponsorships that I have mentioned were withdrawn, the challenge grant of $100 000 would not be obtainable.

That means, in effect, that for the next Festival of Arts early in 1988, the planning for which is now basically completed, there would be a shortfall of about $300 000. The organisation would simply collapse if confronted with a calamity as severe as that.

The Hon. J.R. Cornwall interjecting:

The Hon. C.M. HILL: The Minister is repeating what I mentioned a moment ago, that to the State Theatre Company the Amatil organisation gave a sponsorship of (he said) $50 000. I said that I thought it was $55 000. We are not arguing about $5 000 but the Minister refers to only one of the sponsorships that I mentioned. Quite frankly, if the companies are upset by the Government and this Minister and withdraw their sponsorships, the Adelaide Festival in 1988 will collapse if it does not get the $300 000 that it now expects to get through these channels.

The seriousness of that is not just in our arts world in South Australia—it becomes a national and international tragedy, because we promote our State as the festival State. We are trying to develop tourism and visits from people outside our borders and we seek to attract them with our involvement in cultural activity. That will be put at risk as it is not only national in its concept but some of the performances planned for the festival will be coming from overseas. They have to be paid. I cannot understand the Minister and this Government putting such a program and such an important part of our cultural life at stake by taking this ridiculous approach that the Government is taking in clause 7.

Because of the manner in which Amatil Limited has been treated so far in regard to this matter, I quote a letter of 18 September that was sent to me by Amatil Limited, as follows:

> I am writing to you after having seen in this morning's copy of the *Advertiser* reported remarks by the Minister of Health, Dr Cornwall, in which this company is accused of applying 'blackmail' to arts and sports bodies with whom we have sponsorship arrangements. I would like to take the opportunity to explain our position. This company has not made any threat to any organisation to withdraw sponsorship if the Tobacco Products Control Bill 1986 is passed.
>
> What we have done is brief the groups we sponsor on the possible consequences of clause 7 of the Bill. This clause gives the Minister of Health the power to regulate tobacco advertising. We can foresee the possibility of a situation arising where the Minister could impose conditions on tobacco advertising which would make sponsorship untenable.

The letter further states:

> In his second reading speech, the Minister of Health stated that clause 7 of the Bill would only come into effect if three other States passed similar legislation. However, this proviso is not written into his Bill in contrast to the legislation passed in 1975. The omission of this proviso from the Bill can only increase our apprehension about the Minister's intentions.

I think that that is a very fair letter and that the Minister in the Committee stage should agree to changes in regard to clause 7 that make quite clear that the Minister has no intention of upsetting these interests to the extent that they will withdraw sponsorships as a result of the legislation.

I refer next to the Minister's endeavours to prevent smoking in taxis. It is not so much the actual question of smoking in taxis but, rather, it is the matter of the way in which the Minister has gone about treating the taxi operators in South Australia. The Taxi Cab Operators Association of South Australia Incorporated sent me a letter, which states:

> The SA Taxi Cab Operators Association is vehemently opposed to the State Government's proposal to ban smoking in taxis (Tobacco Products Control Bill, clause 12). The association represents all of the more than 800 taxi cabs operating in Adelaide and the metropolitan area, so it is vital that you become aware of our concerns before debating the Bill in Parliament. Most importantly, we believe the relevant clause constitutes an infringement of people's rights.
>
> Members of the public choosing to take taxis are paying for the privilege of an exclusive ride. They have hired that vehicle and should be able to decide for themselves whether or not they smoke while in it. We do not believe it is the Government's prerogative to tell them. Advice is one thing, law—and a $200 fine—is another.
>
> The taxi industry is a service industry and a vital part of the State's tourism business. We are there to serve people, not to serve them 'on condition'. We are also disturbed that the Government did not consult the association on this matter before proceeding with draft legislation. We have concerns, as well, about the potentially dangerous situations in which our drivers could find themselves, trying to tell difficult or intoxicated passengers they are not permitted to smoke in the car in which they have paid to travel. This association is not pro-smoking.
>
> As is quite common these days, a number of our members do not smoke and a small percentage prefer, but do not insist, that their passengers refrain. (It has been against the law for cab drivers to smoke while carrying a passenger since 1956.) But while the association is not denying that smoking can be detrimental to people's health, we believe strongly that the bottom line is freedom of choice.

The Minister did explain in the debate so far that he consulted the Metropolitan Taxi Cab Board in the drafting of the Bill, but it is apparent from that letter that he did no such thing. I understand that one phone call was made to the industry and the Bill was not discussed with the Taxi Cab Board, for example, before it was presented to Parliament. The Minister is quite muddled in regard to the issue concerning taxis. In his second reading explanation he stated:

> Conversely, passengers should not be required to endure smoking by a taxi driver during their journey.

Of course, the Minister did not realise when he wrote and said that that smoking by taxi drivers had been banned by regulation since 1956. Because of his lack of consultation and knowledge in this area the Minister ought to give firm consideration to the amendments that members on this side have foreshadowed. Therefore, I support the second reading and trust that the Bill can be improved considerably as it passes through Committee.

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

ADJOURNMENT

At 12.17 a.m. the Council adjourned until Thursday 25 September at 2.15 p.m.