## LEGISLATIVE COUNCIL

Thursday 25 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.

### PETITION: MARIJUANA

A petition signed by 77 residents of South Australia praying that the Council reject any legislation that proposes an expiation fee for marijuana offences was presented by the Hon. M.B. Cameron.

Petition received.

### PAPERS TABLED

The following papers were laid on the table:

By the Minister of Health, on behalf of the Attorney-General (Hon. C.J. Sumner)—

*Pursuant to Statute—*

Parliamentary Superannuation Fund—Report, 1985-86.

By the Minister of Health (Hon. J.R. Cornwall)—

*Pursuant to Statute—*

Metropolitan Milk Board—Report, 1985-86.

The Medical Board of South Australia—Report, 1985-86.

By the Minister of Health, on behalf of the Minister of Tourism (Hon. Barbara Wiese)—

*Pursuant to Statute—*

Electricity Trust of South Australia—Report, 1985-86.

## QUESTIONS

### CRACK

**The Hon. M.B. CAMERON:** I seek leave to make a brief explanation prior to asking a question. It was to have been directed to Attorney-General but, in his absence, I am sure that the Minister of Health will be able to answer it. The subject is crack.

Leave granted.

**The Hon. M.B. CAMERON:** Allegations have been made in the *Messenger* newspaper that the drug crack is readily available in the southern area around Noarlunga. The claims were made by a Noarlunga alderman, who said that the south is a major drug centre and that crack has been easy to get in the area for months. It is known to be cocaine-based and highly addictive, and apparently sells for about $10 a hit. The article suggests that it is well covered up in the south and that it is so well organised down there that people will not accept it because they have not heard about it. The article says that somebody must speak out, and that, if someone starts, it might snowball.

A Narcotics Anonymous spokesperson says that she fears that a substitute for crack is also being pushed in the area. The police are saying that they have had no direct evidence of such a drug but that the absence of evidence does not mean that it is not available. They cannot confirm that it is not available. What steps will the Government take to assist local community leaders and the police in the southern areas of the city to combat what appears to be a substantial problem?

**The Hon. J.R. CORNWALL:** As recently as this morning, the Drug Squad was reported as saying that, to date, it had not apprehended any one in possession of or dealing in crack. I take the point that that does not necessarily mean that there may not be the beginnings of crack smoking in this State.

As to whether the drug is widespread, the available evidence suggests that that is unlikely, but I am not making a definitive statement. With regard to people speaking out and generating publicity, we must be extremely careful. The wave of hysteria that some people are generating in this country—they have recently started to attempt to generate it in South Australia—can be quite dangerous. There is a fine line between responsibly warning people of the dangers of the substance—it is indeed a very dangerous compound of substances—and creating a hysteria which may create what is called the wet paint syndrome. The danger is that, if enough publicity is given to crack, young people may be induced to want to try it. That dilemma faces people in the drug services generally. If you put up a wet paint sign, somebody inevitably will want to put their hand on the wall to see whether the paint really is wet.

My advice is to present the simple facts. Crack is a form of cocaine. It is not used but always abused—that is the way in which it is formulated. It gives a rapid but short-lived high, is highly addictive and should be avoided at all costs.

Let me warn anybody who might be tempted to use crack that there is absolutely no glamour attached to it; that it can, and does, destroy lives. My warning is: please, whatever you do, have nothing to do with crack. As against that, let me warn about the prophets of gloom and doom who say that crack is the end of a generation. One particular well known interstate anti-drugs campaigner was reported as saying a fortnight ago, when crack was first apprehended at the Redfern Mail Exchange, that 'You can forget about this generation. You can now write off a whole generation. You can forget about nuclear war—the great threat of our time comes in the form of crack.'

We have to keep our heads, and keep a sense of perspective. I have far greater optimism than that, and far greater confidence in the younger generation than to believe for one moment that we need to be pessimistic and suppose that large numbers of them will embrace this supermarket and relatively cheap form of coccaine; so, please let us keep our heads; please let us keep a balance. It is an extremely dangerous substance. I am not able to confirm whether or not it has been sold in the Noarlunga area: I would have to take the advice of the Drug Squad, which knows fairly quickly what is going on in this relatively small city. It says that at this stage there is no evidence of any widespread distribution of crack. It says that there has been no apprehension of anyone for possession or sale of this drug at this stage, so I repeat that we should keep our heads and not, through generating some sort of hysteria, create the wet paint effect.

**The Hon. M.B. CAMERON:** I have a supplementary question. Is the Minister aware that a very senior person (whom I will not name even though he is named in the article I have) from the Drug and Alcohol Services Council is quoted in this article? Unfortunately, very specific details are given by him of the composition of crack. This causes me a great deal of concern. I have no intention of repeating the details that this person gave in this article, a copy of which I will give to the Minister.

**The Hon. J.R. Cornwall:** In the *Messenger*?

**The Hon. M.B. CAMERON:** Yes. The article has caused me great concern. Will the Minister advise the Drug and Alcohol Services Council, and the people concerned, it is not wise to give such specific detail to the press, because it can only promote the use and abuse of such a drug?

**The Hon. J.R. CORNWALL:** Having now read the article, I hardly think that it is a 'Do it yourself' instruction. I repeat what I said previously, that any comment about how the drug is manufactured or about its effects, or anything else that might tend to create a desire to experiment with it, should be avoided. In terms of what steps we are taking (and I guess that I did not turn specifically to that matter because I was anxious to make the plea that we do not generate hysteria about this matter), the Government has developed a $7.5 million package—that is the budget for 1986-87—for very extensive protective and preventive education programs. We have already launched the first of our 'Learning for life' caravans and a second one has been ordered. I hope that we will be launching shortly a public appeal to cover the cost of those caravans so that the money we have already spent can go back into recurrent services. We are developing a 'Learning to choose' program using our greatest resource—teachers in primary schools—and are well advanced in developing a 'Free to choose' program in secondary schools.

They are just three of the major areas in which we are getting into protective and preventive education. It is hoped that that, combined with the social justice strategy, the social health program and the long-term social welfare strategies that are being developed by the Government, will get at the underlying causes. As I explained in the debate last night, if we are serious—and I believe that we are all deadly serious about these problems—we have to look at the underlying social causes. We will start from that point and will work right through, of course, with this $7.5 million a year package. As well as that, we have reviewed the legislation, and I think that by the time the Controlled Substances Act Amendment Bill leaves this Council we will have reviewed and revised the legislation to make it the best that we reasonably can, on the advice that is currently available to me.

## ETHNIC AFFAIRS

**The Hon. L.H. DAVIS:** I seek leave to make a brief explanation before directing to the lone Minister sitting opposite, the Minister of Health, a question about the Federal Minister for Immigration and Ethnic Affairs, the Hon. Chris Hurford.

Leave granted.

**The Hon. L.H. DAVIS:** There has been recent speculation that the Prime Minister will take over some or all of the ethnic affairs portfolio currently held by the Minister for Immigration and Ethnic Affairs, the Hon. Chris Hurford. The Minister would be aware that the ethnic communities have been outraged at recent Federal Government actions that have slashed multicultural, educational and communication programs. The Institute of Multicultural Affairs will be abolished; the ABC and SBS are to merge at a time when top ABC management is hard pressed to run its own operation; and there has been a $20 million cut in the English as a second language program, which will result in the loss of 53 positions of the 119 Commonwealth funded positions in this program in South Australia.

Further, there has been a cut of 8 per cent in funds to the National Advisory and Coordinating Committee on Multicultural Education and a freeze on future funding of the ethnic schools program. Ethnic leaders, in particular, cannot understand the cut in the English as a second language program and the merger of the ABC and SBS, as they strongly believe that cultural understanding of other countries will assist in developing trade with those countries.

The Federal Minister for Immigration and Ethnic Affairs, understandably, has been silent on this frontal attack on multiculturalism. I have had representations from members of the ethnic communities on these matters. They have also expressed concern about Mr Hurford's extraordinary behaviour in recent months: his attempted sleezy deal to trade confidential Government information in exchange for a regular spot on Jeremy Cordeaux's radio show; his personal attack on well respected ABC radio personality, Philip Satchel, and his inference that Satchel was a racist; his unsubstantiated claim that 80 per cent of all South-East Asians seeking refugee status for migration were not genuine; and the proposal to introduce 'thought' police to see whether intending migrants from Africa had racist tendencies.

There is a strong view that Mr Hurford has broken the traditional bipartisan spirit which has existed in ethnic affairs, that he is the worst Federal Minister for Immigration and Ethnic Affairs since the migration program started 40 years ago, and that, in fact, he is a joke. My questions to the Minister are: first, does the Minister share this concern of ethnic community leaders—

**The Hon. J.R. CORNWALL:** On a point of order, Ms President. What is the position under Standing Orders in relation to grossly injurious reflections on our colleagues in the Federal Parliament? Quite clearly, there was a grossly injurious reflection in that explanation.

**The PRESIDENT:** If there was, I would ask the honourable member to withdraw it. I was listening carefully to his comments, but he was quoting various facts, and I must admit that my attention was distracted at the very end of his remarks, before asking his question. I am not aware whether he did in fact cast injurious reflections.

**The Hon. L.H. DAVIS:** Madam President, I certainly was not casting injurious reflections, merely reflecting what other people were saying. My questions to the Minister are:

1. Does the Minister share this concern of ethnic community leaders about the Hon. Mr Hurford's recent behaviour?

2. Has the State Government or any Minister made any representations to the Prime Minister seeking the removal of the Hon. Mr Hurford from the position of Minister for Immigration and Ethnic Affairs?

**The Hon. J.R. CORNWALL:** I am not, of course, the State Minister of Ethnic Affairs. I think I have quite enough on my plate in the health and welfare areas, as I have always said, without climbing into other people's portfolios. I have also made it clear that I am a provincial politician and have no delusions of grandeur.

*The Hon. L.H. Davis interjecting:*

**The Hon. J.R. CORNWALL:** In my own field. I have no delusions of grandeur and am not about to try to become a national figure. I am not about to enter the Federal arena. I do not think, in the circumstances, that it would be appropriate for me in the absence of my colleague, the Minister of Ethnic Affairs, to respond directly. This State Government has pursued a very vigorous policy of multiculturalism. All members of the Government but, more particularly, my colleague, the Hon. Chris Sumner, have been at great pains to stress that we strongly support multiculturalism in all its very positive manifestations.

Indeed, I am sure that my colleagues on this side will be well aware that if any of them have ever strayed from the path of that policy, even in casual conversation, and talked about assimilation, they have been reminded very quickly by the Minister of Ethnic Affairs just what multiculturalism is all about. This Government very strongly supports multiculturalism, and its actions speak as loudly as its words.

With regard to the State Government making representations to the Prime Minister, that would be highly undesirable. We do not interfere in the affairs of other sovereign governments, particularly the Federal Government, any more than they interfere in our affairs. I was pleased to read during the week a report that the Prime Minister had discussed with Caucus, I believe from memory, the possibility and desirability of his taking a very up-front role with the ethnic communities.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. J.R. CORNWALL:** If that report is accurate, Ms President, and if the Prime Minister does wish to give the ethnic affairs portfolio the highest profile possible by taking it within his direct sphere of influence, I believe that every right thinking member of this place and, indeed, this Parliament, would applaud the move.

## WILPENA POUND

**The Hon. K.T. GRIFFIN:** I seek leave to make a brief explanation prior to directing a question to the Minister of Health, as Acting Leader of the Government in the Legislative Council and the Minister representing the Minister of Tourism, on the subject of Wilpena Pound.

Leave granted.

**The Hon. K.T. GRIFFIN:** I would have preferred to ask the question while the Minister of Tourism was present, because it may be that the Minister has some personal knowledge of the matter which I raise, but it affects a matter of Government plans for Wilpena Pound. Several weeks ago I had the good fortune to spend a few days in the Flinders Ranges. On one occasion—and on one occasion only—I drove into Wilpena Pound, which I think all people who have been there will recognise is a delightful place and is really very well attended by many tourists who travel to the Flinders Ranges. Generally, the place is a credit to the Rasheed family and to the work that they have done in order to put Wilpena Pound on the tourist map against a great deal of adversity over many years. Now the South Australian Government owns the property and it is a national park.

For those tourists who visit the pound for supplies, or who camp in the pound rather than stay in the motel, I gained the impression that the facilities needed considerable upgrading to bring them to a much higher and acceptable standard. The general store is small and seems to carry limited stocks of supplies. The petrol outlet provides limited service and the camping area and toilet and shower facilities appear to need some upgrading to present a higher standard of facility for those who camp in that area. Although I prefer to be away from so much of the population concentrated in one place, a lot of people use the camping facilities. If people are camping in the Flinders Ranges and want supplies, they can go to Hawker at the southern end, or to Blinman, but they are required to travel considerable distances. Obviously, it would be much more convenient for campers seeking supplies and for those in the vicinity of Wilpena Pound who are camping to use Wilpena Pound as a base. As I have indicated, it is a focal point of the Flinders Ranges.

I recognise that, if there is to be any upgrading of facilities, capital is required, but one must recognise also that any upgrading of facilities will in turn bring rewards. My questions to the Minister representing the Minister of Tourism are: does the Government have any plans to upgrade the camping, shopping and petrol outlet facilities at Wilpena Pound? If the Government has those plans, what are they and when are they likely to be implemented?

**The Hon. J.R. CORNWALL:** Wilpena Pound is a Government owned facility committed to the Minister for Environment and Planning. I know a little about that portfolio because I was once Minister for Environment and Planning for a period of 4½ months and, as the Minister for Environment and Planning, I visited the pound. Some years later, as Minister of Health, I went there informally. One is not supposed to comment when asking questions so I do not believe that I should comment in responding to them, but I take a particular interest in Wilpena Pound. It has been my strong personal view that it is one of the greatest treasures of South Australia and I believe our greatest tourist asset, with the possible exception of the City of Adelaide.

Ever since those halcyon days when I was Minister for Environment and Planning for five minutes, it has been my view that sensitive development in that area would be highly desirable. I understand that the Minister has had the matter under review. At this stage, I am not able to give any more detail, because I do not have it.

I suspect also that at this stage the Minister is probably not able to give much more detail because it is not at a stage where it has been processed outside his office to any great extent. However, the matter of upgrading Wilpena Pound has been considered and addressed and I anticipate that at the appropriate time there will be a public announcement. Everybody in South Australia has an interest in Wilpena Pound and rightly so. I will refer the question and see whether the Minister is in a position to make any further comment.

## MODBURY TRANSPORT CORRIDOR

**The Hon. J.C. BURDETT:** Has the Minister of Health a reply to a question that I asked on 20 August about the Modbury transport corridor?

**The Hon. J.R. CORNWALL:** My colleague the Minister of Transport has advised that a Highways Department investigation into a road alignment along the land corridor reserved for road purposes identified several parcels of land which could be surplus to road requirements. The department is currently re-examining the overall stormwater drainage system along the corridor in association with detailed road design. This work, which will enable surplus land parcels to be identified, is expected to be finalised towards the end of 1986, at which time the question of the disposal of surplus land will be addressed. In the meantime, the department is maintaining contact with the City of Tea Tree Gully and the Department of Environment and Planning as appropriate.

## MINISTERIAL STATEMENT: BOTANIC PARK

**The Hon. J.R. CORNWALL (Minister of Health):** I seek leave to make a brief statement about the Botanic Park.

Leave granted.

**The Hon. J.R. CORNWALL:** Yesterday, the Hon. Ian Gilfillan raised the question of car parking in the Botanic Park. I thought it important, because it has received wide-

spread publicity, to provide the following information. The State Government has received funding under the Federal Government Bicentennial Program for the building of a tropical conservatory. A requirement of the funding is that the building commence operation during the bicentennial year. After consideration of many options for the location of the conservatory, including the Botanic Park, the Government determined that it would be located on the border of the Botanic Gardens and the STA depot. This is a multi-million dollar project.

To enable work on the construction of the conservatory it was necessary to provide not only a cleared site for the actual building, but also an extra area for a work site, soil storage and access for trucks, etc. This resulted in a number of STA sheds being removed. It was also necessary to relocate employee car parking presently located within the boundaries of the depot to a site which has the same security. The Botanic Park site is the best available option. The car park has received the approval of the City of Adelaide Planning Commission on the basis that it is purely a temporary facility. It should be noted that no trees will be removed.

The car park is only temporary because it is intended to relocate the STA Hackney depot. Due to time restrictions for the construction of the multi-million dollar conservatory, it is necessary for the STA depot to operate at the same time as construction of the conservatory proceeds. With the removal of the STA depot and, of course, the temporary car park, the majority of the land will be incorporated in the Botanic Gardens while a strip along Hackney Road will become open parklands.

## QUESTIONS RESUMED

### VEHICLE REGISTRATION DISCS

**The Hon. PETER DUNN:** Has the Minister of Health a reply to a question that I asked on 20 August about registration discs?

**The Hon. J.R. CORNWALL:** Statistics show that since February 1986, 5 529 duplicate labels have been issued to motorists who have had their labels destroyed or lost, and that for the previous six months, from August to January inclusive, 6 808 labels have been destroyed or lost. This represents a reduction of 18.8 per cent. Typing of information on labels was discontinued in February 1986.

The number of duplicate labels issued is small when compared with the total number of labels which are issued yearly, namely one million. Separate statistics are not available in respect of trailers or motor cycles.

### GLANDULAR FEVER TESTS

**The Hon. M.B. CAMERON:** I seek leave to make an explanation before asking the Minister of Health a question about glandular fever.

Leave granted.

**The Hon. M.B. CAMERON:** I have been contacted about a problem with the diagnonis of glandular fever. The normal test issued is a blood test called the Paul Bunnell, or PB, test. This normally gives a positive result if you have glandular fever. However, the first test may not be positive and it is normal to repeat the PB test in a week to 10 days, at which time it is usual for a positive result to be obtained if the person has glandular fever.

A certain percentage of cases never become positive to the PB test and if the doctor still suspects glandular fever then it has been normal procedure to ask for a super test, called EB. The doctor who contacted me, and others I gather, have on requesting an EB test after the initial tests received a roneoed letter from the Institute of Medical and Veterinary Science refusing the test, and I quote from that letter:

> Current funding and staff restrictions have made us look at the viability and usefulness of the specific antibody tests that we perform for EBV virus infections. We have decided therefore to restrict specific EB virus serology tests to the following categories of diagnostic problem:
>
> 1. Patients with suspected EB virus related malignancy (this is, nasopharyngeal tumours, Burkitt's lymphoma).
> 2. Patients with a protracted (more than three weeks) illness consistent with IM [glandular fever] where the Paul Bunnell test is repeatedly negative.
> 3. Syndromes in children under five years with enlarged nodes, liver and spleen, or ones resembling Kawasaki disease.
> 4. Suspected Non-A, Non-B hepatitis.
>
> Your patient does not appear to fall into these categories.

The patient concerned did fall into category 2—that is an initial test and a follow-up test had both been done and the doctor still suspected glandular fever but was refused the test requested. The letter means that the valuable diagnostic tool has potentially been removed from doctors and that is causing some concern. Will the Minister take steps to ensure that doctors have access to EB tests as a final check to diagnose glandular fever in their patients when the normal tests have been carried out and there is still some doubt about the diagnosis?

**The Hon. J.R. CORNWALL:** If there is any implied criticism of the conduct of the Institute of Medical and Veterinary Science, I reject it. Had that criticism been made four or five years ago, it might have been valid. I am pleased to say that, following a revitalisation and reorganisation of the IMVS, which occurred during the period of my predecessor the Hon. Jennifer Cashmore, the plan has proceeded apace and has improved that institution. We had the good fortune to appoint Dr Brendan Kearney as the Director. He is acknowledged to be a person with outstanding skills in medical and general administration. The IMVS is a centre of excellence by national and international standards. With regard to the matter of the viability and usefulness of particular diagnostic tests or pathology tests, it must be pointed out that, with burgeoning costs of sickness care as well as some costs of health care (particularly in pathology), it is a known fact that responsible laboratories are reviewing the usefulness of a range of tests.

I should have thought that, on the information that the Hon. Mr Cameron provided, the guidelines that have been adopted by the IMVS would seem, on the face of it, to be realistic and reasonable. As he has received a complaint, however, I will take up the matter with the Director of the IMVS and undertake to bring back a reply as soon as is reasonably practicable.

### NUCLEAR SHIPS

**The Hon. M.J. ELLIOTT:** I seek leave to make a brief explanation before asking the Minister of Health a question about the nuclear ships' visit.

Leave granted.

**The Hon. M.J. ELLIOTT:** I am afraid that this is becoming something like a cracked record, but I asked some straight questions five or six weeks ago, which were referred to the Minister for Environment and Planning and of Emergency Services, but no answers have returned. Today is the Council's last sitting day before the ships arrive. If I have to refer the question beyond today, I will be in the invidious position of asking what ships came and whether there were

any safety plans if something went wrong. That would be quite ludicrous but it is what we are coming to. The same thing is happening in regard to quite a few other matters.

Much of what I feared is now apparently happening. According to today's *Advertiser* Rear Admiral David Martin, said that the ships that are going to Sydney—they will be coming here—are nuclear armed.

**The Hon. B.A. Chatterton:** Then he quickly changed his mind.

**The Hon. M.J. ELLIOTT:** Yes. He said that he did not mean that. We are to have nuclear weapons sitting in the port of Adelaide. They might be here partly on account of the 75th anniversary, but it is mainly a big R & R exercise for the navies—they want to be here for the Grand Prix.

**The Hon. C.M. Hill:** Adelaide will be able to see navy ships on a most important day.

**The Hon. M.J. ELLIOTT:** Would the honourable member like a nuclear base in Burnside or another suburb of Adelaide? We will have nuclear armed ships sitting in Port Adelaide. It will be a weapons base, no more, no less.

**The Hon. T.G. Roberts:** They talked about prostitution yesterday.

**The Hon. M.J. ELLIOTT:** I think that they will be worked off their feet.

**The Hon. C.M. Hill:** That is an insinuation against the sailors.

**The PRESIDENT:** Order!

**The Hon. C.M. HILL:** On a point of order, Madam President. There was a clear interjection that prostitution would be involved with the visit of navy ships to Adelaide. I take strong objection to that. The reference should be smitten from the record.

**The PRESIDENT:** Order! There is no point of order.

**The Hon. M.J. ELLIOTT:** I was not implying that Australian sailors would be involved, by the way.

**The Hon. C.M. Hill:** It doesn't matter. Sailors are the salt of the earth.

**The PRESIDENT:** Order!

**The Hon. M.J. ELLIOTT:** We have meandered from the important point which is that we will have a nuclear base, albeit temporarily, in Adelaide. Any accident will not blow the city off the planet—it might involve minor leaks and affect only the immediate suburbs, but that is cold comfort for them.

**The Hon. J.C. Irwin:** Oh dear!

**The Hon. M.J. ELLIOTT:** Don't say, 'Oh dear'. There have already been several hundred recorded incidents involving nuclear weapons. One question to which I can hope to get an answer from the Minister now is: what capacity does the Health Commission have to cope with accidents, however unlikely they may be? Will the Minister prevail on his colleagues to return with an answer before the ships come?

**The Hon. J.R. CORNWALL:** I cannot provide the fine detail, but the commission has been involved in preparing comprehensive answers to the questions which the Hon. Mr Elliott has had on notice for a long time. I think that we have about 7 000 potassium iodate tablets in the event of their being needed and we have some monitoring facilities. I should prefer not to go into fine detail without referring it to the commission. I should be perfectly happy to arrange for the Hon. Mr Elliott to talk to senior public health personnel who have expertise in this area. If he wishes to do that, will he please do it through my office and contact my Chief Administration Officer or personal staff. We will arrange for him to talk to our people in radiation control and protection during the three weeks when the Council will be in recess. I would be only too happy to do that because, in health and welfare matters, the Hon. Mr Elliott has proved himself to be, by and large, responsible and a very intense person. Please be my guest.

**The Hon. M.J. ELLIOTT:** Will monitoring procedures be going on during the ship's visit?

**The Hon. J.R. CORNWALL:** I am not able to answer that, but I suspect that it is unlikely. It is not Federal Government policy to reveal whether ships are nuclear armed or otherwise. Safety concerning nuclear warheads emitting radiation is probably not a matter which arises, but I am unable to give any precise detail. I shall be happy to take up the matter with my senior public health personnel, especially those in radiation protection and control. I should be happy to have the Hon. Mr Elliott discuss matters of radiation, protection and safety with them.

## DISEASED EXPORT SHEEP

**The Hon. PETER DUNN:** I seek leave to make a brief explanation before asking the Minister of Health, representing the Minister of Agriculture, a question about diseased export sheep.

Leave granted.

**The Hon. PETER DUNN:** The Minister may be able to answer this question in his own right as a veterinarian. It came to my notice three weeks ago that a problem has arisen with the export of some of our highly priced rams purchased either individually or at sales in this State for export. The sheep failed health tests and the purchasers came back to the studs from which they purchased them to get other animals. However, genetic pools have been depleted, so they have to go to other studs to purchase rams.

I notice at page 3 of today's *Stock Journal* that it says that people have asked the Department of Agriculture to identify the disease and Dr Robin Vandergraff says that it has to be John's disease, which I have not heard of.

**The Hon. J.R. Cornwall:** Johne's disease.

**The Hon. PETER DUNN:** Johne's disease, the Minister is correct. Also, sarcoptic mange has been identified by the Chinese, and I wonder how severe this is. It appears from the report that they are not particularly severe. My questions are:

1. Does Johne's disease give cause for concern to the South Australian Government because it may cause the loss of overseas income?

2. What action has the Department of Agriculture taken, either to eradicate or control these diseases?

3. Is there a threat to other cloven-hoofed animals in Australia or this State?

4. What action will be taken by the South Australian Government to help overseas buyers of rams to continue to purchase animals that are free of disease?

**The Hon. J.R. CORNWALL:** May I say at the outset that 'John's disease', if indeed he has any, is not catching. If the Hon. Mr Dunn is referring to Johne's disease, that is caused, from my recollection, by microbacterium Johneii which belongs in the same family as the tuberculosis microbacteria. I do not believe that I should take this matter any further other than to say that at this time in my veterinary career I would need a deal of memory refreshing about this matter. I will be pleased to refer the question to the Minister of Agriculture, who will consult with my colleagues the departmental veterinarians. This is an important and interesting question, and I will bring back a reply as soon as I reasonably can.

## FLUORIDE

**The Hon. M.B. CAMERON:** Has the Minister a reply to the question I asked on 27 August about fluoridation of the Morgan-Whyalla main water supply?

**The Hon. J.R. CORNWALL:** The fluoridation facilities on the Morgan-Whyalla main are not yet operational. The facilities are currently being installed and it is expected the fluoridation of the water supply will commence in October/November 1986.

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

Second reading.

**The Hon. J.R. CORNWALL (Minister of Health):** I move:

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

The objects of this Bill are to repeal the Vertebrate Pests Act 1975, the Pest Plants Act 1975, and to replace them with a single Act which provides for an integrated and thus more effective system of animal and plant control under a single authority, the Animal and Plant Control Commission. As this Bill has been referred from the House of Assembly, where it was read in full originally, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

### Explanation of Bill

The Vertebrate Pests Act 1975 was proclaimed in 1975 and operated initially under the control of the Minister of Lands. The Pest Plants Act 1975 proclaimed in 1976, operates under the Minister of Agriculture. In 1977 the operation of the Vertebrate Pests Act 1975 was transferred to the control of the Minister of Agriculture, thus opening the way for the setting up of a single control authority for both animals and plants under one piece of legislation. The two existing Acts are similar in concept, and generally compatible in their operation. Both Acts place the primary responsibility for the control of proclaimed animals and plants on landholders, with administration through local government.

The Bill provides for this arrangement to continue. Local government will remain as the provider of the basic structure for animal and plant control, in partnership with the State Government, and local operations will, in the main, be administered by boards comprising groups of councils. The Government intends that, in rural areas, multiple council boards will provide the main control mechanism. The transition provisions of the Bill provide for all existing single council and multiple council boards to become joint control boards with the same membership structure as before and for the new boards to accept the rights, liabilities and property of those pest plant and vertebrate pest control boards. Single councils may operate outside the board system in predominantly urban areas. In rural areas the remaining councils which have never joined boards may become single council boards, or join multiple council boards, providing the proposed arrangement will enable the provisions of the Act to be carried out effectively. In effect, this will mean that councils employing more than one full-time authorised officer may become single council boards.

At the local level all current procedures for both animal and plant control will be maintained. Under the present Acts there are different arrangements for financing animal control and plant control. The Bill provides for a single finance system based on a payment by councils of up to 4 per cent of rural rate revenue and up to 1 per cent of urban rate revenue. The Government's statutory subsidy to boards will remain at 50 cents to each dollar paid by councils and the system of 'support subsidy' for those councils with specific disabilities discovered under the present legislation will be retained. The Government's present overall contribution through statutory subsidy and support subsidy is in excess of one dollar for each dollar paid by councils. The Bill extends the responsibilities of the previous Acts in order to control the entry, movement and keeping of all vertebrate species except fish and protected native animals. Thus the Bill gives the effect to the Australia-wide agreement for a uniform approach to the control of exotic species. The classification system adopted also means that for the first time, feral animals will be able to be proclaimed as pests.

While the legislation will involve the commission in the control of many more species of animals than previously, most of these will be confined to zoos and the responsibilities of control boards will be mainly confined to those animals traditionally regarded as vertebrate pests. Part I comprising clauses 1 to 4 deals with preliminary matters.

Clauses 1 and 2 are formal.

Clause 3—Attention of honourable members is drawn to the following definitions:

'animal' is defined as a live vertebrate animal of any species including the eggs or semen of such an animal, but does not include a fish:

'control' is defined to include the destruction of animals and plants and the reduction of animals and plants to an extent reasonably achievable:

'control board' means an animal and plant control board established under the Act and includes a council vested with the powers, duties and functions of a control board:

'plant' means vegetation of any species including the seeds and any part of any such vegetation, but does not include native plants or vegetation except where reference is made to native plants or vegetation.

Clause 4 provides that the measure is to bind the Crown.

Part II, comprising clauses 5 to 39, deals with the administration of the measure. Division I, comprising clauses 5 to 14, deals with the Animal and Plant Control Commission.

Clause 5 provides for the establishment of the Animal and Plant Control Commission. The commission is a body corporate with the usual capacities of a body corporate.

Clause 6 provides that the commission is responsible, subject to the control and directions of the Minister, for the administration and enforcement of the measure.

Clause 7 provides that the commission shall consist of seven members appointed by the Governor, of whom one shall be an employee of the Public Service, nominated by the Minister for Environment and Planning. The remaining six, shall be nominated by the Minister and one shall be an employee of the Public Service who has, in the opinion of the Minister, appropriate knowledge of agriculture, two shall be persons chosen by the Minister from a panel nominated by the Local Government Association, being persons who have, in the opinion of the Minister, appropriate experience in agriculture and matters of animal and plant control, and not less than four shall be primary producers.

Clause 8 provides that a member shall be appointed for a term not exceeding three years, on such conditions as the Governor determines and that a member is eligible for reappointment at the end of the term. A member may be removed from office for the usual reasons including breach

of, or non-compliance with, the conditions of the member's appointment.

Clause 9 sets out the procedure to be followed at meetings of the commission.

Clause 10 provides that an act or proceeding of the commission is not invalid by reason of a vacancy in its membership or a defect in the appointment of a member.

Clause 11 provides that the commission may delegate, by instrument in writing, any of its powers, duties or functions to a member of the commission, an employee of the Public Service or member of the commission's staff, or a committee. Any such delegation may be subdelegated if the instrument of delegation so provides.

Clause 12 provides for the appointment of staff to the commission, including an Executive Officer.

Clause 13 sets out the functions of the commission—

*(a)* to make recommendations in relation to the establishment of control boards;

*(b)* to make recommendations in relation to the classes of animals and plants to which the measure should apply;

*(c)* to make recommendations in relation to the making of regulations under the measure;

*(d)* to determine applications for permits under Parts III and IV and the conditions of such permits;

*(e)* to conduct and direct research;

*(f)* to collate and maintain a record of species, population density and distribution;

*(g)* to develop, implement and advise on coordinated programs for the destruction or control of animals and plants;

*(h)* to carry out measures for the destruction and control of animals and plants on unalienated Crown lands;

*(i)* to consult and cooperate with the Minister for Environment and Planning and the Department of Environment and Planning in relation to the control of native animals;

*(j)* and to consult and cooperate with the Minister for Environment and Planning and the Department of Environment and Planning in the control of animals and plants for the protection of native animals and plants;

and

*(k)* to carry out and enforce the provisions of the measure.

For the purpose of performing its functions the commission may acquire, hold, deal with and dispose of real property, enter any contract and acquire or incur any other rights or liabilities. Subclause (3) provides that regulations may provide for the establishment of advisory committees to assist the commission in the performance of its functions in relation to particular matters.

Clause 14 provides that the commission may exercise the powers, duties and functions of a control board in any area of the State that is not within the area of a control board.

Division II, comprising clauses 15 to 24, deals with the establishing of animal and plant control boards.

Clause 15 provides that the Governor may, by proclamation, on the recommendation of the commission, establish control boards. A control board may be established in relation to the area of a single council or the combined area of two or more councils or where the area of the council is urban the council for the area will have the powers, duties and functions of a control board. The commission shall in making recommendations consult with councils likely to be affected by a proclamation under this provision.

Clause 16 provides that a control board is to be a body corporate with the usual capacities of a body corporate.

Clause 17 provides for the appointment of members, by a constituent council, to a control board for a term of 12 months. The number of members for each board shall be the number fixed by proclamation under clause 15. A member must reside in the area of the appointing council.

Clause 18 provides that a deputy of a member of a control board may be appointed.

Clause 19 provides for the removal from office of a member of a control board for the usual reasons.

Clause 20 sets out the procedure to be followed at meetings of a control board.

Clause 21 provides that a presiding officer shall be elected from among the members of a control board at the first meeting of the control board.

Clause 22 provides that a control board shall appoint a secretary.

Clause 23 provides that a control board may, with the approval of the commission, by instrument in writing, delegate any of its powers, duties or functions.

Clause 24 sets out the functions of a control board—

*(a)* to ensure the provisions of the measure are carried out and enforced;

*(b)* to cooperate with the commission, other control boards and any prescribed control body in the development and implementation of coordinated programs for the destruction and control of animals and plants to which the measure applies;

*(c)* to carry out inspections within its area to determine if the measure is being complied with;

*(d)* to collate and maintain records of the species, population density and distribution of animals and plants within the area;

*(e)* to discharge duties and obligations imposed on a board under the measure and to perform other incidental matters.

Division III, comprising clauses 25 to 27, deals with authorised officers and their powers.

Clause 25 provides for the appointment by the Minister, subject to such conditions as the Minister thinks fit, of State authorised officers.

Clause 26 provides that the commission may require a control board to appoint one or more local authorised officer, to operate in the area of the board, unless otherwise directed by the commission.

Clause 27 provides that an authorised officer may—

*(a)* enter and inspect any land, premises, vehicle or place where the authorised officer reasonably suspects that there is any animal or plant likely to afford evidence of an offence or where necessary for the purpose of determining whether a provision of the measure is being complied with;

*(b)* break into, or open anything in or on the land, premises, vehicle or place;

*(c)* seize and remove any animals that are required to be destroyed or controlled and take any measures for their destruction or control;

*(d)* require a person suspected of committing or about to commit an offence to state their name and address;

*(e)* require a person reasonably suspected of having knowledge relating to the administration of the measure to answer questions in relation to those matters;

*(f)* require a person who has custody of a plant or animal in contravention of the measure to deliver it up;

*(g)* require a person to produce records or documents relating to any matter dealt with under the measure;

*(h)* inspect and take copies of records produced;

*(i)* remove and examine or test any animal, plant, vehicle, equipment, etc., for the purpose of determining whether the measure has been complied with;

*(j)* seize and remove any animal, plant, vehicle, equipment, etc., where the authorised officer reasonably suspects an offence has been committed and the thing so seized affords evidence of the offence;

*(k)* require a person holding or required to hold a permit to produce it.

An authorised officer cannot exercise the powers conferred under paragraph *(a)* or *(b)* in relation to a dwelling house except on the authority of a warrant issued by a justice.

Division IV, comprising clauses 28 to 39, sets out the financial provisions.

Clause 28 provides that the moneys required for the purposes of the measure shall be paid out of moneys appropriated by Parliament for those purposes.

Clause 29 provides for an Animal and Plant Control Commission Fund which is to consist of—

*(a)* moneys provided by Parliament;

*(b)* moneys in the fund kept by the former commission;

*(c)* any income paid into the fund under subclause (4);

*(d)* moneys borrowed by the commission;

*(e)* all other moneys that are required or authorised by law to be paid into the fund.

Moneys in the fund that are not for the time being required for the purposes of the measure may be invested by the Treasurer. Subclause (4) provides that income from moneys invested by the Treasurer may be paid into the fund or into the Consolidated Account.

Clause 30 provides for the continued existence of the Dingo Control Fund established under the Vertebrate Pests Act 1975.

Clause 31 provides for the imposition of a rate on certain land holdings for the purpose of dingo control. The provision corresponds in substance to section 19 of the Vertebrate Pests Act 1975.

Clause 32 provides that the commission may borrow money from the Treasurer, or with the consent of the Treasurer, from any other person in order to carry out its functions under the measure. Any liability so incurred is guaranteed by the Treasurer.

Clause 33 provides that the commission shall cause proper accounts to be kept and audited at least once in every year.

Clause 34 provides that the commission shall make a yearly report, within three months of the last year, to the Minister and the Minister shall, within 12 sitting days after receipt of the report, cause a copy of the report to be laid before each House of Parliament.

Clause 35 provides that each control board shall establish and administer a fund which will consist of—

*(a)* contributions received from constituent councils;

*(b)* subsidies and grants paid by the commission;

*(c)* income from investment of fund moneys;

*(d)* penalties paid to the board under the measure;

*(e)* moneys borrowed by the board;

and

*(f)* all other moneys that are required or authorised by law to be paid into the fund.

Moneys paid into the fund which are not for the time being required may, with the consent of the commission, be invested in investments authorised by law. A control board may, with the consent of the commission, borrow money from such sources as the commission approves.

Clause 36 provides that, on the basis of an estimate of expenditure received from each control board, the commission shall determine, having regard to any representations made by the constituent council, the amount each council is required to contribute to the board's fund in respect of the following year. The contribution made by a council shall comprise not more than 4 per cent of the rural rate revenue and 1 per cent of the urban rate revenue for the council area in any financial year. Any constituent council failing to pay its contribution may have it deducted, by the Minister, from any subsidy or Government grant due to the council.

Clause 37 provides that the commission shall pay a yearly subsidy to a control board at the rate of 50 cents for every dollar contributed by the constituent council or councils.

Clause 38 provides that each control board shall cause proper accounts to be kept and appoint an auditor to audit the accounts.

Clause 39 provides that each control board shall, at the end of each year, submit a report, together with the audited accounts of the board, to the commission.

Part III, comprising clauses 40 to 50, deals with the control of animals.

Clause 40 provides that the Governor may, by proclamation, on the recommendation of the commission, declare a specified provision of Part III applies to a specified class of animals. The Governor may declare that the proclamation relates to the whole or part of the State and/or that a prohibition contained in the proclamation is an absolute prohibition. Any proclamation made under this clause with respect to native animals must be in accordance with a plan of management approved by the Minister for Environment and Planning.

Clause 41 provides that, subject to the measure, it is an offence for a person to bring an animal of a class to which this clause applies, or cause or permit such an animal to be brought, into a control area for that class of animal.

Clause 42 provides that, subject to the measure, it is an offence for a person to keep animals of a class to which this clause applies, or have an animal of that class in the person's possession or control, within the control area for that class of animal.

Clause 43 provides that, subject to the measure, it is an offence for a person to sell an animal of a class to which this clause applies.

Clause 44 provides that it is an offence for an animal of a class to which this clause applies to be released, or be caused or permitted to be released, in a control area for that class of animal. It is a defence to a charge of an offence under this clause if the defendant proves that the release was not the result of a wilful or negligent act or omission on the defendant's part. Any costs or expenses incurred by the commission in capturing or destroying a released animal may be recovered from the person causing the animal's release.

Clause 45 provides that the commission may issue, subject to conditions specified by the commission, permits to engage in any of the activities otherwise prohibited by clauses 41, 42 or 43 unless the proclamation contains an absolute prohibition in relation to any of the activities. An amount

*(a)* unnecessarily damages or destroys native trees or shrubs;

*(b)* does not keep to a minimum the destruction of native vegetation;

and

*(c)* in the case of measures taken on road reserve does not keep to a minimum the destruction of vegetation not otherwise required to be destroyed under the measure.

Clause 65 empowers a member of the commission, a control board, an authorised officer or a person authorised in writing by the commission to enter and inspect land for the purpose of conducting a survey of, or research into, the control of animals or plants or investigating any matter relating to the administration of this measure.

Clause 66 provides that a control board shall permit the Executive Officer of the commission or a State authorised officer to assist and advise the board in the discharge of its duties and obligations under this measure and carry out any written instruction given by that person with the approval of the commission.

Clause 67 provides that a control board may enter into an agreement with the owner of any land within its area for the destruction or control of any animals or plants that the person is required to destroy or control.

Clause 68 empowers the commission to require a control board to cause inspections to be made of land within its area to determine whether provisions of the measure are being complied with and to furnish information of a specified kind relating to the population density and distribution of animals and plants of specified classes within its area.

Clause 69 provides that a control board may apply to the Minister for a review of any direction, instruction, decision or order given or made by, or with the approval of, the commission in respect of the board.

Clause 70 protects persons engaged in the administration of the measure from personal liability for acts done in good faith in the exercise or discharge, or purported exercise or discharge, of powers, duties or functions under the measure.

Clause 71 provides that, where a pecuniary liability attaches to the owner of any land under this measure, the liability is to be a charge on the land and may be enforced by action in a court of competent jurisdiction as a debt due jointly and severally from all the owners of the land, including subsequent owners of the land.

Clause 72 provides that a control board is to be paid any penalty recovered on the complaint of the board or a person appointed or employed by the board.

Clause 73 provides evidentiary assistance for the purpose of establishing in proceedings under the Fences Act 1975 that a fence is an animal-proof fence and that such a fence is adequate and appropriate in the circumstances.

Clause 74 facilitates proof of certain matters in proceedings for offences against the measure.

Clause 75 provides that offences under the measure are to be disposed of summarily and a prosecution for an offence is to be commenced within one year from the date of the alleged offence.

Clause 76 provides for the service of notices and documents.

Clause 77 provides for the making of regulations.

Schedule 1 provides for the repeal of the Pest Plants Act 1975 and the Vertebrate Pests Act 1975.

Schedule 2 contains necessary transitional provisions. The real and personal property and rights and liabilities of the former Authority and the former commission become property of and rights and liabilities of the Animal and Plant Control Commission.

Control boards are to be established for the same areas in relation to which pest plant control boards have been established under the Pest Plants Act 1975. All real and personal property, rights and liabilities, members and employees of the former pest plant control boards and vertebrate pest control boards become personal property, rights and liabilities, members and employees of the animal and plant control boards established under this measure. The existing and accruing rights of employees remain in force.

**The Hon. J.C. IRWIN** secured the adjournment of the debate.

## STATUTES AMENDMENT (PAROLE) BILL

Second reading.

**The Hon. J.R. CORNWALL (Minister of Health):** I move:

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

This Bill proposes amendments to the Correctional Services Act 1982, the Criminal Law Consolidation Act 1935, and the Justices Act 1921. The amendments deal with aspects of the parole and remissions systems currently operating in this State. I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

### Explanation of Bill

The legislation dealing with parole was significantly amended in 1983. The changes resulted in a greater degree of certainty in the parole system. Under the present system parole is not available for sentences of less than 12 months duration. The Correctional Services Act 1982 provides for courts to determine non-parole periods at the time of sentencing. At the expiration of the non-parole period less any remissions for good behaviour, a prisoner is automatically released on parole on conditions set by the Parole Board. The conditions of parole must be observed for the duration of the parole period, i.e. up to the expiration of the head sentence. Failure to comply with parole conditions can result in cancellation of parole for a period up to three months.

Under the current legislation a maximum of 15 days remission of sentence for good behaviour can be earnt each month. Remissions are not credited where a prisoner's behaviour has been unsatisfactory except where such behaviour can be dealt with under any other provision of the Correctional Services Act or any other Act or law.

The major strength of the current system is that the function of imposing a sentence and determining the limits of the sentence is within the hands of the court system. One consequence of the new scheme has been an increase in the non-parole periods set by the courts. In fact for most serious offences such as murder, non-parole periods have increased significantly. Despite the general increases in the periods being served by prisoners, there has been criticism of the leniency of some sentences. Where it has been considered appropriate the Government has instituted appeals against inadequate sentences.

The new parole system has gained general acceptance among parole officers, prisoners, parolees and correctional officers. The Department of Correctional Services has been able to adopt a systematic approach to sentence planning and management of prisoners. The Government acknowledges that the whole area of parole and remissions is complex with consideration needed of many factors including protection of the community, community faith in the sent-

may be required, by any person seeking a permit, as security for compliance with the conditions of the permit. A person has a right of appeal to the Minister for a review of a decision of the commission relating to a permit and the Minister on appeal may confirm, vary or set aside the decision.

Clause 46 provides that the owner of land is to notify the control board in the owner's area, or, if there is no control board the commission, of the presence of animals of a class to which this clause applies. A control board is likewise required to notify the commission.

Clause 47 provides at subclause (1) that an owner of land has a duty to destroy all animals of a class to which the subclause applies. Subclause (2) imposes a duty to control all animals of a class to which the subclause applies. Subclause (3) imposes a duty to take prescribed measures for the control of animals to which the subclause applies.

Clause 48 provides that an owner may be required to discharge the owner's duty under clause 47 within four days of receipt of a notice issued by a State authorised officer. Such notice is reviewable by the Minister. If the requirements of the notice are not carried out by the owner of the land subclause (7) empowers the commission to carry out the measures required by the notice and recover the costs incurred in so doing from the landowner.

Clause 49 provides that a duty can only be imposed on an owner under clause 47 in relation to native animals by a State authorised officer acting in accordance with a plan of management approved by the Minister for Environment and Planning.

Clause 50 provides for a procedure under which the owner of any land bounded by and inside the dog fence established under the Dog Fence Act 1946 may lay poison and set traps on adjoining land immediately outside the dog fence in order to destroy or control animals that are liable to be destroyed or controlled under the measure.

Part IV comprises clauses 51 to 60 and deals with the control of plants.

Clause 51 provides that the Governor may, by proclamation, on the recommendation of the commission, declare that a specified provision of Part IV shall apply to a specified class of plants and, in addition, where appropriate, declare that the proclamation is to apply to the class of plants in the whole of the State or a specified area of the State and/or that a prohibition contained in the proclamation is an absolute prohibition.

Clause 52 provides that, subject to the measure, it is an offence for a person to bring a plant of a class to which this clause applies, or cause or permit a plant of that class to be brought into the control area for that class of plants. Subclause (2) provides that, subject to the measure, it is an offence to transport or move on a public road, within the control area for the class of plants to which this clause is proclaimed to apply, any plants of that class or any produce or goods carrying such plants. Subclause (3) provides that it is a defence to a charge of an offence under subclause (2) if—

*(a)* a person acted in accordance with a written approval given by an authorised officer;

or

*(b)* the offence did not occur as a result of a wilful or negligent act or omission on the defendant's part.

Clause 53 provides that the commission may, by notice published in the *Gazette*, control the movement of any animals, plants or soil or any other specified thing from one specified part of the State to another in order to prevent the spread of any plant that is required to be destroyed or controlled under the measure.

Clause 54 provides that, subject to the measure, it is an offence for a person to sell a plant of a class to which this clause applies. Subclause (2) provides that subject to the measure it is an offence for a person to sell any produce or goods carrying such a plant. Subclause (3) provides that it is a defence to an offence under subclause (2) if the defendant proves—

*(a)* that the defendant acted in accordance with a written approval given by an authorised officer;

or

*(b)* the offence did not occur as a result of a wilful or negligent act or omission on the defendant's part.

Clause 55 empowers the commission to issue, subject to conditions specified by the commission, a permit authorising the sale or movement of plants.

Clause 56 requires the owner of land within the control area for a class of plants to notify the control board for the area, or, if there is no control board the commission, of the presence of any such plant on the land. Subclause (2) requires a control board to notify the commission of the presence of any such plant in its area.

Clause 57 provides, at subclause (1), that the owner of land within a control area for a class of plants to which the subclause applies must destroy all plants of that class. Subclause (2) provides that the owner of land must keep controlled all plants on the owner's land of a class to which the subclause applies.

Clause 58 provides that an authorised officer may issue a notice requiring the owner of land to discharge the duty imposed on the owner under clause 57. The terms of such a notice are reviewable by the commission and the commission has power to carry out the requirements of the notice and recover such costs as are incurred, from the owner, where the owner does not comply with the notice.

Clause 59 imposes a duty on control boards to destroy or control certain plants on road reserves within the area of the board. The commission is empowered by subclause (2) to require a control board to discharge that duty.

Clause 60 empowers a control board to recover the costs of control measures taken on a road reserve from the owners of the lands adjoining the road reserve.

Part V comprises the remaining clauses of the Bill and deals with miscellaneous matters.

Clause 61 empowers the Governor, on the recommendation of the commission, to exempt by regulation, persons, animals or plants of a class specified in the regulations from any of the provisions of the measure.

Clause 62 provides that it shall be an offence if a person interferes with an animal-proof fence unless authorised to do so by the owner of the land on which the fence is situated.

Clause 63 provides that a person shall not leave open any gate in an animal-proof fence except for so long as is reasonably necessary for passage through the opening or unless authorised to do so by the owner of the land on which the fence is situated.

Clause 64 provides that a person shall be guilty of an offence if, in carrying out measures for the destruction or control of animals or plants, the person—

encing process, prison management and the rehabilitation of prisoners. The Government recognises the community's concerns in the area and has undertaken a review of certain aspects of the existing system. Before the December 1985 election, the Government announced that it would amend the relevant legislation:

(1) to give courts greater power to decline to set a non-parole period;

(2) to give courts wider powers to extend non-parole periods; and

(3) to ensure that remissions are lost if prisoners are guilty of other offences or misbehaviour while in prison.

The Bill currently before Parliament seeks to address community concerns and is in accordance with the policy commitments made prior to the election. Many of the complaints from the community regarding parole stem from the difference between the head sentence imposed and the actual time of release of the prisoner. Nevertheless, the courts are charged with responsibility for the sentencing process and as part of that process the judiciary determines the time a prisoner will spend in prison and the time the prisoner will spend in the community under supervision. One problem which has arisen in this area is the effect of remissions on the sentences imposed by courts. The intention of the original legislation was that the court would take into consideration the remissions a prisoner can earn on his or her non-parole period when determining sentences. However the courts have taken the view that the judge is precluded by law from taking into account the likelihood of good behaviour remissions during the sentencing process. The new Bill specifically addresses this problem and provides for an amendment to the Criminal Law Consolidation Act to empower judges to consider the effect of good behaviour remissions during the sentencing process.

The Bill also provides for the Correctional Services Act to be amended so that when crediting remissions the Permanent Head is no longer precluded from taking into account unsatisfactory behaviour which is likely to be dealt with under other provisions of the Correctional Services Act or any other Act or law. This amendment will remove the seeming anomaly whereby prisoners can continue to earn good behaviour remissions even though they have further breached the law.

Under the proposed amendments, the reasons for a court to decline to set a non-parole period are specified. The court may decline to set a non-parole period if it considers it would be inappropriate to do so by reason of the gravity of an offence, the criminal record of the person, the behaviour of the prisoner during any previous period of parole and other reasons thought to be sufficient by the court. Further, courts will be given a greater power to extend non-parole periods on the application of the Crown. In reviewing the non-parole periods the courts will continue to look at factors such as the likely behaviour of the prisoner if he was to be released and the behaviour of the prisoner while in prison. In addition the court will be required to have regard to the question of protecting the public. However, it will no longer be necessary for the Crown to prove that the release of a prisoner would endanger a person or the public generally.

The Bill also provides for a dual system of cancellation of parole. At present section 74 of the Correctional Services Act provides that a person who breaches a condition of parole is liable to have the parole cancelled for a period not exceeding three months. The Bill provides for the Parole Board to designate conditions, a breach of which will result in complete revocation of parole. A breach of other parole conditions will result in cancellation of parole for a period not exceeding six months. The amendments will also enable the Parole Board to deal with a breach of conditions even after the period of parole has expired. At this time the board can only issue a warrant for a breach of parole while the prisoner is actually on parole. Therefore, a parolee can breach conditions and avoid the consequences of the breach by absconding until the parole period has expired. In addition, the Bill provides for the release of a prisoner on parole to be subject to the condition that the prisoner shall not carry an offensive weapon without the permission of the Parole Board.

The Bill also provides that a person who commits an offence in prison during a period of cancelled parole will be required to serve the balance of the sentence in respect of which he was on parole. This will make the consequence of committing an offence in prison during a period of cancelled parole the same as for committing an offence during a period of release on parole, being an offence for which a sentence of imprisonment is imposed.

Further, the right of a prisoner to apply to a court for a non-parole period to be set has been clarified. For example, a person who commits an offence interstate while on parole to South Australia and who is extradited back to serve the balance of the South Australian sentence will now be able to apply to a court in South Australia to have a new non-parole period set even though a non-parole period had been previously fixed on the sentence. This removes the current anomaly whereby a parolee in such a situation cannot obtain a new non-parole period and so is required to serve the unexpired portion of his sentence. The amendments to the Correctional Services Act will also allow a prisoner to elect not to be released at the expiration of a period of cancelled parole. The Parole Board has advised that some prisoners elect not to be re-released on parole because of their unwillingness to meet parole conditions. This places the Parole Board, the parolee and the parole officer in an untenable position.

Under the current provisions of the Correctional Services Act the Parole Board is required to interview certain long-term prisoners in person when they are due for annual review and also when a prisoner is returned to prison on the cancellation of parole upon a further sentence of imprisonment. The board has sought a discretion as to personal interviews, as some prisoners refuse to be interviewed and the board has indicated that there is no benefit in forcing a prisoner to attend such interviews. Therefore, a general power has been given to the board to interview a prisoner in person at any time, with a requirement that, at the request of a prisoner, the board must interview the prisoner at least once a year.

Amendments are also proposed to the Criminal Law Consolidation Act to provide that where a sentence of imprisonment is imposed for an offence committed by a convicted person during a period of release on parole the court shall direct that the sentence is to be cumulative upon the sentence in respect of which the convicted person was on parole. This will apply to sentencing in the Supreme Court, the District Court and courts of summary jurisdiction. Such a direction may not significantly increase the period of imprisonment served by the prisoner, depending on the new non-parole period set by the court, but will increase the second period of parole the person will be required to serve. The amendment also makes it clear that the general power to order cumulative sentences applies to courts of summary jurisdiction as well as to the District Court and the Supreme Court. This is not the case under the present provision. The amendment to the Justices Act is consequential to the

amendment to the Criminal Law Consolidation Act. I commend the Bill to members.

Clauses 1, 2 and 3 are formal.

Clause 4 provides a definition of 'designated condition' for the purposes of clause 11.

Clause 5 provides the Parole Board with a general power to interview any prisoner at any time. A prisoner may request such an interview but the board is not obliged to interview the prisoner pursuant to his request more than once a year.

Clause 6 is consequential upon clause 5.

Clause 7 amends the provision relating to the fixing of non-parole periods by the courts. Subsections (1), (2), (3) and (4) are re-enacted in simpler form. Subsection (4) provides that the obligation to fix a non-parole period still only arises where the total period of imprisonment that the prisoner is liable to serve (as at the day on which the matter is being determined by the court) is one year or more. If a prisoner's life sentence is 'reactivated' as a result of a further sentence of imprisonment being imposed by a court of summary jurisdiction for an offence committed while on parole from that life sentence, the court that imposed the life sentence is given the task of fixing (or extending) a non-parole period. The matters that a court must have regard to in deciding whether to decline to fix a non-parole period are spelt out. The court may direct the Parole Board to prepare a report on any person before the court for the purpose of the fixing or extending of a non-parole period. Where the Crown applies to a sentencing court for the extension of a non-parole period, the court must have regard to the question of whether some particular person or the public generally should be protected from the likely behaviour of the prisoner should he be released on parole, but the court may extend a non-parole period even if protection of other persons is not necessary.

Clause 8 provides a further mandatory parole condition of not possessing an offensive weapon without the permission of the board. The board is given the power to designate certain parole conditions as being conditions the breach of which will result in automatic cancellation of parole.

Clauses 9 and 10 effect consequential amendments.

Clause 11 provides for the automatic cancellation of parole if a parolee breaches a designated parole condition. The parolee must in such a case serve the balance of his sentences unexpired as at the day the breach was committed.

Clause 12 provides that a parolee may be returned to prison for breach of condition notwithstanding that, by the time the breach is proved before the board, his parole has expired or been discharged. The maximum period for which a parolee can be returned to prison by the board under this section is increased to six months. A parolee returned to prison under this section can elect to remain in prison to serve the balance of his sentence if he does not want to go through a period of parole again. If he commits an offence while in prison pursuant to this section then he must serve the balance of his sentence in prison.

Clause 13 is a consequential amendment.

Clause 14 contains some consequential amendments and also provides that the permanent head, when crediting remission in respect of a prisoner, can take unsatisfactory behaviour into account notwithstanding that the behaviour has been, or is likely to be, otherwise dealt with under the Act or some other Act or law.

Clause 15 is a consequential amendment. Clause 16 is formal.

Clause 17 inserts a definition of 'court' in the Criminal Law Consolidation Act, providing that the expression covers all courts except where a contrary intention is indicated.

Clause 18 provides that a court shall take the remission system into account when sentencing a person to imprisonment or in fixing or extending a non-parole period.

Clause 19 provides that a court must make a sentence of imprisonment cumulative if it is imposed for an offence committed by a person while on parole. This of course cannot apply if one of the sentences is a sentence of life imprisonment.

Clause 20 is formal.

Clause 21 makes an amendment to the Justices Act, by striking out the provision that is held to limit a court of summary jurisdiction to making only one sentence of imprisonment cumulative. The provision in the Criminal Law Consolidation Act giving a court an unfettered power to make any number of sentences cumulative now applies to courts of summary jurisdiction.

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

## FIREARMS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 September. Page 1127.)

**The Hon. R.J. RITSON:** The Opposition supports this Bill, which is designed to overcome the difficulty of the very tight conditions attached to the possession of certain types of firearms generally termed as dangerous firearms.

By and large, firearms that fall into this category are either major instruments of war or particularly nasty weapons which have no sporting or recreational purpose but which were designed primarily for stealthy killing. Examples of the first group are machine guns and mortars, while an example of the other type is the derringer pistol which, ballistically, is a fairly hopeless little thing, but it was designed for the lady's purse and the riverboat gambler's coat pocket. In the interests of authenticity in film making and theatrical production, it is obvious that these types of firearms have a historical place in the history of the human race and it would be quite stupid if historical anachronisms were evident in theatrical productions and films merely because the weapon used at the time could not be used. I understand that the matter has been overcome in a practical way by having the police actually attend and be the people in charge of the use of the firearms during filming—but that is a matter of great inconvenience.

This Bill overcomes that by creating a new class of permit to possess a dangerous weapon. The matter will be administered by the person in charge of the firearms registry. Some concern was raised by some people with an interest in firearms. Concern was raised lest the Bill do anything other than introduce this new right to use dangerous weapons for the purposes outlined. They were concerned that perhaps existing rights would be eroded. As I read the Bill, I can find no evidence of that. I agree with the statement made in the second reading explanation that, other than creating this new class of dangerous weapon, no existing rights are eroded. So, the Opposition is quite happy with this, but in Committee I want to ask the Minister two questions to seek assurances as to the meaning of two clauses. Notwithstanding that, advice I have taken indicates that the Bill does not need amending. Having said that, I indicate the Opposition's support for the second reading.

**The Hon. M.J. ELLIOTT** secured the adjournment of the debate.

## CONTROLLED SUBSTANCES ACT AMENDMENT BILL

In Committee.

(Continued from 24 September. Page 1130.)

Clause 8 passed.

Clause 9—'Establishment of assessment panels.'

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

Page 3, line 24—After 'Health Commission' insert 'after consultation with the Commissioner of Police'.

This amendment is to ensure that when the Health Commission is constituting an assessment panel the Commissioner of Police is consulted. Existing section 34 provides:

(1) The Minister may establish such number of drug assessment and aid panels as he considers necessary or desirable for the purposes of this Division.

(2) An assessment panel shall consist of three persons, one being a legal practitioner and two being persons who, in the opinion of the Minister, have extensive knowledge of—

*(a)* the physical, psychological and social problems connected with the misuse of drugs of dependence or prohibited drugs;

or

*(b)* the treatment of persons experiencing such problems.

So, the mechanism is that the Minister says that X will be the legal practitioner and Y and Z will be the two persons with the other qualifications necessary to constitute an assessment panel. If one member is unable to be present, I understand that prejudices the operation of the panel. This provision does not provide much flexibility, although it is the responsibility of the Minister to constitute these panels and it is the Minister who is accountable for them. The Bill seeks to allow the Minister to establish a panel of legal practitioners and also a panel of other persons who have extensive knowledge of the physical, psychological and social problems connected with the misuse of drugs of dependence or prohibited substances or the treatment of persons experiencing such problems.

So, there would be two panels and it is then up to the Health Commission to appoint a panel comprising one person from the panel of legal practitioners and two people from the other panel of experts. That means that there will be flexibility. The Opposition finds no problem with that sort of flexibility, but the Opposition believes that because the commission of an offence is involved the police have a responsibility for the detection of that offence and the preparation of the case and, ordinarily, apart from this provision it would participate in the decision whether or not to proceed with a formal prosecution.

Under the Children's Protection and Young Offenders Act the police actually have membership of the assessment panel which makes that decision. As I indicated in my second reading speech, in 1984 the Opposition proposed that a police officer be a member of the panel. We were defeated on that and we live with that decision, but we still hold a very strong view that, in the determination as to whether or not a person should be prosecuted, the police ought to have some involvement.

Under the Act at the moment the assessment panel makes that decision and the police have no involvement at all in that assessment panel. At the very least it is my view that the Health Commission, if it is going to have the responsibility for determining who shall constitute a particular panel, should be required to consult with the Commissioner of Police. The Police Regulation Act allows the Commissioner of Police to delegate his or her responsibility, so there is no need to provide for a nominee of the Commissioner in my amendment.

While the amendment will not achieve what I believe to be the best situation (that is, the participation of the police in a decision as to whether or not a prosecution for a statutory offence should be pursued), at least they will have the responsibility of being consulted as to who should in fact constitute a panel. The Health Commission can still go its own way, but there is a certain protection in requiring the Health Commission to consult before nominating a panel. Whilst I do not assert that there will be any abuse of the power, nevertheless, I think it is important to build in a few checks and balances, and my amendment will do that.

There is always a temptation, I suppose, where this sort of power is given to any person or body, to not so much abuse it but to be flexible as to the basis upon which it is exercised. I would hate to see that temptation ever placed in the way of the Health Commission or its officers who will in fact make this decision. At the minimum, therefore, the consultation ought to be with the Commissioner of Police before the panels are in fact constituted, and I would not have thought that that created any particular burden for the Health Commission.

**The Hon. J.R. CORNWALL:** The Government rejects these amendments and rejects them strongly. We do not believe that these assessment panels are comparable with the children's aid or assessment panels. In those cases, since the child has not been before a court it is appropriate to have some input from the police and to have a consensus approach and also, of course, to impress upon the child appearing before a panel that the police are respected authority figures.

However, in the matter of drug assessment and aid panels which, I might say, have begun to work very well after some initial but understandable teething problems, it is quite inappropriate to have a police officer. The police make the arrest; the police refer the matter to the police prosecutor; the police prosecutor in turn, in consultation, decides whether a person should be charged; and the police prosecutor takes the case into court.

If then, in the opinion of the magistrate, the matter should be referred to an assessment and aid panel, that is done. So, the police are involved in various stages up to and including prosecuting the case in court. At that stage, the magistracy makes a decision as to whether that person should be referred for assessment. Once it has gone for assessment, it is not then a matter for the Police Force. It is a matter for legal aspects to be considered, and that is why we have a lawyer on the panels. Social aspects ought to be considered. The question of treatment and rehabilitation, of course, is extremely important. In none of those areas, with respect, has the Police Force anything to contribute. The Police Force is about law enforcement, and quite rightly so.

The Police Force should not be involved. The effect of the amendment would be to slow down the procedure for appointment of the panels, for a start. It would not enable the police to veto any proposed appointment—they would only have to be consulted—and I really cannot see the point of the amendment. I cannot see what the value would be in practice. Without wishing to disparage the police in any way, I doubt whether they would be in a position to make useful comments regarding the proposal.

*The Hon. K.T. Griffin interjecting:*

**The Hon. J.R. CORNWALL:** I understand, but I totally disagree. I cannot see what value it would have in practice. As I said, without wishing to disparage the police in any way, that is not a role they could validly fulfil. I have grave doubts whether they would be in a position to make useful

comments regarding your proposal. For example, if I as Minister were to appoint someone who was a defence lawyer in drug cases, would they say that he or she was biased and, if so, would this be a useful comment? Areas such as rehabilitation and treatment, of course, are by their very nature outside the direct experience of members of the Police Force. The same point applies to the knowledge of social problems connected with the misuse of drugs.

I doubt very much whether the police would be in a position to make any constructive comment at all. They are simply not involved in those areas. I make those points with great respect to the South Australian Police Force and individual members of it. They have great expertise in the areas in which they are expected to have it. However, they are not lawyers; they are not social workers; they are not health professionals; and I completely fail to see how they could make any comment which would be useful in that situation.

Let us also look at the further practical implications. Experience has shown that in a city the size of Adelaide, where everyone seems to know everyone else—and very often seems to know everyone else's business—the pool of people with the required skills is quite limited. That is a genuine and practical problem. Generally, we do not have so much choice among potential appointees as to be able to take account of adverse police criticism, should it be regularly made.

Finding appropriate and experienced people to serve on these panels is not easy. The panels, as they currently exist, have been in operation since May 1985. They see approximately 200 to 300 people a year, so they are busy. They perform a very useful function. To date, eight people have been appointed—two lawyers and six others. As I am instructed, the panel enjoys cordial relations with the police, and I know that from personal experience or personal contact with at least two members of the panel.

No criticism of the panel's operations has been brought to the notice of the Health Commission or to the notice of my officers. Apart from operating the administrative procedures to refer offenders to the panels, the police have no other involvement whatsoever. The police have never raised the issue of wishing to comment on panel members to the Health Commission or to the panel secretariat. This seems to be simply a rush of blood to the head of Mr Griffin. If the police were to present a case that could be examined and, at the end of the examination, if it was considered a valid case on all the evidence presented, then of course I would consider it. The fact is that none of the commissioned officers of the police (those who speak for the Police Force) or even their verbose and outspoken trade union official have approached my office or me on this matter.

In summary, I think that the proposal should be opposed for a number of reasons: first, it will slow down the procedures for the appointment of panel members; and, secondly, the panels operate quite successfully and there has been no criticism from the police. There appears to be no need for the proposal other than to reopen the original 1984 debate. Thirdly, the police are not and should not be involved in the work of the panels which is oriented towards treatment and rehabilitation rather than crime and punishment. These are specialist clinical and treatment issues of no direct relevance to the Police Force. Fourthly, how would the police undertake their vetting procedures? Would they see whether there were any outstanding parking fines? Would they check up on the background of the proposed appointee in relation to any civil misdemeanours?

In reality, I suspect that this would be another unnecessary paperwork burden which the Commissioner's office would have to handle and I doubt very much that he would welcome that. Of course, we would live with the amendment if it were made, but I most strenuously prefer that it is not. It seems to me to create more red tape for no result at the end of the day.

**The Hon. M.J. ELLIOTT:** I am of the view also that, where there is a panel that is acting in somewhat of a judicial role, I do not think that the people who are directly involved with enforcement necessarily should have a direct role there. I am certainly not convinced of the need for that and it has not been demonstrated to me that there have been any problems with the Act in relation to the absence of consultation with the Police Commissioner and, as such, I do not support the proposed amendment.

**The Hon. K.T. GRIFFIN:** The assessment panel does not act judicially. I agree that it has the role of assessing persons appearing before it but, if one looks at the Act, no prosecution can be laid for a simple possession offence unless the assessment panel authorises that. What we have is not a judicial decision being made but, rather, an enforcement decision being made: that is, is it appropriate in a particular case to allow a prosecution to be laid and for the matter to be dealt with in court? It is not a case of the matter going to court and then the assessment panel becoming involved: it is a matter of the assessment panel initially being involved and then going to court if the assessment panel so determines. The police detect the offence, prepare the case, determine through their adjudicating system whether or not a prosecution should be laid and then, before a prosecution is laid, under the Act the matter must go to the assessment panel and the assessment panel then makes a decision as to whether or not to authorise a prosecution.

The point I made in 1984 was that, for the first time, with this sort of procedure, there is in operation a body (which is outside the law enforcement and justice administration agencies) making decisions about whether or not prosecutions should be laid. In that respect, it is my view that the police have an important role to play and the Act as it presently stands keeps the police out of that important role. In terms of the consultation process, I hold the view that the police should be involved in consulting with the Health Commission before it constitutes panels. I make that point because in this legislation we are changing the system from a decision taken by the Minister to a decision taken by a Government agency and one presumes that that will be taken not by the Health Commission as such, but by some person within the commission to whom the responsibility has been delegated. I think that the police have an important role to play and I believe that the amendment has some merit.

The Committee divided on the amendment:

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, B.A. Chatterton, J.R. Cornwall (teller), M.J. Elliott, M.S. Feleppa, I. Gilfillan, Carolyn Pickles, T.G. Roberts, and G. Weatherill.

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

Majority of 1 for the Noes.

Amendment thus negatived; clause passed.

Clause 10—'Expiation of simple cannabis offences.'

**The Hon. K.T. GRIFFIN:** The Opposition will oppose this clause. It is the most objectionable part of the Bill. It introduces expiation fees for simple cannabis offences—possession, consumption and possession of equipment. I made a number of points in the second reading as to why

I regard the proposal as objectionable. Not the least of these is that it creates a perception that the smoking and cultivation of cannabis for personal use is acceptable conduct. It diverts such offences from the legal system.

Because of the way in which the proposal is structured, even if a person were a persistent offender, he would never be brought before the court so that it could deal with him. It is akin to parking fines because under the expiation fees applied through council by-laws there is no discretion in the suburban or city council to prosecute rather than accept a fine or expiation fee. The breaches of council by-laws by parking for too long at a parking meter or in a loading bay when not loading are all matters that can be expiated by payment of a fee, and a person can commit as many such offences as he likes and as frequently as he likes. Provided that the offender pays the expiation fee he will never be brought into the justice system.

That is to be contrasted with the traffic expiation scheme whereby a speeding ticket, for example, may be issued by a police officer and the expiation fee may be paid, but that is not the end of the matter. The demerit points that accrue will be applied to the offender and accumulated to 12. Then, the licence is automatically suspended. There is provision in the traffic expiation scheme for the police to refund an expiation fee and determine, for a variety of reasons, that the matter should go to the court.

It may be that the offence was conducted in conjunction with some other offence and the police believe that it is appropriate for all offences to be dealt with in the court. It may be that the offender is a persistent offender and the payment of an expiation fee is an inappropriate way to deal with the offence. In those circumstances, the police may prosecute regardless of whether the expiation fee has been paid or whether the expiation notice has been forwarded to the offender. In each case the offender may resolve himself or herself to have the matter taken to court.

In the scheme proposed, there will be a system under which persistent and repeated offences will never be brought to the court, provided that the expiation fee is paid. It does not matter that the offence was committed in conjunction with other offences, and that it might be appropriate for the possession offence to be dealt with in conjunction with those cases. That can never occur. At no stage can a decision be taken by the prosecuting authorities that a person should go before the court and be dealt with there.

The court has a range of options open to it. It can dismiss the matter, impose a fine without proceeding to conviction, or impose a bond and attach conditions to it. It can do a variety of things that are in the interests of the offender. The principle of a penalty is not only to punish but to deter and to provide the mechanism for rehabilitation, or the procedures that might be conducive to rehabilitation.

None of that applies in the context of this clause and provided the offence is not committed in a public place, according to the amendment proposed by the Minister, it will never be able to be brought before the court. That is undesirable. It allows a contempt for that statute to be developed and for persistent offenders who might be seeking to big-note themselves to thumb their noses at the law enforcement agencies and the court. It can allow the popularisation of the smoking, consumption or cultivation of marijuana for personal use. It is directed towards a level of acceptability for smoking marijuana that is undesirable for all the reasons that I gave on the second reading.

The Minister said, and I have no reason to disbelieve him, that he urges people not to experiment with marijuana or smoke it. He says that it is not his or the Government's intention to introduce a regime that will condone the use of marijuana. However, I suggest that the proposed system embodied in this clause will have no other consequence than that it will show a highly undesirable level of acceptability to smoking marijuana. It will indicate to the community at large and young people in particular that, provided one smokes marijuana in private and either is not caught, or if caught, pays the fine, there is nothing more that society and the authorities within society are able to do or wish to do to combat that drug abuse.

I wish to raise a number of matters on the clause by way of questions and comments. It may be appropriate to deal with those one by one, but I shall just flag them for the moment. I have always argued that it is undesirable that much of the structure of law enforcement is achieved by regulation. I make the same point in respect of this clause, because significant regulations will have to be made to enable flesh to be added to the bones of this proposal.

The difficulty with a regulation is that it is considered by the Subordinate Legislation Committee of both Houses. Evidence can be given and a report presented to both Houses. It is open to any member of either House to move for disallowance, but the numbers must be there. If the regulation is made in conjunction with other regulations, it is frequently difficult to move for its disallowance because the whole lot will be disallowed. Even if the regulations are disallowed, however, they can be reintroduced, even on the day of their disallowance.

It is highly unsatisfactory to have this type of substantive proposition implemented in law by regulation rather than by statute. The expiation fee ought to be in the statute. The Minister has said that he proposes moving an amendment which excludes offences which occur in a public place or a place of a kind prescribed by regulation. I said on second reading that there is no definition of public place. That in itself will create difficulties for law enforcement agencies and for the courts.

A definition of public place in the Summary Offences Act, has been found necessary in relation to offences such as loitering and soliciting. There is also a definition of public place in the Prostitution Bill. A definition of public place is essential to ensure reasonable clarity in this proposal. It is not true, as the Minister suggested, that a restaurant would be regarded as a public place for the purposes of this new section. There must be a clear definition.

In the definition of a simple cannabis offence in new section 45a (8) the expiation scheme will apply to any possession offence wherever it occurs. The public place proviso applies only to the consumption or smoking of cannabis or cannabis resin. The expiation scheme applies to any offence of possession of equipment wherever it may occur. Any public or private possession of cannabis or cannabis resin or equipment used in connection with their consumption or smoking will be subject to an expiation fee. That means that, while a person may wish to flaunt the fact that he or she is smoking marijuana in public, he or she will be taken through the legal process whereas a person who is in possession of cannabis and flaunts that fact will not be brought to court. Nor will flaunting possession of equipment used in connection with the consumption or smoking of cannabis involve going to court if it occurs in a public place. The Minister's limitation of the expiation scheme to smoking or consumption in a public place is much too limited.

I would suggest to him that he give consideration to widening the application of the amendment that he has on file to deal with those circumstances to which I have referred. The Opposition opposes very strongly the clause but highlights that if the clause is to go through there are still some

very grave difficulties with the proposal as set out in that clause.

**The ACTING CHAIRMAN (Hon. R.J. Ritson):** There are two amendments on file. We will deal with the Minister's amendment first.

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

Page 4, line 28—After 'resin' insert 'exept an offence alleged to have been committed in—

(i) a public place:

or

(ii) a place of a kind prescribed by regulation'.

The amendment is self-explanatory. I spoke on it in broad terms last night. The definition of 'public place' is the common law definition which states:

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.

This on my advice covers streets, parks, restaurants, open-air concerts and so forth. As a further guarantee and safety mechanism we have taken the additional step of adding into this amendment the words 'or any other prescribed place'. That covers, for example, taxis. The Government can and will declare the interior of a taxi to be a prescribed place for the purposes of the provision, I do not believe that that needs any further explanation and therefore seek the support of honourable members. I will reply to the general points made by the Hon. Mr Griffin in opposing clause 10 generally after we have handled this amendment.

**The Hon. M.J. ELLIOTT:** I have already addressed the clause at some length at the second reading stage, but would like to make a few points concerning my position. First, it must be made perfectly clear that smoking marijuana is quite different from crimes of property or crimes affecting other persons. The smoking of marijuana is a victimless crime.

**The Hon. K.T. Griffin:** That really is nonsense.

**The Hon. M.J. ELLIOTT:** It is a victimless action.

**The ACTING CHAIRMAN:** Order! The honourable member should address his remarks to the amendment moved by the Minister dealing with the question of a public place or prescribed place.

**The Hon. M.J. ELLIOTT:** I believe that the path I am following is taking me to the question of a public place. My greatest concern is the possibility that there could be a public flaunting of the law. I do not want to see the law being made an ass of.

It is for that reason that when having discussions with the Minister last week I raised my concern about what would happen if there was a flaunting of the law. That, of course, would happen in a public place, more so than in a private one. There might be a public demonstration deliberately breaking that law. Contrary to the theory held by the Hon. Mr Lucas that the Minister has been rolled by the Premier, if he has I did not get that impression, then. I got the feeling that the Minister, after discussing the matter with me, felt that there was some value in that and for that reason felt that there should be a higher penalty for smoking marijuana in a public place. I strongly support any move that sets out to achieve that end to prevent the law from looking silly.

**The Hon. K.T. GRIFFIN:** I do not disagree with the amendment, on the basis that it improves the clause. I accept that at common law there is some meaning ascribed to the words 'public place,' but I suggest that they are not as wide as the description given to them by the Minister. In fact, if one looks at the Summary Offences Act one sees that it contains a definition of public place, as follows:

*(a)* every place to which free access is permitted to the public, with the express or tacit consent of the owner or occupier of that place; and

*(b)* every place to which the public are admitted on payment of money, the test of admittance being the payment of money only; and

*(c)* every road, street, footway, court, alley or thoroughfare which the public are allowed to use, notwithstanding that that road street, footway, court, alley, or thoroughfare, is on private property.

If one looks at the Prostitution Bill one sees 'public place' defined as meaning:

*(a)* a place (whether on public or private propery) to which free access is permitted to the public; or

*(b)* a place to which the public is admitted on payment of money, that being the only test of admission.

I think that that is probably too narrow. I would argue against what the Minister is suggesting, that a restaurant, for example, is a public place at common law. I know that there is a provision in the amendment for a place to be prescribed by regulation, but the difficulty with that is that although I know that one can prescribe a taxi, a concert at football park, or a restaurant, I think that it is important as a matter of principle for those areas to be fairly clearly understood from the principal Statute as being public places for the purpose of the operation of this clause, and they are not.

I suggest that the common law definition of 'public place' is very limited and that there are many instances of arguments in the courts over what is or is not a public place. I suggest that even private rights of way, where the public might go by permission, are not necessarily within the description of 'public place'.

I am saying that there will be arguments, and perhaps the Minister wants to give lawyers work, because that is what will evolve from this if we are not reasonably clear on the definition. That is why I am raising it. The other point is that the amendment relates only to the smoking or consumption of cannabis or cannabis resin. If the Hon. Mr Elliott is concerned about the law being flouted in public in respect of smoking or consumption, it can equally be flouted, and there can be flaunting of cannabis in public, by the possession of cannabis and by the possession of equipment for use in connection with the smoking or consumption of cannabis.

There is nothing to stop a person who wants to flaunt cannabis in public from standing up with a 25 gram pack with a sign saying 'This is cannabis. I challenge the police to arrest me.' Police will not arrest, and it is just as much a problem doing that in public as it is to smoke marijuana in public. If the Government is proposing to outlaw or ensure that the smoking offence in public must go to court and cannot be expiated by the mere payment of a fee, I suggest it ought to apply equally to the possession in the context to which I have referred.

There is nothing, for example, to prevent a person with equipment for the smoking or consumption of cannabis from putting that on display and then to be merely subject to an expiation fee. That brings the law into disrepute as much as the smoking in public in the context referred to by the Hon. Mr Elliott. There are some serious questions that need to be answered both about the definition of 'public place' and about the scope of the exception that he is moving in this amendment.

Amendment carried.

**The Hon. J.R. CORNWALL:** I address my remarks to the Hon. Mr Griffin. This is one of the important clauses in the Bill. We have attempted in refining the Act even further to strike a balance between care and compassion for victims of substance abuse on the one hand and, as evidenced by our acceptance of the even more draconian pen-

alty put forward last night for trafficking in hard drugs, we have never at any stage suggested that we had other than contempt for the criminal elements of the drug trade, and we believe that they should and must be pursued with the full vigour and rigour of the law.

To that extent, as part of the acceptance of the importance of this aspect of the drug strategy, we have dedicated more resources to the Police Force, despite the fact that this is a year of considerable budget stringency. Let it never be said that this Government is soft on those criminal scum who traffic or trade in illegal drugs. Let it never be said that this Government or this Minister of Health has ever suggested that smoking marijuana is harmless.

I acknowledge openly and clearly that marijuana is one of the substances abused in a spectrum very often of poly-drug abuse. Those facts are on record. However, I make the observation that the degree of opposition to rational drug legislation seems to me to be in inverse proportion to the level of knowledge of both of the real world and the law as it operates in these areas. Regrettably, we cannot hope to have a rational debate while we have the histeria that has been created, at least in some circles, by Opposition politicians. Incidentally, in relation to the expiation fee, during the second reading debate last night I outlined a practical administrative scheme, which has been devised in consultation with senior commissioned officers of the South Australian Police Force.

One of the elements of that scheme involves the use of sealed 3M bags which, as I have said, would have been put into operation in any case. The police have been addressing this matter for some time. Whenever an amount of marijuana or any other drug is confiscated, quite obviously it is important to place it in a bag which is then sealed and on which the seal cannot be broken except under supervision, thus avoiding any subsequent contest which might arise or any disagreement that might arise between the person alleged to have been in possession of the drug on the one hand and the police officer on the other. That is a simple and practical measure that has our support.

In relation to the whole issue, why are we doing this? Do members opposite believe for one moment that, as Minister of Health, I think there is any political advantage in taking this step? I am sure they do not. In fact, I think they believe—and maybe, at least in the short term, accurately—that there will be some political debit for me personally as Minister of Health in the step that I have taken in trying to get further rationality into the law as it relates to substance abuse.

The reasons for doing this are threefold, and I shall summarise them very briefly and, I think, succinctly. First of all, the simple fact of the matter is that tens of thousands of South Australians smoke marijuana as a recreational drug. They have done so now for a period in excess of 15 years. One would hope that, when the matter has been desensitised, when it is not continually raised as a matter of public concern, consumption of marijuana will ultimately decrease. It is quite a recent phenomenon, of course, to pursue marijuana in particular with the full vigour and rigour of the law. It is interesting to look at the contemporary history of this matter. I understand that the interest in marijuana in the Western democracies was rekindled when there was a mass migration, most of it illegal, of Mexicans into the United States after the First World War. It became a *cause celebre* for some of the more notable figures of that unhappy period in American history, including J. Edgar Hoover. On my reading of the matter, certainly at that time there seemed to be something of a racist and socio-economic bias in the decisions that were made rather than the making of rational decisions that might have been based on psycho-pharmacology.

The song that I am sure you, Mr Acting Chairman, will remember—it is about our vintage—*La Coucaracha* actually means 'The stoned cockroach'. I perhaps should not have revealed that to members. It would have been a handy appellation to apply from time to time in Question Time and nobody would ever have known that I was reflecting injuriously on the member to whom I directed the remark. However, that is the simple fact of the matter.

I have also observed that many young people do experiment with substance abuse, particularly a fleeting experimentation or a not so fleeting experimentation with marijuana as part of the experimentation generally that goes with teenage years and growing up. Marijuana grows virtually as a noxious weed. All it requires is a little fertiliser, a little water and a little sunlight, and it will grow in an enormously wide variety of conditions. The question of stamping out the supply of marijuana by simply using the criminal law is a fanciful notion at best and quite stupid at worst. It is about as productive as the prohibition approach which was employed in the United States in the late 1920s and early 1930s. What it does is make multimillionaires of those criminals who are prepared to operate in the black market. It creates artificial street prices for what is essentially a noxious weed in other circumstances. It makes multimillionaires of gangsters and criminals. I believe that we should at least try to break the nexus between those who trade and traffic in narcotics and other illicit drugs on the one hand and marijuana on the other. That is one element involved in this legislation.

Secondly, it is widespread in the real world; and the third and perhaps most cogent and important reason of all is that I do not believe, I have never believed, and I will never believe that we ought to make criminals out of kids. The Hon. Mr Griffin and his colleagues apparently persist with the notion, like their Queensland National Party colleagues, that it is appropriate to make criminals out of 18 and 19 year olds for simple possession offences. As the law currently stands, despite the significant amendment which was made with the support of the Hon. Mr Lucas and the Hon. Di Laidlaw in 1984, it is still an offence. One still carries a record if apprehended for the simple possession of less than 100 grams of cannabis. I do not want that on my conscience. I know, and Mr Elliott knows, and anybody who has had contact with the real world knows, that kids at that age will experiment, and while the present law persists, we in fact create for them criminal records. Of all drug busts in the year 1983-84, it is significant that 96 per cent were for marijuana offences and the overwhelming number of those marijuana offences were for simple possession. So, I would challenge those sanctimonious and parsimonious members of the Opposition who try to paint us—

**The Hon. K.T. Griffin:** Just keep your personal abuse out of it.

**The Hon. J.R. CORNWALL:** The Hon. Mr Griffin says that I should keep personal abuse out of it. It has been notable in this debate that at practically no stage has any speaker referred to this as the Government's legislation. It has been 'the Minister', 'the Minister's Bill', as though it was some monster that was created by me.

*Members interjecting:*

**The ACTING CHAIRMAN (Hon. R.J. Ritson):** Order!

**The Hon. J.R. CORNWALL:** The simple fact is, and I will go through this again, that when a Bill is first mooted it is processed through a Minister's office. It goes to Cabinet—perhaps through a Cabinet committee or perhaps direct

to Cabinet. It is processed and examined by a caucus committee.

When it has the approval of both the Cabinet and the Caucus committee it goes to the entire Caucus. It is a very big Caucus at the moment; we have 27 members in the House of Assembly, I am happy to say; we hold every marginal seat one can imagine.

*Members interjecting:*

**The ACTING CHAIRMAN (Hon. R.J. Ritson):** Order! The Minister rightly has a wide latitude to speak to clause 10, but I do not think that Caucus has much to do with clause 10, and there is other work to do.

**The Hon. J.R. CORNWALL:** I do not want to disagree with your ruling, Sir, but I think that it ought to be on the record that this decision was taken by 36 members of Caucus, and this Bill is before the House with the full support of, from memory, 35 of those Caucus members. So, let us have no more nonsense about 'the Minister's Bill'.

I would conclude by repeating that I do not think it is fair to make criminals of our kids and if, as I said before I was rudely and inappropriately interrupted by the numerous interjections from the troglodytes opposite, the parsimonious and sanctimonious—

**The ACTING CHAIRMAN:** Order! I think the Minister is provoking interjections by using terms which are certainly bordering on the injurious.

**The Hon. J.R. CORNWALL:** Parsimonious and sanctimonious?

**The Hon. R.I. Lucas:** Troglodytes!

**The Hon. J.R. CORNWALL:** The accuracy of that word is well reflected by at least some members of your front bench. I say again that I have no joy in collecting some of the inevitable opprobrium of the more conservative members of society on this matter, but I do not resile from my actions or from those of the Government. I think that, when one looks at the balanced nature of this legislation as it will emerge from this place, one realises that it will certainly put us at the forefront of this country and among Western democracies in trying to strike a balance between using the criminal law to restrict supply, on the one hand, and having active strategies for prevention and early intervention and rehabilitation, on the other.

**The Hon. K.T. GRIFFIN:** Will the Minister indicate whether the regulations made under clause 10—as it appears it is likely to pass—will be made as a separate set of regulations or will they be bundled up with other regulations made under the Controlled Substances Act?

**The Hon. J.R. CORNWALL:** I will not stake my life and reputation on it, but my thinking at the moment is that it probably would be preferable that they be made as separate regulations.

**The Hon. K.T. GRIFFIN:** In the explanation which the Minister made yesterday in his reply at the second reading stage, he said that the police will have discretion whether to charge for sale or supply under section 32 or to issue an expiation notice. The clause says that, subject to this section, before a prosecution is commenced an expiation notice must be given to the alleged offender. Could the Minister clarify the basis upon which he suggested yesterday that the police would have a discretion?

**The Hon. J.R. CORNWALL:** If they are charged, or if the police officer elects to designate a simple cannabis offence, that is the procedure that will follow. The person who has been apprehended for personal possession of marijuana must be sent an expiation notice. However, that is completely without prejudice to the police officer's bringing forward evidence that the person was dealing. If that is the charge that the police officer elects to make, he can do that forthwith.

According to my instruction, there is no question that the spirit, the intent and the wording have been designed to make very clear that the police officer will still be able to charge a person with dealing or trading in an amount of marijuana as small as 20 grams or 25 grams. He may do that if the marijuana is packed in a certain way, if there is evidence that a person is moving about or that money is changing hands. If someone is apprehended dealing in small quantities of marijuana, obviously they would be charged with the greater offence.

**The Hon. K.T. GRIFFIN:** I suggest that that is not really a discretion in the police officer in the context of a particular set of facts. If a person possesses 25 grams of marijuana and if there is no other evidence that that person is trading in that drug, there is no discretion in the police officer. However, if there is evidence of trading, I agree that whether 25 grams or 50 grams is involved the police have a set of facts on which to prosecute for trading. It was just a matter of trying to clarify whether or not, in the circumstances where a person has 25 grams of marijuana and there is no other evidence, there was a discretion. I am now satisfied with that clarification—that there is no discretion in those circumstances. If there is simple possession and no other facts, an expiation notice must be sent: if other facts suggest trafficking, other charges can be laid. I believe that that adequately clarifies the point.

The Minister said last night, in outlining the expiation fee in relation to implements, that a $50 fine will apply for possession of an implement but, where an implement is seized together with cannabis or cannabis resin, the fine is $10. Is that a misquote, or is the position that, if someone has both marijuana for personal use and implements in their possession, the maximum fine is $60 and not $100, as the cumulative expiation fees would otherwise amount to?

**The Hon. J.R. CORNWALL:** Yes, the expiation fee would be $60, and that is in line with the monetary penalty imposed by the courts at present.

**The Hon. K.T. GRIFFIN:** Will the Minister identify the way in which a sealed, 3M bag will assist the police to avoid disputes about quantity and nature of the substance? How will this protect defendants?

**The Hon. J.R. CORNWALL:** I would have thought that that was self-evident from my explanation last night.

**The Hon. K.T. Griffin:** It was not.

**The Hon. J.R. CORNWALL:** Let us consider a situation where a police officer apprehends someone in possession of about 25 grams of marijuana. He examines the marijuana and says, 'I have reason to believe that this is marijuana and in my estimate it would be in the region of 25 grams.' The person who is in possession of it says, 'Yes, I believe that is a reasonable assessment. My name is John Robert Smith and I live at whatever address.' The police officer writes down the information, seals the marijuana, takes it away and it is stored. There is an agreement between the police officer who apprehends the person and the person in possession of the alleged marijuana that, first, it is indeed marijuana and, secondly, that it is an amount of 25 grams or less.

**The Hon. K.T. Griffin:** If there is no agreement at that point?

**The Hon. J.R. CORNWALL:** If there is no agreement at that point, the person can elect to go to court and will have to elect to go to court.

**The Hon. K.T. Griffin:** As to the actual sealing in the bag, the police will have possession of the bag, will they not?

**The Hon. J.R. CORNWALL:** The police will have the bag. Let me finish the first scenario. Whether it is 25 grams as agreed, or somewhere between 25 grams and 100 grams as agreed, on the one hand the expiation would be $50 and on the other hand it would be $150. The police officer takes it away. Subsequently, the person who has been involved in the agreement that the substance is marijuana and it is above or below 25 grams sleeps on the matter and talks to a couple of his friends. He then says, 'The problem was that there was a police officer who was six foot two inches'—or whatever that might be in centimetres—'and 16½ stone, and in my view he was adopting threatening postures. I do not believe for one moment that it was this, that or the other. I would like to contest that.' He can do so in 28 days.

During that period the marijuana will keep in reasonable condition both from the point of view of confirmation, if it becomes necessary, of the substance by an analytical botanist and from the point of view of the accurate weight of the substance, which can be ascertained also at the Government Laboratories. That is the simple course that would be followed but, if it is contested, at whatever point, whether it is at the point of apprehension, or whether it is subsequent to receiving an expiation notice, provided it is within 28 days, then the matter would have to go to court.

**The Hon. K.T. GRIFFIN:** Could the Minister deal with the question that I raised by way of interjection? In relation to the sealing of the substance in the bag, the bag will go with the police officer. I presume that there is no way by which any subsequent dispute might be avoided as to whether or not that was the bag that contained the substance, or whether the bag has in fact been opened and tampered with whilst it has been in the custody of the police. What sort of mechanisms are involved in dealing with that and how is the sealing in the 3M bag, apart from the protection of the substance from dehydration, likely to avoid that sort of issue?

**The Hon. J.R. CORNWALL:** The bag is tamper-proof. The police want the 3M bag because it is tamper-proof. Also, it would be labelled in the presence of the person from whom the marijuana had been seized. The comments made by the Hon. Mr Griffin in relation to other problems (real or imagined) apply to any seizure, whether it be marijuana, or any other drug or any other substance. This is an administrative procedure which has been suggested by the police. It is a procedure which they are keen to adopt. This legislation notwithstanding, they would certainly urge that we go to this set of administrative procedures to protect everybody's legitimate and valid interests.

**The Hon. K.T. GRIFFIN:** I raise the question because, in the Minister's reply yesterday, he said that it protects members of the Police Force who apprehend a person for possession from any allegations later that a different amount or another substance was substituted. I wanted to clarify the position, and I appreciate the clarification that has been given. I do not have any other questions on this scheme. I have made my observations and have expressed the difficulties that I see with some of the technical aspects of the expiation scheme which has been incorporated in this clause. I maintain my opposition to it, but at least I have placed my concerns on the public record.

The Committee divided on the clause as amended:

Ayes (9)—The Hons G.L. Bruce, B.A. Chatterton, J.R. Cornwall (teller), M.J. Elliott, M.S. Feleppa, I. Gilfillan, Carolyn Pickles, T.G. Roberts, and G. Weatherill.

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

Pairs—Ayes—The Hons C.J. Sumner and Barbara Wiese. Noes—The Hons Diana Laidlaw and R.I. Lucas.

Majority of 1 for the Ayes.

Clause as amended thus passed.

Clause 11—'Licences, authorities and permits.'

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

Page 5, after line 13—Insert new subsections as follows:

(5) A person whose licence, authority or permit is revoked pursuant to subsection (4) *(c)* may appeal to the Supreme Court against the revocation.

(6) Where an appeal has been instituted under this section against a revocation, the revocation continues to have effect unless, upon application to the Supreme Court, the Court orders that the revocation be suspended until the appeal is determined or withdrawn.

(7) The Supreme Court may, on an appeal under this section, quash or affirm the revocation.

This clause deals with section 55 of the principal Act which relates to the granting or refusing of licences, authorities and permits by the Health Commission. The commission (under new subsection (4)) is given power to revoke a licence, authority or permit if the holder is found guilty of the offence, has obtained the licence, authority or permit improperly, or has contravened or failed to comply with a condition of the licence, authority or permit.

The amendment allows opinion of the commission to be introduced so that I would suggest that it is not so much under challenge whether the opinion of the commission is wrong and the decision to cancel is wrong. My amendment will give a person whose licence, authority or permit is revoked, pursuant to subsection (4) *(c)*, the right of appeal to the Supreme Court and certain consequential matters flow from that. The provision that I am seeking to include is similar to the provisions of section 57 which also gives a right of appeal to the Supreme Court. While that might appear to be over strong, my amendment refers to it because it is the court to which appeals go under section 57. It is reasonable in the circumstances to include a right of appeal.

**The Hon. J.R. CORNWALL:** It is reasonable in the circumstances. I accept the amendment.

Amendment carried; clause as amended passed.

Clauses 12 to 14 passed.

Clause 15—'Regulations.'

**The Hon. K.T. GRIFFIN:** I thought that paragraph *(a)* in clause 15 was linked to the on-the-spot fine proposal. It is not, but is just a tidying up amendment and because I recollect I have made some comment about it in the debate I want to make it clear that I have been able to clarify that matter and I raise no opposition to the clause.

Clause passed.

Title passed.

**The Hon. J.R. CORNWALL (Minister of Health):** I move:

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

**The Hon. K.T. GRIFFIN:** The third reading presents something of a dilemma for me and the Opposition. On the one hand the Bill contains a number of important amendments including a significant increase in the penalties for drug traffickers. I want those amendments to become law. On the other hand, the Bill contains the ill-conceived proposal for on-the-spot fines for marijuana offences, which I have debated at length. I merely put on record once again my opposition to that provision. I know that the numbers are not with me if I were to oppose the third reading and for that reason I shall not do anything more than indicate that opposition to the on-the-spot fines proposal that has been passed.

I appreciate that the Hon. Mr Elliott has been persuaded, along with his colleague the Hon. Mr Gilfillan, to delete the generally described 'licence to defame' provision. I appreciate the support of the Minister in respect of my proposal to increase quite substantially penalties for drug trafficking and express my extreme disappointment and concern about the majority support for on-the-spot fines.

Bill read a third time and passed.

## COOBER PEDY (LOCAL GOVERNMENT EXTENSION) ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

## LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 3)

Returned from the House of Assembly without amendment.

## FIREARMS ACT AMENDMENT BILL

(Second reading debate adjourned on motion.)

(Continued from page 1195.)

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Possession of firearms.'

**The Hon. PETER DUNN:** I move:

Page 3—

After line 24, insert new paragraph as follows:

*(b)* in the case of a special firearms permit, to the condition that live ammunition shall not be used in the dangerous firearms to which the permit relates;

Line 30—After 'regulations' insert 'or subsection (7) *(b)*'.

Reading through the Bill I was concerned for people uneducated in the handling of quite dangerous firearms, and I refer specifically to people in theatrical productions who may use live ammunition.

I assume that most big productions would use dummy ammunition but there might be a small production which wanted to use live ammunition. Can members imagine somebody using an M16 with live ammunition? It could be quite dangerous. I have had cause to use rifles to exterminate pests. They are dangerous weapons. The amendment could cover mortars, land mines and bombs. I am proposing an extra precaution so that the Registrar and his Consultative Committee are sure, when they permit a company to use firearms, that the people who use them understand the weapons or have people who understand them by them, or that they do not use live ammunition.

**The Hon. R.J. RITSON:** I oppose the amendment. We are here talking about the Australian, and perhaps the international, film industry. Those who saw the film *Breaker Morant* would have seen him firing a Vickers .303 machine gun. He was firing it live. I speak with some authority as I gained a marksman's badge with that machine gun when I was platoon Seargeant of the machine gun platoon in the university regiment for several years.

**An honourable member:** Was that in World War I?

**The Hon. R.J. RITSON:** I do not know anything about modern weapons, but we are discussing historical films and the importance of authenticity. If you want to fire blanks from a medium machine gun that is blast operated not gas operated, you have to put on the front of the weapon a blank firing attachment which is a bizarre looking device and which would immediately be recognised as such by anyone who knew anything about the weapon, and the film maker would be the laughing stock of the world if he was attempting to achieve authenticity but used such a device.

If film makers want to achieve an authentic battle scene, they must film bursts of mortar bombs and the strike of shot on the ground. I do not believe for one moment that the registrar will be irresponsible and allow the Little Throgmorton Players to possess and operate machine guns and mortars. It will not be the police or the registrar but probably the army who conduct the exercise. We often see the Royal Australian Air Force or the United States Navy appear on the credits of films. The army or a firearms club will probably control the safety and, in fact, the whole exercise.

The real problem in the past has been that people, according to law, have not been able to have custody of dangerous firearms, and it was important, from the legal point of view, that police take custody of them and be responsible for them in breaks between filming. I imagine that this would allow the registrar to issue a permit subject to conditions, such as that he is satisfied about security.

The issue is not whether the army is competent to conduct the exercise but whether weapons escape into the community. One of the most important conditions which might be posed is that the registrar should be satisfied that weapons will not be stolen or escape to irresponsible people.

I believe that to deny the film industry the use of authenticity in this regard is to handicap it in a way that it was never handicapped before. It has been able to use these weapons in films. The lawfulness of the custody and security of them has been the concern, and that is now being remedied. For that reason, and because this amendment has been introduced without time to consult with the film industry, I would be anxious if it were to pass. For that reason I oppose the amendment.

**The Hon. J.R. CORNWALL:** I need add nothing to what the Hon. Dr Ritson has said. He summarised the case very well.

Amendment negatived.

**The Hon. PETER DUNN:** I indicate that I do not intend to proceed with the amendment which I have on file and which is consequential on the amendment that has just been defeated.

Clause passed.

Clause 5—'Sale, etc., of firearms.'

**The Hon. R.J. RITSON:** Some members of the community are concerned with any firearms legislation lest it erode existing rights. The words 'the Registrar may grant', now appear, whereas previously 'the Registrar shall grant' applied; this caused a certain amount of anxiety which I do not share, because further down it states, 'but shall not refuse to grant the licence, whether because the Registrar is not satisfied that the applicant is fit . . .' and so on. I am satisfied that beyond the word 'may' the words 'shall not refuse' mean that the present requirement to submit all applications to the consultative committee before refusal still stands. Does the Minister agree that that is the effect, and will he give an assurance that it does not erode the existing rights of firearms licence holders and applicants?

**The Hon. J.R. CORNWALL:** The simple and short answer is 'Yes'.

**The Hon. R.J. RITSON:** Under clause 4 (4) the Registrar may grant an application for a firearms licence in accordance with the application. This raises in the mind of one of my constituents the spectre of an application for an application. This matter was discussed with members of the Lower House but no amendment was moved. It seems to

me that it really means that the Registrar may grant a firearms licence in accordance with the application. Does the Minister see any difference between the meaning of the words 'the Registrar may grant a firearms licence in accordance with the application' and the words that are actually in the Bill? In other words, is anything more complicated caused by the existence of that first word, 'application'? Is it an application for an application?

**The Hon. J.R. CORNWALL:** The short answer is 'No'. This matter was raised in the House of Assembly when the Bill was debated there. At that time the Minister gave an undertaking to consult with parliamentary counsel and any other relevant people during the time which elapsed between the Bill leaving the Assembly and its arrival here.

**The Hon. R.J. RITSON:** I have been eagerly awaiting the new words, but they have not arrived. I am satisfied if the Minister's advice is that it means the same thing.

**The Hon. J.R. CORNWALL:** Yes; so the answers are 'No' and 'Yes'.

**The Hon. R.J. RITSON:** The wording in relation to a silencer has not been changed; only the part of the Bill in which it is placed has been amended. A person who has possession of a silencer is guilty of an offence. When one looks at the principal Act one finds that a silencer is a device attached to a firearm. The Act then refers to the muffling of the sound. My legal advice is that if one has a silencer in one's hand or in the drawer one is not in possession of a silencer in terms of the Act, even though one may be in terms of commonsense.

I have been approached by a constituent about this matter who wants to make sure that one is committing an offence only when one puts the silencer on the rifle. There is perhaps the situation, of grandmother going through the deceased estate of a relative and finding a silencer, or of people who still possess a silencer. In the view of my adviser, such persons would correctly interpret that, while they may not attach that silencer to a firearm in this State, they may take it to another jurisdiction where they would be permitted to use it.

There are dealers who, during the long period of delay before the proclamation of this Act, had stocks of silencers which they kept in the hope that, if the lobbying that was occurring at that time was successful, they might be able to keep them. I suspect that there are still stocks of silencers at dealers' premises. If the interpretation of clause 29, together with the definition clause means that one does not possess a silencer until it is attached to a firearm, then I am happy and can reassure my dealer constituents about this matter. If one may not possess a silencer in the natural meaning of the word rather than the statutory meaning, I would want assistance for dealers who have stocks, not by way of selling them but by way of not criminalising them.

**The Hon. J.R. CORNWALL:** An offence can be committed, as proposed in the Bill, only if a silencer is attached to a firearm. Carrying a silencer in one's pocket or glove box or having it on the mantlepiece of one's home would not be an offence. However, when it was attached to a firearm an offence would be committed.

**The Hon. R.J. RITSON:** The Minister has dispelled all my anxieties about the rest of the Bill.

Clause passed.

Remaining clauses (6 to 9) and title passed.

Bill read a third time and passed.

## TOBACCO PRODUCTS CONTROL BILL

Adjourned debate on second reading.

(Continued from 24 September. Page 1153.)

**The Hon. L.H. DAVIS:** When I studied law some years ago there was the 'reasonable man test' that was fashioned in England. The reasonable man was said to be the man on the Clapham omnibus. In Adelaide I suppose it could be a person on the Bay tram or the O-Bahn. The test was a simple one: what would a reasonable man think of a particular proposition? For example, what would a reasonable man think of a situation where successive Bills provided, first, that a person should not sell confectionery designed to resemble a tobacco product lest it influence children to smoke and, secondly, a provision imposing a nominal fine on marijuana smokers? I suspect that the Minister of Health does not have the courage to test community reaction to these propositions.

What would the reasonable man think in those cases? I think I know the answer to that, and I think the Minister does, too. When we look at this Bill, which has been so sneakily and hastily foisted upon us, we should remember that Federal and State Governments collect over $1 300 million in taxes on tobacco products. That is almost half the total budget of South Australia in any one year. The arguments that Governments traditionally use to justify increasingly heavy taxes on tobacco products are, first, that increased prices for tobacco products make those products more expensive and act as a deterrent to the purchase and use of tobacco products; secondly, that the funds raised from taxes on tobacco products will be used to contribute to health costs which might, some people would argue, be high as a result of people using those tobacco products. Most certainly even the hardest cynic would admit that Governments use taxes on tobacco products principally for revenue raising. I do not recall seeing any Government directly admit that a certain percentage of taxes raised through a tax on tobacco had been directed specifically to research on the effects of smoking or to compensate for the effects of smoking, and the ill-health that may be created as a result of it.

My reservations about this legislation, my criticisms of it, are directed principally to a Minister of Health who prides himself on communication, who claims that he consults all parties who may be affected by any legislation and who claims that he is the original reasonable man. The fact is that no economic impact statement has been undertaken on this Bill. There has been no examination of the practical consequences of this legislation.

I am appalled to think that the Government and the Minister have introduced into this place legislation which impacts on so many people, institutions and community groups in South Australia. It impacts on the South Australian Mixed Business Association, many arts groups, many community groups, the taxi industry, and hotel and motel organisations, yet the Minister has seen fit not to consult directly with any of those groups. The Minister has also not considered it necessary to make available details of the economic impact of this measure. In monetary terms, how much will it cost the community to introduce this legislation? In Committee most certainly I will ask the Minister certain questions about that proposition.

No doubt all members in this place have received messages and letters of criticism of this Bill from many organisations and individuals. I want to address briefly some of those criticisms. First, the Chamber of Commerce and Industry in South Australia only today put out a press release calling on the Premier to intervene in the tobacco Bill controversy, and to ensure that it does not pass. The chamber objects to the Bill because of its interference in the property rights and legitimate commercial freedoms of

business people. The chamber's opinion is the same as the opinion that I expressed a few minutes ago.

According to the chamber's press release, the fundamental concern of many groups which will be affected by the legislation is that they were not consulted at all before the Bill was introduced in Parliament and, further, that despite this concern being raised in the Legislative Council still no satisfactory degree of consultation has eventuated. The Minister might think that is of no consequence, but I think that it is an unhealthy precedent for Parliament in this way to introduce legislation, the financial implications of which will be horrendous for many groups in the community. In an earlier letter to me, Michael Deare, Commercial Manager of the Chamber of Commerce, stated:

> In raising objections to the Bill, we make no judgment on the question of smoking tobacco products but seek to highlight certain aspects of the Bill which appear to affect the freedom of individuals to make their own decision about the way they conduct their life and business . . . There are some illogical aspects of the Bill which are likely to cause South Australia to lose sponsorship support for major sporting and cultural activities.

The chamber makes the very strong point that in these times of recession sponsorship of the magnitude offered by tobacco companies will be extremely hard to replace. Together with many other groups, the chamber is critical in particular of clause 7. In this regard the chamber states:

> We believe that this clause should contain a clear distinction between 'advertising' and 'sponsorship' and that clause 7 (3) should be removed on the basis that Parliament should spell out the letter of the law and not leave it to regulations which can be made insidiously, at whim. This Bill should not pass the Parliament of South Australia with any requirement that sponsorship signs should be accompanied by health warning signs. To do so would be to completely misunderstand the role of sponsorship. The placement of a cigarette brand name upon a motor racing vehicle, an opera program or the boundary fence of a sporting venue does not encourage people to smoke. Such signs have the purpose of retaining the loyalty of existing smokers to that brand or persuading existing smokers of another brand to change.
>
> Clause 7, as it currently stands, we are reliably advised, will cause sponsorship withdrawal, and the Adelaide staged Australian Grand Prix will not see the Marlboro McLaren and John Player Special Lotus motor racing teams with such drivers as Prost, Senna and Rosberg in 1987.

I have quoted at length from that letter and of course the Minister will respond in due course. Hopefully, he will set our minds at rest about the truth or otherwise of those very strong assertions which have been made in the Chamber of Commerce letter. I will return to the matter of advertising and sponsorship in a little while, but let me turn now to the South Australian Mixed Business Association, which is an umbrella organisation covering those many, often forgotten businesses which provide such a valuable service and a very large range of goods to the community in South Australia. A letter from Terry Sheehan, the Executive Director of the South Australian Mixed Business Association, dated 15 September, states:

> . . . to our knowledge there have been no prosecutions for offences concerning the sale of tobacco products to minors. The proposed increases in fines are unjustified as the present penalties appear to be having the desired effect.

That, of course, is an interesting suggestion. There have been no prosecutions at all for offences concerning the sale of tobacco products to minors. Further, the letter states:

> This association believes the onus of responsibility is 'weighted too heavily against the shopkeeper and feels the purchaser also should be liable where an offence is committed as with the liquor laws. The Bill . . . shows little sympathy for the retailer's position.

Again, as I have mentioned, this Bill has little consideration for practical consequences and this letter from the South Australian Mixed Business Association gives an example of that when it states:

> Another common occurrence is the customer who sends their child, a minor, with a note for cigarettes. The retailer knows the child and the parent who wants the product, but if he serves the child he faces prosecution for breaking the law; if he doesn't, he has to face an irate customer and risks losing their business not only for cigarettes, but for other products as well, which is very hard to accept in today's economic climate.

Again, as far as I can ascertain, the Mixed Business Association was not consulted.

I move on to the Taxi-Cab Operators Association of South Australia, and a letter dated 15 September states:

> 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.

Further on it states:

> 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.'

Again, for the Minister's ears:

> We are also disturbed that the Government did not consult the association on this matter before proceeding with draft legislation.

No wonder the Government is not prepared to support freedom of information legislation in this Chamber when in fact it is not prepared to engage in even the most basic communication as one would expect for such a far-reaching measure. The association also makes a very valid point when it states:

> 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.

It further states:

> 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.

That is signed by John Linn, the President of the Taxi-Cab Operators Association of South Australia. His criticism of the lack of consultation is joined by Mr W. Sievers, the President of the Cab Owners Association, who has written a letter to the Minister of Health dated 26 August and has also inserted advertisements in the newspaper as late as Tuesday 23 September attacking this proposal.

This advertisement from the *News* of Tuesday 23 September, inserted by the Cab Owners Association of South Australia, says:

> No other State in Australia has a mandatory 'no smoking' policy in taxi cabs and, to our knowledge, nowhere in the world. We are constantly reminded of our role in tourism. We believe many tourists would be offended, deprived, and not to mention embarrassed, particularly if they are subjected to a large fine, which this Bill proposes.
>
> The taxi industry is in favour of an optional system whereby taxi owners and drivers decide whether passengers are allowed to smoke, and call upon all concerned to amend section 12 of the proposed Bill accordingly.

Of course, as is already known, taxi drivers have been prohibited since 1956 from smoking in cabs. The Minister of course, was not aware of that fact—but he does not consult with anyone. Also, that very severe criticism from taxi cab owners (and we are talking about thousands of people) is backed up by the Suburban Taxi Service. The Suburban Taxi Service Pty Ltd in a letter dated 9 September signed by Mr Malcolm Geddie says:

> At no time was this company or the Taxi Cab Operators Association consulted either by phone or written request. We only became aware of the proposal through the daily papers, which is a total rebuff to the industry and to those who have invested many many thousands of dollars.

I turn now to the most critical issue: the failure in this Bill to distinguish in clause 7 between advertising and sponsorship. Just to underline this point, I can illustrate the difference by reference to two very recent programs. I was fortunate enough to attend the opening night of *Room to*

*Move*, which is a State Theatre Company of South Australia production—a splendid play. My colleague the Hon. Murray Hill has seen the play, and I know that he endorses my comments on its quality.

On the back cover of the program there is what can be described quite straightforwardly as an advertisement—an advertisement featuring a man and a woman with a sunset in the background and the gold packet of Benson and Hedges, with the warning 'Warning: Smoking is a Health Hazard' showing quite clearly. It is a perfectly straightforward, normal advertisement. Three pages into this very attractive program (which, of course, is paid for: I think there was a $2 charge for this program) there is what can quite clearly be described as a sponsorship message, which reads as follows:

Patron of the arts, Sponsor of sports. From West End Musicals and ballet to tennis and cricket, the Benson and Hedges company is a major sponsor of cultural and sporting activities in Australia. The company takes pride in knowing its wide support is benefiting both participants and audiences alike.

The Benson and Hedges company is proud to sponsor the State Theatre Company of South Australia in the Playhouse of the Adelaide Festival Centre in 1986, South Australia's Jubilee 150 Year.

Set out underneath that is 'The Benson and Hedges Company.' That is not an advertisement for a product, but quite clearly a sponsorship message. That, again, is reflected in the Escort South Australian National Football League Program for 1986. On the front cover are the logos of the 10 league football teams with the official SANFL logo, and then it says 'Escort SANFL Program 1986'. Escort, as we know, is a cigarette brand, but it is a sponsorship of a football competition. Within the small foldover cardboard program are details of the minor and major round football matches, dates and locations.

At the back is what can be quite straightforwardly described as an advertisement: it states 'Join the club'. There is a photo of cigarettes and it states 'Change to Escort 30s'. Of course, there is the warning 'Smoking is a health hazard'. Very clearly, that is an illustration of the distinction between advertising and sponsorship.

I am concerned about the lack of consultation, because I am sure that the Minister cannot tell the Council what is the impact of this draconian measure as it now stands on bodies such as the State Theatre Company, the SANFL, the South Australian Cricket Association, the South Australian Jockey Club, many community and arts groups—

**The Hon. C.M. Hill:** Don't forget the Adelaide Festival of Arts.

**The Hon. L.H. DAVIS:** —and the many other organisations to which I referred, including the Mixed Business Association, the restaurants, the hotels and the taxi cab operators. As the Hon. Murray Hill rightly said, 'what will it mean to the Adelaide Festival of Arts?', the major sponsor of which has been the Peter Stuyvesant Foundation.

I refer now to what is apparently duplicity on the part of the Government in this matter. Page 1 of the *Advertiser* of Wednesday 17 September shows a letter from the Chairman of the State Theatre Company of South Australia, Mrs Jill Blewett, to the Premier of South Australia, Mr Bannon. Mrs Blewett said that Amatil had indicated that, if the Bill passes in its present form, it will withdraw sponsorship. Amatil said that it had not made a direct threat to withdraw but that, quite (frankly and properly), there was potential for sporting and other events to be cancelled if clause 7 as presently drafted was passed. The article stated:

Mrs Blewett's letter to Mr Bannon calls for the government to 'make good' any shortfall if Amatil withdraws sponsorship. Yesterday she described the matter as a 'fairly delicate political situation'. In her letter Mrs Blewett says the matter is of great concern to the STC and Amatil's sponsorship represents one STC production a year.

A 'not considerable amount of STC effort' had gone into establishing the connection with Amatil. Mrs Blewett says Amatil is concerned that the Bill makes no distinction between advertisement as such and sponsorship, and that clause 7 could be implemented at any future time by regulation.

That is a very interesting article indeed, because there is a background to this letter that has not yet been revealed, and it is as follows. That letter was sent at noon on 16 September from the Chairman of the State Theatre Company, Mrs Jill Blewett, to the Premier of South Australia, Mr Bannon, and I understand that a copy was sent to the Minister of Health.

**The Hon. J.R. Cornwall:** And to Len Amadio and the Minister—

**The Hon. L.H. DAVIS:** There were only two copies.

**The Hon. J.R. Cornwall:** That's not true.

**The Hon. L.H. DAVIS:** I have checked that. The interesting thing is that the STC is adamant that it did not leak that letter but, within two hours of its being delivered to the Premier and the Minister of Health, the *Advertiser* had a copy and was on the phone to interested parties asking, 'What is up here?' That is fascinating, but I will not speculate about what the situation may or may not be, although I do know that very angry words were exchanged between the Minister of Health and the Chairman of the State Theatre Company, Mrs Blewett.

**The Hon. J.R. Cornwall:** You get some rum information.

**The Hon. L.H. DAVIS:** I get some very good information, too. It seems that the Government is wobbling around on this legislation, leaking to the media. Certainly, the Government does not come out of this situation in a favourable light. In summing up the second reading or in Committee will the Minister say categorically whether or not there has been an economic impact of the consequences of this legislation as presently drafted?

What is the impact of it on the various groups in the community? My concern is that this legislation as now drafted seeks to override the self-regulatory system for advertising which has been in existence for advertising of tobacco products for 20 years and in fact was updated as recently as 1 June 1986. That was done in conjunction with the Media Council of Australia, which administers standards in advertising and sets down what has been regarded as acceptable between Government, the tobacco companies and the media. This Bill seeks to flaunt and ignore that. I do not accept that that is good legislation.

One of the fundamental points which I have made already and which is acknowledged in this voluntary code is that there is a distinction between advertising and sponsorship. Quite clearly, we are not talking about patronage: we are not expecting tobacco companies, or any companies for that matter, to give money out of the goodness of their hearts to any cause, whether it is an art group, a charitable group or whatever. The companies expect a *quid pro quo*. They expect a return for their money and that is what sponsorship is about. In some rare cases they may give something out of the goodness of their hearts where little or no *quid pro quo* is involved, but when they spend hundreds of thousands of dollars on a series of test matches or invest a considerable amount of money and support into a Festival of Arts, a State Theatre Company, or a racing club, quite clearly they expect to see an appropriate amount of acknowledgment of their support for that activity or event.

I am concerned that if this Bill is passed in its present form we could see, for example, the test match that is scheduled to be played in Adelaide later this year fall over, because it is sponsored by Benson and Hedges and they have the right to the sponsorship. If this Bill is passed in

its present form it would mean that no other sponsor could come in. It would mean also that money would not be paid. It could mean the transfer of that test match to another ground. As I keep saying, the economic impact has not been examined and the Minister knows that. There has been no acknowledgment of that point in the second reading explanation and it is sloppy and unacceptable legislation.

In summary, I condemn this Government very strongly for introducing this Bill so hastily without proper consultation. That is unforgivable and it is unacceptable. I condemn the Government also because, in a time when the economy is slumping at a rather dramatic rate, and more particularly in South Australia, it seeks to introduce legislation which will have a ferocious financial impact on several key cultural groups in this community. The Minister knows full well who those groups are and the extent of the financial support that they receive from tobacco companies.

A separate issue, but no less important, is the infringement on individual liberty which would be introduced as a result of this Bill and I refer to taxicabs, the hotels, the restaurants and the small businesses. I think that the Minister understands (and hopefully increasingly understands) the beast that he has released. I do not deny that there are many important aspects of this Bill but today I have sought to concentrate and focus on some of the very severe defects of the Bill. I hope he will be amenable to some of the amendments that are proposed. I hope in particular that he will be frank and honest enough to reveal the economic impact of this measure.

**The Hon. M.J. ELLIOTT:** I am pleased that we have had a number of Bills that involve morality before us in such a short space of time. This allows a demonstration by members of their ethical and logical consistency or inconsistency. The Bills I am referring to are the Racing Act Amendment Bill, the Controlled Substances Bill, the Tobacco Products Control Bill and the Prostitution Bill.

With the exception of about one TAB bet a year, I do not partake of any of the vices that these Acts are directed towards. Therefore, it would be reasonable to describe my lifestyle as relatively conservative. I have two children under the age of 5 years and I am most concerned about the world they will grow up in and the lifestyles they may choose to adopt. The sort of world that I would prefer to see would be devoid of the vices to which those Bills refer.

A number of questions need to be asked. Most importantly, what part should the law play? I find it difficult to see that it has any part to play where individuals, particularly mature adults, make personal decisions about their own lifestyles. If there is evidence that people are physically or psychologically harmed by certain matters, then the law can rightfully intervene at the point of coercion, or it may choose to protect minors.

For that reason I did not object to gambling being legal in our society, but I did object, during debate on the Racing Act Amendment Bill, to the part the Government was playing in encouraging it to further occur. During debate on the Controlled Substances Bill, while stating that I did not approve personally of the use of marijuana, I made clear that the heavy penalties must fall on the growers and pushers who stand to make financial gain in the knowledge that others may suffer.

I see gamblers and marijuana smokers as being victims of society in general and victims of the specific actions of some members of that society, and those people should not suffer the full weight of the law. Tobacco kills 16 000 Australians every year and it is responsibile for 82 per cent of all drug related deaths, while narcotics are blamed for 1 per cent. If tobacco was a new drug entering our society, there would be no doubt of the public outrage against it, just as we have seen in the case of marijuana.

However, tobacco has been a part of European culture for several hundred years, and particularly since the First World War has seen a rapid upsurge in popularity. Its sales are now in the hands of irresponsible multinationals with only one motive—profit. Those multinationals are no different from the pushers of marijuana, heroin or any other drug. They have successfully used the media to promote sales of their killer drug. When a smoking Bill was introduced into the Western Australian Parliament cigarette companies spent $3 million to fight it.

**The Hon. M.B. Cameron:** Are you sure of that figure?

**The Hon. M.J. ELLIOTT:** I am certain of it; I have quotations from the Australian Medical Journal. Comparisons were made between the levels of advertising in Queensland and Western Australia over six month periods at comparable times of the year during 1981 and 1983, and 1983 was the year in which the Bill was debated in the Western Australian Parliament. The graphs clearly illustrate the massive increase in advertising in Western Australia, which stopped the moment the Bill was defeated by one vote.

**The Hon. M.B. Cameron:** It stopped the moment the by-election was held.

**The Hon. M.J. ELLIOTT:** It stopped the moment the Bill was defeated. There is no doubt that cigarette companies have an incredible amount of clout. This comes from money and other links, not just through producing tobacco but from many other products.

Certain undercurrents in relation to taxis have been alluded to by the Hon. Mr Davis. However, no-one has said that more than one-third of taxis carry advertising, and almost all of that is tobacco advertising. Each taxi driver receives $6 a week extra—a handy $312 a year—and that is something they may have been threatened with losing. That amount of money would be a motivation, and scare tactics would have been used with taxi drivers just as they were used with the State Theatre Company.

We can also look at sponsorship and the attempt to divide off sponsorship from advertising. Sponsorship is an incredibly cunning device. Sponsorship can get certain bodies—whether sporting or cultural—just effectively hooked on money as a person is hooked on tobacco. The money in real terms going to the State Theatre Company is a very small part of the overall budget, but that $50 000 is, of course, handy for it. I believe that by sponsoring the State Theatre Company and other such bodies, particularly those attended by a large number of parliamentarians, they are buying influence.

I am also interested to know what amount of money comes from Amatil and other companies and finds its way into the Liberal Party coffers. The Liberal Party is certainly doing a good job of looking after these drug pushers at the moment.

*Members interjecting:*

**The Hon. M.J. ELLIOTT:** Is it reasonable to say that the Liberal Party does not receive funding from these companies?

*Members interjecting:*

**The Hon. M.J. ELLIOTT:** Deny it.

**The Hon. R.I. Lucas:** You took money from them.

**The Hon. M.J. ELLIOTT:** I certainly did—I received a salary.

*The Hon. R.I. Lucas interjecting:*

**The PRESIDENT:** Order!

**The Hon. M.J. ELLIOTT:** I believe that the Liberal Party can see no problem with receiving money from tobacco companies. It is more than happy with that, and the fact that tobacco companies produce a product which kills 16 000 Australians a year causes the Liberal Party no concern whatsoever. The smoking of tobacco in itself can be argued as being an individual right. I have no desire to control that in itself. I am being as consistent as I was with the controlled substances legislation and other Bills. However, where a smoker infringes on the rights of another person, individual rights must be balanced.

Which is the greater individual right—the right to smoke or the right to have unpolluted air? Obviously the latter must prevail. Further, with the mounting medical evidence on the dangers of passive smoking, the right to smoke can rightfully be limited to where it does not affect others. Tobacco companies are now mounting a campaign to try to prove to the public that passive smoking is not a medical danger; and they still try to tell us that smoking itself is not a medical danger. Members opposite should be honest with themselves, open their minds and admit that tobacco is killing 16 000 Australians a year. Members opposite should speak to their executive friends in the insurance companies and ask them whether or not tobacco is dangerous, because the insurance companies do not have a vested interest. There is no doubt whatsoever about what tobacco is doing.

**The Hon. R.I. Lucas:** Ban it, then.

**The Hon. M.J. ELLIOTT:** I am being consistent. With all of these Bills I have said all along that I do not wish to limit a person's individual freedom where no harm is done to anyone else. However, when someone sets about harming others, which is exactly what the suppliers of drugs do—whether marijuana, heroin or tobacco—I am willing to constrain that right. It is for the reasons I gave in relation to passive smokers that I will support the clauses that protect non-smokers from the actions of smokers. Those clauses which seek to insert rotating health warnings on tobacco products also have my support. The warnings are completely factual in nature, and I would compare this with legislation which requires certain products to indicate their composition, particularly potentially dangerous ingredients.

The clauses which place penalties on the supply of tobacco products to minors have my full support. It is for the protection of minors that I support the move to prevent the sale of packs of 15 cigarettes, as available statistics suggest that they have been used by cigarette companies to encourage consumption among minors. That charge is denied by cigarette companies. The tobacco industry does have self-regulation in the form of a self-regulation code which states that the industry will not endeavour to encourage minors to take up smoking.

*Members interjecting:*

**The PRESIDENT:** Order! Private conversations will take place outside the Chamber.

**The Hon. M.J. ELLIOTT:** Surveys that have been done amongst minors investigating what sort of cigarettes they smoke show clearly that they are buying fifteens. They are buying them for two reasons: first, because they are cheap and, secondly, because they are easy to hide. Advertisements used by the major manufacturer producing the fifteens packs specifically said that they fit in anywhere. Anyone who saw the advertisements that were put out by that company would know clearly that they were alluding to the packs being hidden. Self regulation amongst cigarette companies has failed. They have not kept their word. Any trust that they deserved they have abrogated. The way in which they have carried on with this Bill is disgraceful; they have no morality whatever. They have deliberately orchestrated an advertising campaign in this State.

If one looks at copies of the *News*, *Advertiser* or *Sunday Mail* over the last couple of weeks one will find hardly an issue without a full page cigarette advertisement. Country newspapers, which rarely carry cigarette advertising, have been featuring full page advertisements in almost every issue. If anyone wants to suggest that that is a coincidence, they are kidding themselves.

**The Hon. R.I. Lucas:** How does that affect our attitude?

**The Hon. M.J. ELLIOTT:** It affects the media. I know that the Hon. Mr Lucas could have worked that out if he had sat and thought about it.

**The Hon. R.I. Lucas:** You give me too much credit.

**The Hon. M.J. ELLIOTT:** I am sorry. If this Bill has a weakness it is a major weakness, namely, that it has not gone far enough. It should have tackled both advertising and sponsorship as did the Bill that the Democrats introduced into this Parliament some time ago. Liberals are at the moment happily using scare tactics of the State Theatre Company losing sponsorship, and so on.

**The Hon. R.I. Lucas:** That was Jill Blewett, Neil Blewett's wife—

*Members interjecting:*

**The PRESIDENT:** Order! These conversations must take place other than in the Chamber.

**The Hon. M.J. ELLIOTT:** The Liberal Party has unfortunately deliberately gone off into side issues. This Bill is aimed at doing good things for the health of the people of South Australia. The Liberals are rolling over to have their tummies tickled for reasons that I can only imagine. How they can justify encouragement of a killer product is beyond me. They have not justified that in any way, and it makes the position of some of their members on marijuana and other substances look absolutely ludicrous. With those comments, I support the second reading.

**The Hon. R.I. LUCAS:** I support the second reading of this Bill, although I will strongly oppose certain sections of it. Before moving on to the areas that I want to address, I will respond to some of the comments made by the Hon. Mr Elliott. I was very disappointed (which is the mildest phrase that I can use) at some of the inferences made by him about the intentions—

**The Hon. M.B. Cameron:** He's a sleazebag.

**The Hon. R.I. LUCAS:** I would not call Mr Elliott a sleazebag.

**The PRESIDENT:** That is very lucky.

**The Hon. R.I. LUCAS:** That is a phrase which the Hon. Mr Keating would use but it is beneath members of this Chamber. I generally enjoy the Hon. Mr Elliott's contributions, although I do not generally agree with them. I generally listen to them with interest, but I was very disappointed to hear his contribution on this Bill.

For the Hon. Mr Elliott to imply, as he has, that members in this Chamber formed their view on this Bill because tobacco companies were making financial contributions to the Liberal Party or to individual members of this Chamber—I do not know what his exact allegation was—means that quite clearly he was saying that the tobacco companies were making financial contributions to the Liberal Party or individual members of that Party and, for that reason, individual members had formed a particular view on this Bill and that, in Mr Elliott's opinion, there views were quite contrary to what we really thought.

I will be restrained in what I say about this matter, but I was very disappointed to hear that implication from the Hon. Mr Elliott. It was an appalling suggestion, and cer-

tainly one which, had he made it outside this Chamber, would have been actionable by each and every member of the Liberal Party in a court of law. The Hon. Mr Elliott wants to know whether Amatil or the tobacco companies make contributions to the Liberal Party. I do not know. I presume that possibly they do. However, the Hon. Mr Elliott—who worked for the Liberal Party for 12 months (and I will address that matter later)—knows full well that the code of conduct for Liberal members of Parliament means that financial contributions from companies are made to the organisation and that members of Parliament are told to keep out of fundraising, particlarly from major companies where there may well be conflicts of interest, especially in relation to tobacco companies.

*The Hon. I. Gilfillan interjecting:*

**The Hon. R.I. LUCAS:** I do not know whether the tobacco companies have given money to the Democrats, as the Hon. Mr Gilfillan suggests. I am not suggesting that they have or have not.

*The Hon. I. Gilfillan interjecting:*

**The Hon. R.I. LUCAS:** That is up to the honourable member. The Hon. Mr Gilfillan can form his own view as to whether that would be a conflict of interest. However, the question whether tobacco companies make financial contributions to the Liberal Party has nothing to do with my attitude towards propositions in this Bill and the attitude that I expressed to a Bill introduced by the Hon. Mr Milne on a previous occasion. For the Hon. Mr Elliott to imply, as he has in this Chamber, that members on this side of the Council were rolling over to have their tummies tickled by tobacco companies—

**The Hon. G. Weatherill:** Not a pretty sight.

**The Hon. R.I. LUCAS:** It certainly would not have been a pretty sight had it been true. If that is not an injurious reflection on members of this Chamber while the President was sitting happily in the Chair, I have never heard an injurious reflection on members in this Chamber. We went through a debate yesterday on injurious reflections when I said that a Minister had misled this Council. I refute absolutely and categorically that my attitude to this Bill—and I am sure the attitudes of fellow members on this side of the Council—has been influenced in any way by the question whether or not tobacco companies have made financial contributions to the Liberal Party.

I can only speak for myself, and last year I was offered tickets to the Australian Grand Prix. Members in this Chamber know full well my interest in the Australian Grand Prix and the cost of tickets, so the offer that was made to me was attractive. However, I did not accept those tickets from the tobacco company involved because I knew that on occasions we would continue to be confronted by Bills like this one about which I would express an attitude which would in certain matters agree with the attitude of the tobacco companies and which, I add, would later disagree strongly with the attitude of those companies. I took that view; nevertheless, I do not criticise members who may have accepted free tickets or entertainment, because I believe that members in this Chamber are mature enough and adult enough to form their own views on a Bill without being influenced by matters such as free tickets to the Grand Prix, lunches or whatever.

I will leave the contribution of the Hon. Mr Elliott on that basis because, as I said, in the mildest possible terms, I was disappointed to hear his contribution on that Bill. The last time we addressed the subject of tobacco and tobacco promotion in any comprehensive way was in October 1983, and I made my contribution on 19 October. It was a somewhat lengthy contribution, and I will not be repeating all the views I expressed then: suffice to say that I will repeat two or three of those points that I want to expand on but, for those few *Hansard* readers in South Australia—

**The Hon. B.A. Chatterton:** Just give us the *Hansard* references.

**The Hon. R.I. LUCAS:** I am just about to give them. For those few *Hansard* readers, I refer to approximately page 1130 onwards, 19 October 1983. There are some wonderful graphs on tobacco consumption and lots of good material for anyone who wants to see why I formed attitudes on the previous Bill and why I will be forming an attitude on certain aspects of this Bill.

I now wish in general terms to address clause 7 and the question of promotion of tobacco products through advertising or sponsorship. My general attitude is as I explained in 1983, and I quote from what I said then:

> As a general principle I believe it should be possible to advertise legally and promote a generally acceptable consumer item that can legally be manufactured and traded.

In general terms that is my view, and the question I would ask those people like the Hon. Mr Milne then and the Hon. Mr Cornwall now, who argue for bans on tobacco advertising in one form or another, is where do we draw the line? It is quite clear that the arguments that are used by people like the Hon. Mr Cornwall—

*The Hon. J.R. Cornwall interjecting:*

**The Hon. R.I. LUCAS:** If the Minister wants to call me a traitor to the working class he should not be so reluctant about it and mutter it under his breath. He should say it for all to hear. I am more than happy to debate that topic with him on any occasion. It has nothing to do with this Bill but, if he wants to, he can name a time.

**The Hon. J.R. Cornwall:** You have a short fuse; I didn't realise that.

**The Hon. R.I. LUCAS:** Name a time and place, and I will be happy to meet you. The proposition about banning promotion of tobacco can equally be made for banning the promotion of alcohol, and members like the Hon. Mr Gilfillan and the Hon. Mr Elliott have referred to the problems of the public promotion of alcohol and raised questions about Fosters' promotion or sponsorship of the Grand Prix, and so forth. I refer to a recent paper by L. Drew of the Commonwealth Department of Health published by the National Information Service of Drug Abuse which argues that in one important aspect alcohol is as bad as tobacco. I might add that L. Drew, whoever he or she may be, is the person who was responsible for the estimates of supposedly 16 000 tobacco-related deaths in South Australia—

**The Hon. J.R. Cornwall:** In Australia.

**The Hon. R.I. LUCAS:** —in Australia, and 1 400 in South Australia about which the Minister parrots, and I will be addressing that again in a while. Anyway, L. Drew in this study estimated that in 1980 alcohol-related deaths accounted for 94 635 lost years, while tobacco-related deaths accounted for 94 755 lost years. What Drew was saying was that in 1980 alcohol accounted for 45 per cent of the total lost years due to drug-related deaths and tobacco accounted for 45 per cent of the lost years due to drug-related deaths.

What Drew was arguing—and Drew is obviously someone on whose judgment the Minister places great weight, because he quotes Drew's figures *ad nauseam*—is that alcohol is as significant in lost years as tobacco. When we start talking about tobacco, if the Minister, the Hon. Mr Elliott and the Hon. Mr Gilfillan are to be consistent, where is their action on alcohol?

**The Hon. J.R. Cornwall:** In the Drug Offensive.

**The Hon. R.I. LUCAS:** We will debate later the effectiveness or otherwise of the Drug Offensive. I will not be

sidetracked by the Minister. I want to address the figure, which the Minister and others such as the Hon. Mr Elliott have trotted out, of 16 000 tobacco-related deaths in Australia and 1 400 in South Australia. I do not want my comments to be interpreted as saying that if it only happens to be, say, 8 000 tobacco-related deaths it is not something we should be concerned about—that is not my point. The point I am making is that politicians and lobbyists in their desire to simplify matters, as they always wish to do, seek to seize upon easy statistics such as this 16 000 tobacco-related deaths in Australia, and when enough people like Mr Cornwall and Mr Elliott trot out those figures all the time they become accepted as fact—that there are 16 000 tobacco-related deaths in Australia every year—and we have people like the Hon. Mr Cornwall extrapolating the 1 400 deaths and saying it is costing health and medical resources in South Australia $85 million a year. That is the use that the Hon. Mr Cornwall makes of those figures.

I want to refer again to L. Drew from the Commonwealth Department of Health and the paper 'Death and Drug Use 1969-80'. Drew's paper is the original source for this widely used estimate of 16 000 tobacco-related deaths every year. I seek leave to have inserted in *Hansard* Table 3 from that document at page 32 which is purely statistical outlining that 16 000 death rate figure.

Leave granted.

TABLE 3: ESTIMATED NUMBER OF DRUG-RELATED DEATHS ANALYSED BY AGE GROUP, SEX, DRUG INVOLVED AND CAUSE OF DEATH (ICD 9), AUSTRALIA, 1980

| Drug involved and cause of death | Age Group 0-14 M | 0-14 F | 0-14 T | 15-34 M | 15-34 F | 15-34 T | 35-64 M | 35-64 F | 35-64 T | 65+ M | 65+ F | 65+ T | Total M | Total F | Total T |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Alcohol: | | | | | | | | | | | | | | | |
| Cancer of the oesophagus | — | — | — | — | — | — | 26 | 9 | 35 | 41 | 24 | 65 | 68 | 34 | 102 |
| Primary cancer of the liver | — | — | — | — | — | — | 22 | 6 | 28 | 25 | 11 | 36 | 47 | 17 | 64 |
| Alcoholic psychoses | — | — | — | — | — | — | 15 | 2 | 17 | 12 | 5 | 17 | 27 | 7 | 34 |
| Alcohol dependence | — | — | — | 11 | — | 11 | 96 | 27 | 123 | 37 | 6 | 43 | 144 | 33 | 177 |
| Non-dependent abuse | — | — | — | 2 | — | 2 | 2 | 2 | 4 | — | — | — | 4 | 2 | 6 |
| Alcoholic cardiomyopathy | — | — | — | 6 | 1 | 7 | 111 | 11 | 122 | 34 | 2 | 36 | 151 | 14 | 165 |
| Alcoholic liver disease | — | — | — | 13 | 10 | 23 | 405 | 111 | 516 | 108 | 24 | 132 | 528 | 145 | 673 |
| Diseases of the pancreas | — | — | — | 2 | 1 | 3 | 11 | 2 | 13 | 7 | 6 | 13 | 19 | 9 | 28 |
| Motor vehicle traffic accidents | 101 | 64 | 165 | 743 | 179 | 922 | 301 | 124 | 425 | 133 | 96 | 229 | 1 276 | 464 | 1 740 |
| Accidental poisoning | — | — | — | 2 | — | 2 | 3 | 2 | 5 | — | 1 | 1 | 5 | 3 | 8 |
| Accidental falls | — | — | — | 5 | — | 5 | 14 | 4 | 18 | 22 | 50 | 72 | 40 | 54 | 94 |
| Accidental drowning | — | — | — | 24 | 4 | 28 | 26 | 4 | 30 | 5 | 3 | 8 | 55 | 10 | 65 |
| Suicide and self-inflicted injury | 1 | — | 1 | 100 | 27 | 127 | 109 | 41 | 150 | 30 | 13 | 43 | 240 | 82 | 322 |
| Homicide and injury purposely inflicted by others | 7 | 3 | 10 | 25 | 20 | 45 | 19 | 13 | 32 | 4 | 2 | 6 | 55 | 38 | 93 |
| Total deaths—alcohol | 109 | 67 | 176 | 933 | 242 | 1 175 | 1 160 | 358 | 1 518 | 458 | 243 | 701 | 2 659 | 912 | 3 571 |
| Tobacco: | | | | | | | | | | | | | | | |
| Cancer of the mouth, pharynx, larynx and oesophagus | — | — | — | — | — | — | 276 | 22 | 298 | 315 | 46 | 361 | 591 | 68 | 659 |
| Cancer of the trachea, bronchus and lung | — | — | — | — | — | — | 1 291 | 161 | 1 452 | 1 993 | 203 | 2 196 | 3 285 | 363 | 3 648 |
| Ischaemic heart disease | — | — | — | — | — | — | 1 594 | 290 | 1 884 | 3 328 | 1 819 | 5 147 | 4 922 | 2 109 | 7 031 |
| Cerebrovascular disease | — | — | — | — | — | — | 136 | 143 | 279 | 538 | 1 217 | 1 755 | 674 | 1 361 | 2 035 |
| Bronchitis, emphysema and chronic airways obstruction, n.e.c. | — | — | — | — | — | — | 369 | 87 | 456 | 2 009 | 332 | 2 341 | 2 378 | 418 | 2 796 |
| Total deaths—tobacco | — | — | — | — | — | — | 3 666 | 703 | 4 369 | 8 183 | 3 617 | 11 800 | 11 850 | 4 319 | 16 169 |

**The Hon. R.I. LUCAS:** Drew's estimates for cancer of the mouth, pharynx, larynx and oesophagus category acknowledge that it depends on the results of a study undertaken in the United States by Hammond in the early 1960s, nearly 20 years ago. Drew concedes that there could be significant differences in the current Australian experience. Drew also indicates that his estimates were based on an Australian Bureau of Statistics survey of 1977, nearly 10 years ago. Once again, there could be significant differences in patterns of tobacco consumption in 1987 when compared to 1977 in Australia. The other categories in this table that I have just had incorporated (including cancer of the trachea, bronchus and lung, ischaemic heart disease, cerebrovascular disease, bronchitis, emphysema and chronic airways obstruction) are the categories that Drew gives, and they total the 16 000 deaths.

Most of the estimates for those categories of Drew are ostensibly based on a survey by Donovan and Hodge in a 1980 National Heart Foundation survey. However, if one tracks backwards and has a look at that 1980 survey of Donovan and Hodge, one finds that Donovan and Hodge based their results on a paper by L. Garfinkel, and if one tracks back a little further and has a look at Garfinkel's paper, surprise, surprise! Garfinkel used the original 1960 estimates of Hammond in the United States survey of some 20 to 25 years ago. So, Ms President, that little exploration through history and through academic research and journal papers shows quite clearly that the estimate that the Minister of Health, the Hon. Mr Elliott and all and sundry in Australia use as fact (of 16 000 tobacco-related deaths) relies on survey or research information in the United States of America from some 25 years ago, and is based on tobacco consumption patterns in Australia of some 10 years ago. If the Hon. Mr Cornwall and the Hon. Mr Elliott were prepared to sit down and talk with tobacco company apologists, as I am sure they would like to refer to them, they would know quite clearly that tobacco consumption patterns in Australia have changed, and changed quite significantly in the past 10 years. In fact—

*The Hon. I. Gilfillan interjecting:*

**The Hon. R.I. LUCAS:** The Hon. Mr Gilfillan misses my point. What I am saying is, whether it is 4 000 deaths or 8 000 deaths, clearly that is still a problem. However, when people like the Hon. Mr Gilfillan, the Hon. Mr Elliott and the Hon. Mr Cornwall use this figure of 16 000 tobacco-related deaths, 1 400 in South Australia, costing us $100 million a year in health and medical resources, I am suggesting to the Hon. Mr Gilfillan and the Hon. Mr Cornwall that in my view it is nonsense, and it is an easy device seized upon by opponents of the tobacco industry to justify their particular case.

Ms President, I challenged the Minister three years ago to get officers to at least try and update that sort of information in the Australian context using Australian information and not USA information of 25 years ago, but no, in the three years they have not done it or, if they have done it, the figures have not turned out the right way—so we stick to the 16 000 tobacco-related deaths because that seems scary and that sounds terrible. The Hon. Mr Elliott and the Hon. Mr Cornwall can defame, under privilege, the

tobacco companies and representatives of the tobacco industry as 'purveyors of death' and 'kid killers' or whatever phrases that members have used in this Chamber on this and other occasions. My point is that, if a product is legally and generally acceptable for sale in Australia, then none of this hypocrisy would apply. If the Hon. Mr Elliott, the Hon. Mr Gilfillan and the Hon. Mr Cornwall want to stop these 16 000 tobacco-related deaths or whatever, then let them trot out and try to ban the tobacco industry and, because alcohol is supposedly as bad, according to Drew, let them ban the use of alcohol in Australia as well.

Why do they not do it? Because they know it would not be acceptable politically. It is a simple fact. That is the reason why they do not promote it. Whether I accept it or not means nothing because the Democrats and the Government have the numbers here. I am not supporting a number of these propositions in the Bill at the moment, but the Democrats and the Government—that wonderful coalition—will put the propositions through. If they believe it to be so bad, they should ban it.

I return to another aspect of clause 7. I indicated previously that the research papers—and I have quoted them in my contribution of October 1983—from many studies have indicated that there has been no success with advertising bans. When countries have sought to introduce advertising bans there has been no appreciable effect on the tobacco consumption in those countries.

I referred to a paper which looked at 16 countries, and in only two of those was there some evidence of an advertising ban having some effect. On that occasion I stated:

> In summary, I believe that there is no evidence at all to show that bans on advertising have had a significant effect on reducing tobacco consumption below pre-ban trend lines.

As I said, there were two countries—Norway and Finland—where the effect was questionable. In many of those countries there was full-scale advertising for tobacco: television, radio, press, posters, sponsorship and the like, and they then banned the lot and there was not much effect at all.

One has to consider that in Australia already we have a major advertising ban—there is no television or radio advertising for tobacco companies—and any further bans as envisaged in clause 7 of this particular Bill would only, in my view, be marginally effective. Therefore, it would be even less likely to have an effect on tobacco consumption patterns. In all honesty, whilst I will be supporting the provisions which refer to the health warnings, they will have no effect at all on tobacco consumption, as we all know.

Those in the community who want to smoke will smoke, irrespective of the warning on the packet of cigarettes. Whether we have it in a neon sign flashing for all to see, it will not affect those people who wish to continue smoking. A particular health warning is not going to affect them at all.

*The Hon. I. Gilfillan interjecting:*

**The Hon. R.I. LUCAS:** That will not affect them at all, either. There is much research which shows that, particularly for young people, peer group pressure and other factors are the major factors in encouraging them to take up smoking, and it is certainly not tobacco advertising or promotion.

**The Hon. J.R. CORNWALL:** Ms President, I draw your attention to the state of the Council.

*A quorum having been formed:*

**The Hon. J.R. CORNWALL (Minister of Health):** I move:

> That Standing Orders be so far suspended as to enable the sitting of the Council to continue beyond 6.30 p.m.

In doing so, I indicate that it is my intention at this stage to reply to the second reading, and to ask that progress be reported when we reach clause 1 in the Committee stage.

Motion carried.

**The Hon. R.I. LUCAS:** Frankly, as I indicated in 1983, I have grave doubts about the success of the Australia-wide electronic media advertising ban. This is not the time to debate this matter, but I repeat that it has had no appreciable effect on tobacco consumption in Australia. I have not changed my view. One of the other objectionable aspects of clause 7 is that it provides no definition of 'advertisement'. Clearly, that will be left to the discretion of the Minister and the Government. However, the Hon. Mr Milne's Bill of three years ago provided a very extensive definition of 'advertisement': we knew what we were talking about. On this occasion the Minister has chosen not to define 'advertisement' and we, as members of this Council seeking to form a view on the Bill, are left very much in the dark as to what would be intended. I will expand further in Committee in that regard, but my position is supportive generally of the tobacco companies.

I indicated three years ago that, once we moved to debate passive smoking and the banning of smoking in enclosed spaces and certain public areas, I would have an open mind as to what sort of action I would support. I am pleased to note that there has been a small amount of progress in that this Bill refers to lifts, buses and taxis. Recently the Commonwealth Public Service has introduced certain restrictions in relation to smoking in the workplace, and I am aware that the Minister and the South Australian Health Commission are considering similar provisions for South Australia. I will certainly consider them with some interest, but I do not indicate support or opposition at this stage.

I will support the proposition in relation to banning smoking in lifts and the proposition in clause 11 in relation to buses. Together with the Hons Legh Davis, Barbara Wiese and Gordon Bruce, some two years ago, I was a member of a select committee on the taxi-cab industry which addressed the question of smoking in taxis. The Hons Ms Wiese, Legh Davis and I agreed that we should not come the heavy hand, as the Minister has done in this Bill, and outlaw smoking in taxis.

We suggested that we should take a softly-softly voluntary approach, as outlined in the select committee report. As I said, that was supported by the Minister of Tourism (Hon. Barbara Wiese) and one other member of the Labor Party from this Council. I stand to be corrected, but I think it may have been the Hon. Mr Gilfillan as well, but I will check the record on that. The select committee suggested that one should not adopt a heavy-handed approach and outlaw it, as the Minister has done, particularly without consultation, but that one should take a sensible approach. The Hon. Barbara Wiese was happy with that, and we will look for her support of the amendments that we will move, consistent with the view that she expressed in the select committee and that is, basically, that a sensible arrangement is arrived at between passengers and the driver. As the Hon. Mr Cameron has pointed out, under the regulations the driver is not allowed to smoke in a cab and has not been allowed to do so since 1956.

The select committee recommended that there be a sensible arrangement and that there be a provision for smoking and non-smoking taxis so that customers could, as they do now informally, ring up and ask for a non-smoking cab. Equally, they could walk up and down a taxicab rank and identify a non-smoking cab and hop into it if that were their preference. I think that package of suggestions outlined by the Hon. Mr Cameron and as summarised in the report and deliberations of the taxicab select commitee are sensible and I hope that the majority of members in this Council will support the provisions and amendments being moved

by the Hon. Mr Cameron. I support the second reading. Also, I support those provisions I have outlined but I indicate my opposition to those clauses that I have indicated.

**The Hon. J.R. CORNWALL (Minister of Health):** In his contribution the Hon. Mr Lucas made much play of the fact that I had frequently used an estimated figure of 1 400 premature deaths per year as attributable to smoking in South Australia. He challenged those figures and suggested that they were obviously inflated for political purposes. At least he did concede the point that, even if it were 700, it was too high, but he went on at great length about the fact that the work had not been done in South Australia.

I have news for the Hon. Mr Lucas. As I am sure members would know, in South Australia we have the best epidemiology branch in the country. Recently, it took out the figures for 1984, which is the last year for which full figures were available. I have a document entitled 'The South Australian smoking epidemic; deaths and hospital separations attributable to smoking (by local government area)—working papers in health promotion No. 4'. As yet, this has not been published, but is in the process of preparation, so it is hot from the preparation stages. This document has not been released before, but I make the point that, in making calculations of death attributable to smoking, the branch followed the methodology of British researchers who used established attributable risk data, and there are suitable references there.

Using that methodology, the following proportions of deaths and hospital separations were attributed to smoking: lung cancer, 90 per cent; ischaemic heart disease, 25 per cent (which I might say is a conservative figure); and bronchitis and emphysema, 75 per cent, or three-quarters.

They then looked at the population of South Australia and the total number of deaths during 1984. They attributed deaths due to smoking on that 90 per cent, 25 per cent and 75 per cent (the three major categories) as follows: ischaemic heart disease, deaths attributable to smoking, males 418 and females 302; lung cancer, males 350 and females 94; bronchitis and emphysema, males 73 and females 5; estimated deaths due to smoking, males 841 and females 401. They go on to say:

> We estimate that every year 1 242 residents die solely because they smoked.

That 1 242 is not far from the 1 400 estimate, and they continue:

> This compares with 10 099 deaths from all causes in 1984.

**The Hon. R.I. Lucas:** Are you going to release it?

**The Hon. J.R. CORNWALL:** Yes, of course.

**The Hon. R.I. Lucas:** The whole lot?

**The Hon. J.R. CORNWALL:** Yes.

**The Hon. R.I. Lucas:** Will you table it now?

**The Hon. J.R. CORNWALL:** No, I would rather not.

**The Hon. R.I. Lucas:** Why not?

**The Hon. J.R. CORNWALL:** It is not complete. It needs a foreword, and generally needs to be tidied up.

*The Hon. R.I. Lucas interjecting:*

**The Hon. J.R. CORNWALL:** You have your figures wrong. Your figures are as silly as your logic, which is nearly as silly as your prattling on and your falsetto voice. Ms President, 1 242 residents in South Australia die solely because they smoked. I rest my case. This paper will be released widely soon.

**The Hon. R.I. Lucas:** Will you send me a copy?

**The Hon. J.R. CORNWALL:** You can ask for a copy. You don't get any privileges from me, son.

**An honourable member:** Father of the year!

**The Hon. J.R. CORNWALL:** 'Son' used in that context can be regarded as a derogatory term. It is a term which shows that I regard the Hon. Mr Lucas as immature and somewhat senseless.

**The Hon. R.I. Lucas:** That's almost injurious.

**The Hon. J.R. CORNWALL:** Not quite; I said 'somewhat senseless'. The apropos of the public reaction to this Bill I have in my hand—almost 700 letters of support. Most of the letters are not *pro forma*; they are handwritten spontaneously or typed. They come from health workers, members of the medical profession, nurses, many others in those areas, schoolteachers, school principals, and a whole range of people in the community. I will not go through them in detail. I thought I should make that gesture of thanks to the almost 700 people who wrote in complimenting me and the Government on introducing the legislation. Ms President, I also mention the three individuals who wrote in specifically protesting against the legislation. It was almost 700 in favour and three against.

Of course, I received a number of letters from organisations to which I will refer during this second reading reply. The allegation has been made by the Opposition and a number of clearly vested interests, that there has been a lack of consultation. In May, well prior to the May school holidays, I held a major press conference regarding the proposed anti-smoking strategy. I announced, among other things, that we would be running anti-smoking cartoons in children's television time, and that was done; that we had a major package of administrative procedures, including voluntary stickers for restaurants that wanted to participate in setting aside a non-smoking area. Of course, at that time I also announced that I had approval in principle for the strategy which would include drafting instructions for a major legislative program against tobacco smoking.

That announcement was the first formal and very public warning. I might add that it was attended by all the electronic media and, to the best of my recollection, by both newspapers. Therefore, every major metropolitan media outlet in Adelaide attended that press conference where I, as Minister of Health, Dr Simon Chapman (the Director of Health Promotions) and a senior representative of the South Australian Anti-Cancer Foundation gave a full and formal warning that it was on. Anyone who could read, write or was able to listen to the radio or watch television would have been made aware of it.

Further, I again called a full scale press conference after the Bill as drafted had been formally approved by Cabinet. Therefore, about 2½ months later there was a full scale press conference, very well attended, and the matter received widespread publicity. Again, the morning after the Bill was introduced it was front page lead article in the *Advertiser*, South Australia's only metropolitan morning daily with very widespread circulation. Quite frankly, anyone in South Australia—be it an individual or a company—who did not know that this Bill was to come before Parliament either cannot read, cannot write, cannot see or cannot hear. So with regard to the lack of consultation, I will continue—

*Members interjecting:*

**The Hon. J.R. CORNWALL:** If members opposite want to jack ass on, we can stay here all night. The Democrats are perfectly happy to stay with me. We can do without the Leader's asinine interjections and the inane chattering from the Hon. Mr Lucas. With regard to the alleged lack of consultation, every person in South Australia had ample opportunity over many months to become aware of what was proposed. Not one of the organisations that are protesting so much at the moment has approached my office formally or informally to ask for an appointment—with the

exception of the Mixed Business Association, representatives of which wrote and requested that I see them. As a result, we had long and useful discussions, which I will refer to in a moment. However, none of the others—including taxi cab proprietors and various and sundry people associated with the taxi industry—specifically asked for an appointment, although some have written letters. This all occurred during the period from May until the Bill was introduced, after which time it lay on the table during a two week recess. Subsequently, it has been debated for another two weeks and now the Council is in recess for another three weeks (so it is seven weeks altogether) before the debate will resume. At that stage—

*The Hon. Peter Dunn interjecting:*

**The Hon. J.R. CORNWALL:** The Hon. Mr Dunn makes a great contribution to this place—he really is a monument. There is no doubt about him—he has a great political future, I am sure. In fact, he looks like Cabinet material to me! People have known about this Bill for months and it will be before the Chamber for several weeks. However, members opposite have adopted stalling tactics this week which meant that we adjourned at 5.20 p.m. on Tuesday, despite my protestations.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. J.R. CORNWALL:** They refused to go on with it. As a result of that, there will be a further three week period. I do not mind them going to bat for the tobacco industry—they are declaring their hand. We had moneybags Davis on his feet lamenting the fact that there might be some monetary loss if we were to reduce the level of smoking in this State. What a wonderful moral attitude! He was wringing his hands saying how dreadful it would be if this Bill were to pass in its present form.

With regard to the lack of consultation, today we have had the Chamber of Commerce issuing the most extraordinary press release to accompany a full page advertisement in which it states:

These groups—

that is, the groups that apparently have not been consulted and have not had the common courtesy or nous to approach my office—

includes taxi owners and operators—

I will concede at once that taxi owners and operators are directly affected by the Bill—

service station proprietors—

I cannot for the life of me work out where there is any mention in the Bill of anything that impacts directly on service station proprietors—

*The Hon. M.B. Cameron interjecting:*

**The Hon. J.R. CORNWALL:** They do, indeed.

*The Hon. R.I. Lucas interjecting:*

**The Hon. J.R. CORNWALL:** I will come to that in a moment, my son. I will prick your little falsetto balloon in a moment. It continues:

hotels, clubs, motels and restaurant owners.

The Opposition has even geed-up the restaurant owners to send me an urgent telegram. Where is there anything in the Bill that impacts on restaurant owners? It is longbow stuff. I could say one or two things about the Chamber of Commerce, but I will resist the temptation. Suffice to say that in this matter I do not think they have acted intelligently or responsibly. Members opposite can run and tell them if they wish; they can tell the *News*. I make no apology for saying that in this terribly important matter of trying to save lives by reducing and ultimately eliminating tobacco smoking I do not believe that the Chamber of Commerce has acted sensibly at all.

Fourthly, with regard to taxi proprietors, I make clear that there is little on which to consult. We have taken a decision as a Cabinet, Caucus and Government that smoking should be banned in taxis. I do not see what is negotiable about that. Either we ban smoking or we do not. A firm decision was taken that we should ban it. The taxi industry is a regulated industry. If it does not want to be a regulated industry it should say so. But, of course, there is not a taxi proprietor in this city who would want to see the industry deregulated, and for very good reason. If the taxi industry does want to be able to do its own thing, to be deregulated and not to have follow any of the regulations under which it is obliged to operate, then let it say so. Of course it would not want to be deregulated. The very reason that taxi plates are selling in this city at around $70 000 currently is that it is a regulated industry. There is absolutely no remote idea of deregulating that industry. It does not want it, the Government does not want it; and I do not believe that any reasonable person wants it.

However, I make the point again that if it wants to be a regulated industry, quite clearly the taxi industry must accept the laws and regulations that apply to it. In that sense, in terms of consultation, there was little on which to consult.

What they need to be told, and what they will be told in a public education campaign before this legislation is proclaimed, is what is their responsibility and how we intend that the no smoking ban will be enforced. Quite clearly, we will not ask cab drivers to enforce the legislation—that would be ridiculous. When I first negotiated with the business proprietors association—and in this matter of lack of consultation I point out that I first negotiated with them early in 1983—they made it clear to me that they had no objection to banning smoking on long haul intrastate buses provided the onus to police non-smoking would not be on the drivers. It will not be on the drivers, and will not be on taxi drivers, either.

Apropos of the little too clever by half trick that the Opposition got up to on my misquoted interjection that I thought that some taxis were tatty—

*Members interjecting:*

**The Hon. J.R. CORNWALL:** It did not, and the honourable member knows that, and knew it at the time: it did not apply to all taxis at all. Let me make that clear. I had the good fortune to go home last night in a taxi in which smoking was not allowed after Parliament rose at 12.30 a.m. It was a pleasure to get into a cab that did not smell of stale cigarette smoke. It was a pleasure to get into a cab in which the ashtray was not overflowing with smelly butts. It was a pleasure—

*Members interjecting:*

**The Hon. J.R. CORNWALL:** I did; I had a long conversation with him and congratulated him on the state of his cab. He was warm and friendly to me. It was also a great pleasure to get into a cab which was scrupulously clean, and I congratulate the non-smoking cab drivers of this city for the standard of their cabs. I abhor the dirty, smelly cabs, on the other hand, in which one cannot ride in comfort because of the offensive residual smell and, in some cases, residual ash of the smokers.

Let us be clear about this and give credit where credit is due: those taxis in which smoking is not allowed and in which I have ridden from time to time are a credit to their proprietors and to the taxi industry. The others are dirty, tatty and do the city no good at all. I turn to clause 7, which has brought the tobacco industry scurrying out from under the bushes with all its crude tactics. As I have said on numerous occasions, clause 7 picks up a Bill that was passed

by this Parliament in 1975 but never proclaimed. It has been incorporated in the present Bill.

The one thing that was not done in the drafting was to indicate that it would not be proclaimed until a majority of the States and the Commonwealth had passed similar legislation or indicated their intention to pass it. I have given repeated assurances that it is not the Government's intention in the foreseeable future to proclaim clause 7: it is not practicable to do so. Also, it is not possible to do so. I was amazed to see the crude bully boys come out of the woodwork, threatening various organisations which accept their sponsorship: it was one of the crudest performances that I have ever seen and showed the tobacco industry for what it is.

There is nothing in clause 7 about sponsorship. There was no threat, and there never has been any threat in clause 7 concerning sponsorship. I make clear that, as a further indication of the Government's goodwill and intentions in the matter, since it seems to be causing some of the recipients of sponsorship some concern, I intend, on behalf of the Government, to accept the amended amendment of Mr Lucas. I do not know that it is yet on file, but it will apply specifically to clause 7 and it will provide that we will not proclaim clause 7 until three other States and the Commonwealth have passed similar legislation and have indicated their intention to proclaim it. That is an indication of the Government's goodwill.

*The Hon. R.I. Lucas interjecting:*

**The Hon. J.R. CORNWALL:** If the Hon. Mr Lucas really wants to know the sequence of events, I point out that I rang the Premier and told him I thought that it would be wise to do so and that it would be practical—

**The Hon. R.I. Lucas:** He probably said, 'John, I want to see you again—you've been naughty again. You didn't put in this provision when you said you did.'

**The Hon. J.R. CORNWALL:** If only you had another half a brain, my son, you would be a halfwit—but I am pleased to say that the honourable member is not, as he lacks even half a brain.

**The PRESIDENT:** Order!

**The Hon. J.R. CORNWALL:** I consulted with the Premier through one of his personal staff.

*The Hon. R.I. Lucas interjecting:*

**The PRESIDENT:** Order!

**The Hon. J.R. CORNWALL:** This is a serious debate and the Hon. Mr Lucas sits there cackling, singing his soprano songs and generally disrupting the proceedings of the Council.

**The PRESIDENT:** The Minister does not have to take any notice of his interjections.

**The Hon. J.R. CORNWALL:** It is very difficult to ignore the honourable member when he constantly and consistently interjects.

**The PRESIDENT:** I have been calling the honourable member to order and it is my responsibility to do that.

**The Hon. J.R. CORNWALL:** I know. I wish you would throw him out and we could get on with the business. I have consulted with the Premier and I have said that in my view it served a very useful purpose to show up the tobacco companies in all their crudity. It has shown them up in the worst possible light, and it has shown the typical *modus operandi* that they have developed not only in this country but around the world. I have always said that sponsorship is a national problem and a national issue. There is no point in our moving unilaterally. The major problem concerns the Broadcasting Control Board and the legislation that relates to that area. When we move to ban sponsorship it must occur nationally, and when we move to ban advertising in the print media, of course it, too, must be done nationally. There is no point in our moving unilaterally and then having the *Women's Weekly* and other national magazines being introduced freely under section 92. Therefore, we have never intended to move unilaterally. I hope that in the not too distant future the Federal Government will stand up and be counted and ban sponsorship.

Let me just reflect for a moment on the real cost versus imagined cost. I think that the State Theatre Company showed this up rather dramatically. Its annual budget is $1.5 million, and the contribution to the State Theatre Company from Amatil in the past three years has been $50 000—about 3 per cent of the State Theatre Company's budget. The amount proposed for 1986-87 and 1987-88 is $55 000. So, they are certainly able to buy the hearts and minds of a lot of people in both the arts and sporting bodies, in particular, for a relatively small amount of money.

The total estimated sponsorship in South Australia is around $1.5 million and nationally about $15 million. Quite frankly, if one looks at a nation that spends vast quantities on the health budget, the $1.5 million is minuscule. I hope that eventually we would move to a situation where there would be a transition period for perhaps two years, during which the Federal Government would pick up the tab to give those bodies currently sponsored the opportunity to look for alternative sponsors, but that is not what this Bill is about. It has nothing to do with it.

I might add, however, that I was heartened to receive a letter earlier this week from a very senior member of the medical profession—in fact, someone who holds a senior academic appointment at one of our medical schools. I think it is worth reading into the record. I do not intend to divulge the name of the writer because she has asked me not to do so. I think it is an indication of just how strong the anti-tobacco feeling is out in the community. The letter states:

Dear John,

I would like to express my support for the Tobacco Products Control Act 1986 and your consistent and courageous efforts to reduce the death toll and chronic disability resulting from consumption of tobacco.

It is disappointing but not unexpected to see the opposition from those with vested interests in the tobacco industry. An example of this has been the threat that the State theatre company might lose a subsidy of $50 000 per annum over the next two years.

In many ways it would be better if the company was not supported by the profits from the sale of tobacco. Perhaps what is needed is a supporters' group akin to that organised by Dean Southwood for the East Torrens District Cricket Club. While I am not in a position to arrange such a group, I would certainly contribute to it. Indeed, if Amatil withdraws the subsidy, I would be happy to contribute $5 000 to the State Theatre Group, as a step towards making up this loss. Perhaps the willingness of a single (unnamed) individual to provide 10 per cent of Amatil's annual contribution might provide some mileage for the cause.

That gives some indication of just how strongly people, who are in a position to know, feel about this.

Finally, I want to put on the record a number of undertakings which I think are important in the light of my extensive negotiations with the Executive Officer of the Mixed Business Association. Since the Bill's introduction, a number of issues have been raised by interested groups but particularly by the South Australian Mixed Business Association which met with me and with senior officers of mine recently. Consequently, as I said, I would like to place on the record some undertakings and points of clarification that have resulted from these discussions. Even members of the Opposition may find these useful.

As with any new piece of legislation, I am conscious of the need to undertake an extensive advertising campaign to inform members of the public of any major changes to law, particularly where these have a wide impact, as is the case here. Consequently, I have asked the Health Commission

to undertake a program directed at informing members of the public about the provisions of the new Bill. Of particular importance is the provision relating to the sale of tobacco products to children under 16 years of age and the fact that any sale or supply is prohibited. It is important that the public is aware of these provisions and that any sale or supply is prohibited.

The Mixed Business Association is aware of cases where parents send their children on errands to buy cigarettes for them and become irate when the sale is refused. It will be made clear that any sale or supply, whether or not it is authorised by the parent, is prohibited under the proposed provision. Where a sale to a child occurs, the shopkeeper will be liable. This has been the situation in South Australia for many years and the Government considers that it is quite appropriate that this should be so.

Generally, where complaints are received, Health Commission officers are asked to investigate. In these cases shopkeepers are generally either ignorant of their obligations under the law or have made a genuine mistake as to the age of the child. In such cases, the Health Commission has not considered it desirable to prosecute the shopkeeper. In view of the increase in penalty for this offence, I would wish to assure shopkeepers that there is no reason why the existing method of enforcement should not continue.

It is only in cases of flagrant continued or obviously wilful breach of the legislation that a prosecution will definitely be commenced. I think it is fair to say that, in cases where a breach is investigated by the Health Commission, the allegedly offending party is always treated with every fairness and courtesy. With respect to vending machines, honourable members will be aware that an additional defence is proposed allowing the defendant to prove that he or she took all reasonable precautions to ensure that the machine was not used by a child.

Obviously, the extent of such a defence will depend upon each individual set of circumstances and the views that a court would take of those circumstances but, if I were an occupier wishing to come within the provisions of this defence, I would site the vending machine where I or my staff could monitor the use of the machine and, in particular, direct as much concern to the possible age of the persons using it as I would if I were making the sale directly.

If members consider this provision harsh I should stress that sale by way of vending machines would otherwise provide an easy mechanism for children to obtain cigarettes, thus defeating the whole purpose of the provision. Further, other substances that are subject to a measure of social control, such as drugs and poisons, are not permitted to be sold by way of vending machines.

The prohibition of confectionery cigarettes is designed to prevent imitative behaviour on the part of young children which has the effect of legitimising smoking. Before this provision is brought into operation, the Health Commission will undertake discussions with the industry indicating the types of products that are regarded as coming within the prohibition. Obviously, we are not interested in vanilla sticks that might possibly be argued to resemble cigarettes. What we are concerned about is where the product is packaged and marketed in such a way as to quite distinctly resemble cigarettes. Members may be familiar with imported chocolate that is packaged in such a way as to be a quite cunning replica of well-known cigarette brands. It is this type of product which is boxed in such a way as to resemble a packet of cigarettes that the Government wishes to prohibit.

With respect to tar, nicotine and carbon monoxide notices, I should stress that the tobacco industry has been quite positive in its dealings with us—about the only area in which they have. Certainly, the size of the notices required will not remotely approach the sizes that have been suggested by some people in the industry. The notices will be based on the Commonwealth Department of Health/AGAL tables, and the full range will only be required for that very limited number of specialist tobacconist outlets. The average shop would sell a far more limited range than tobacconists, and in these cases the Health Commission will be preparing an abbreviated version that will occupy considerably less space for the shopkeeper. I can also say that the Health Commission will attempt to distribute these tables as widely as possible in order to provide smokers with information relevant to their particular brands. We hope to be able to supply doctors' surgeries, health centres and community pharmacies also with this information.

At this stage, I should like to clearly express our intention not to include cigars within the provisions of the warning label requirement. At the time the Bill was prepared and introduced, we were concerned to follow the recommendations of the Australian Health Ministers which included cigars. Since then, Victoria and New South Wales have adopted a scheme which excludes cigars, and it is proposed that South Australia do likewise. For the foreseeable future, cigars will not be subject to labelling requirements. However, I propose to keep the provision in the Bill in order to retain our option to label cigars at a later date should this be considered necessary. In making such a decision we will clearly be guided by the position in other States, as we have been in deciding to adopt the modified warning statements. I should stress that the powers given to authorised officers in clause 14 are intended to ensure that the rotating label requirements in clause 5 are complied with.

If such powers were not included in the Bill, it would create an unsatisfactory situation where a legally unenforceable obligation was imposed on packers and importers. Those powers were included on the recommendation of Parliamentary Counsel, and they will be used, if necessary, to check wholesalers' stocks. It is quite wrong to suggest, as the Chamber of Commerce did in that foolish news release and advertisement today, that we are proposing to use sledge-hammers to knock down the doors of delicatessens in order to inspect their cigarette stocks from time to time.

That is very foolish at best and potentially malicious at worst. If such powers were not included in the Bill, it would create an unsatisfactory situation where a legally unenforceable obligation was imposed upon packers and importers (I stress that) and not retailers. Finally, I draw honourable members' attention to the proposed amendments that the Government will be making to this Bill. They relate to the penalties for failing to display the notices required to be displayed by the vendor of cigarettes. Failure to display these notices, specifying tar, carbon monoxide and nicotine content, and the offence of sale to minors will now both carry a maximum $500 penalty.

Bill read a second time.

In Committee.

Clause 1 passed.

**The Hon. J.R. CORNWALL:** As the hour is late and we still have some way to go, and as I am running out of my usual vigour and, to some extent, voice (and the goodwill of my Party, among others), I suggest that we report progress.

Progress reported; Committee to sit again.

## ADJOURNMENT

At 7.8 p.m. the Council adjourned until Tuesday 21 October at 2.15 p.m.