LEGISLATIVE COUNCIL

Tuesday 2 December 1986

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

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

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

Administration and Probate Act Amendment,
Futures Industry (Application of Laws),
National Companies and Securities Commission (State Provisions) Act Amendment,
Residential Tenancies Act Amendment,
Sale of Goods (Vienna Convention),
Securities Industry (Application of Laws) Act Amendment,
Tobacco Products Control,
Trustee Act Amendment.

PAPERS TABLED

The following papers were laid on the table:

By the Attorney-General (Hon. C.J. Sumner):

Pursuant to Statute—

Accounting Standards Review Board—Report, 1985-86.
Jubilee 150 Board—Report, 1985-86.
Summary Offences Act 1953—Regulations—Turn Infringements.

By the Minister of Consumer Affairs (Hon C.J. Sumner):

Pursuant to Statute—

Second-hand Motor Vehicles Act 1983—Regulations—Special Sale Exemption.

By the Minister of Corporate Affairs (Hon. C.J. Sumner):

Pursuant to Statute—

Securities Industry (Application of Laws) Act 1981—Regulations—Futures Contract.

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

Pursuant to Statute—

Regulations under the following Acts—
Fisheries Act 1982—
Extension of Scheme of Management.
Investigator Strait—Experimental Prawn Fishery.
West Coast Prawn Fishery—General Regulations, 1986.
South Australian Health Commission Act 1976—Accommodation Fees.
Food Act 1985—Report of the Operation of the Act 1985-86.
South-Eastern Drainage Board—Report, 1985-86.
State Transport Authority—Report, 1986.

By the Minister of Tourism (Hon. Barbara Wiese):

Pursuant to Statute—

Aboriginal Lands Trust—Report, 1985-86.
Adelaide Festival Centre Trust—Auditor-General's Report, 1985-86.
The State Opera of South Australia—
Report, 1985-86.
Auditor-General's Report, 1985-86.
State Theatre Company of South Australia—Auditor-General's Report, 1985-86.

QUESTIONS

ROYAL ADELAIDE HOSPITAL

The Hon. M.B. CAMERON: I seek leave to make an explanation prior to directing a question to the Minister of Health on the subject of emergency services at the Royal Adelaide Hospital.

Leave granted.

The Hon. M.B. CAMERON: In his ministerial statement on 25 November the Minister used the Allen report on waiting times in emergency theatres at the Royal Adelaide in an improper way to give his examples of what could cause patient delays. I seek leave to table a copy of that report.

Leave granted.

The Hon. M.B. CAMERON: Let me go through some of the alleged reasons given by the Minister. The Minister said that late starts were caused by medical staff arriving late and theatre staff not being ready. He said it was not uncommon for anaesthetists not to have seen the first patient of the morning and for no pre-medication to have been ordered. He also says, and I quote:

> Other delays were caused by the non-availability of surgeons for a variety of reasons.

What he did not say, and I quote from the Allen report, was:

> The commonest cause of delays caused by surgeons related to commitments in other areas. These commitments included ward rounds, outpatient sessions, assessing patients in casualty, attending tutorials in this hospital or adjacent teaching hospitals and finally being already committed to an operating session in this hospital.

The Minister also neglected to mention that anaesthetists may be delayed because, and I quote:

> They have not been told of patients added to the emergency list and hence the pre-operative assessment and pre-medication is unavoidably delayed.

The report goes on to say that 'in general terms, the anaesthetic staff is available precisely according to the roster'. The Minister also said some medical staff were reluctant to start a new case just prior to a meal break or within an hour or so of their rostered time off. He neglected to say, and I quote from the report:

> Anaesthetists work up to 24-hour shifts in the emergency theatres and like to have meals at reasonable times.

The Minister made a point of saying that the problems at the RAH 'cannot by any stretch of the imagination be attributed to issues such as funding or transfers from other hospitals'. If critical staff shortages and a lack of enough orthopaedic equipment, as mentioned in the report, cannot be attributed to funding cuts, then I am at a loss to know what can. The equipment funding for the Royal Adelaide Hospital has been cut from $1 million to $500 000. The most incredible thing is that when it is quite clear that a lack of funds is causing a large part of this problem, the Minister proceeded to cut funds and totally disregard the very difficult situation that the emergency services at the Royal Adelaide were already suffering, as well as Flinders Medical Centre. These difficulties have been clearly highlighted in the Allen report.

The report clearly shows that during the period 19 May to 29 June this year, 56 patients had to wait between five and six hours for surgery, 28 between six and eight hours, 14 between eight and 10 hours, five between 10 and 12 hours, three people had to wait between 12 and 24 hours and one person had to wait more than 24 hours. Contrary to the Minister's comments about this issue, I do not believe that the severity of the situation has been distorted and those numbers show that a crisis does exist in the emergency services of the Royal Adelaide.

The Allen report also says that delays are most likely to occur on Friday nights, Saturdays and Sundays, and I quote:

When the staff numbers are reduced and the emergency work load is likely to be increased.

The fact is that the Minister or somebody around him has quite improperly misused the contents of the Allen report and I can assure him that the sneering inferences about the medical staff he quite deliberately propagated to the media are bitterly resented by people at the Royal Adelaide. Anaesthetists and surgeons, and other medical staff, work extremely hard, often for 24 hours straight and up to 36 hours at a time. They are a dedicated, sincere group of people who work well beyond the hours they are paid for. Frankly, I think the Minister should apologise for the misuse and abuse of the Allen document and the scandalous inferences he quite deliberately drew from it.

Who was the author of the ministerial statement, delivered on 25 November? Was it Dr McCoy? Will the Minister question the author as to why the Allen document was misused in drawing up the ministerial statement? Will the Minister apologise to the staff at the emergency services section of the Royal Adelaide Hospital and request that the author of the ministerial statement do likewise for the quite wrongful statements that were made in relation to their work, which they carry out very sincerely at the Royal Adelaide Hospital?

The Hon. J.R. CORNWALL: As so often happens with the irresponsible Mr Cameron, he has taken careful aim and shot himself through the foot, and I shall point out why. I was the author of the ministerial statement, and when I made my second ministerial statement concerning the allegations of long delays for emergency patients needing operations at the Royal Adelaide Hospital I was extremely careful in choosing my words. At no time did I want to create any undue alarm or concern among the people of South Australia—quite unlike the Hon. Mr Cameron who, of course, has spent the past 12 months doing everything he possibly could to undermine the public's confidence in our great institutions: the Royal Adelaide Hospital (on which he has specifically made attacks), the Flinders Medical Centre and the Queen Elizabeth Hospital, to name but three.

As I said, I was very careful in choosing my words. I wanted to strike the correct balance between informing the Council and the South Australian public of the position, including the outstanding concerns of the hospital board, the South Australian Health Commission and me and, at the same time, to be very careful not to in any way cause further public anxiety unnecessarily. I believe that at that time there had already been too much of that which, certainly, was not due to any action I had taken. As it happens, Ms President, I submitted the text of that ministerial statement to the Chairman of the Royal Adelaide Hospital Board and to the President of the South Australian branch of the Australian Medical Association. They not only approved the text but thanked me for the content, and I will come to that formal thanks in a moment.

When I made the ministerial statement I had the option of tabling the Allen report. I declined to do so at that time because I thought that there were things in it which reflected poorly on some of the staff and, particularly, the medical staff at the Royal Adelaide Hospital.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! Order, Mr Davis!

The Hon. J.R. CORNWALL: It was for that reason, of course, that I did not table it. Let me also make clear that the Allen report was prepared over a six-week period in May and June.

The Hon. M.B. Cameron: We know that.

The Hon. J.R. CORNWALL: You may know it, but you have certainly not attempted to make it clear. The reason for the use of the Allen report in the context in which other people have used it is to try to make out that these difficulties at the hospital were due to budget allocations in the financial year 1986-87. That, of course, shows just what an unsavoury lot members opposite are. The Hon. Mr Cameron has tabled the report, so it is now perfectly in order for it to be circulated, and people can check that Dr Mervyn Allen, who is the Senior Director of Emergency Services at the Royal Adelaide Hospital, makes a number of quite cutting disparaging remarks concerning practices of some of the medical staff at the hospital.

That is now a public document, courtesy of the recklessly irresponsible Mr Cameron. Journalists, members and others will be able to judge for themselves the accuracy of what was contained in that low key ministerial statement. Before tabling it, I will read to the House a letter I received from Mr Lehonde Hoare, President of the South Australian Medical Association and Chief of Surgery at the Royal Adelaide Hospital after I had conferred with him, with the Administrator of the Royal Adelaide Hospital and the Chairman of the board of the Royal Adelaide Hospital. The letter states:

I am most grateful to you for your constructive and direct interest in the matter of the treatment of emergency cases in our public hospitals.

A review of emergency services at the Royal Adelaide Hospital has been under way, and, I believe, aimed at further improvement in the care of these patients; and I have every faith in those undertaking the current review.

When asked by a reporter, in my capacity as State President of the Australian Medical Association, to comment on the question of over-loading of available resources in the emergency section of the Royal Adelaide Hospital I wanted to emphasise the relative importance of minimising the time between the arrival of patients in casualty and appropriate entry into operating theatres.

From the reaction to the terms used by me to the reporter, I am now concerned that erroneous inferences have been made in regard to present standards of care at the Royal Adelaide Hospital.

Specifically, I reassure you that I know that all patients arriving at the Royal Adelaide Hospital as emergencies receive immediate primary attention and stabilisation; and I know that the public of South Australia can have every confidence in this.

I know that every effort is, and will be made, to see that every patient needing operating room treatment will achieve this in the shortest possible time.

My regret in this matter is that well intentioned comments by me aimed at improving patient care may have, by inference, eroded public confidence in the Royal Adelaide Hospital or yourself as Minister. Such was not intended, and I now write to say openly that I personally, and the Australian Medical Association, have every confidence in the Royal Adelaide Hospital; you as Minister of Health; and your immediate present attention to the further improvement of our metropolitan emergency services.

I seek leave to table that letter.

Leave granted.

The Hon. M.B. CAMERON: Will the Minister now indicate whether he will apologise to the staff of the Royal Adelaide Hospital emergency services for the very clear wrongful inferences which he drew and which are designed to be drawn from excerpts of the document that he first placed before the public?

The Hon. J.R. CORNWALL: As I have made clear that ministerial statement—of which I was the author—was discussed with Dr Brendan Kearney, Administrator of the Royal Adelaide Hospital, Mr Lehonde Hoare, Chief of Surgery at the Royal Adelaide Hospital and State President of the AMA, and the Chairman of the board of the hospital, Mr Lewis Barrett. What was clear from the Allen report was that some of those work practices—and members oppo-

site are very hot on work practices in the blue collar sector—had been going on in our teaching hospitals for decades.

What is now clear is that under the guidance, and with the assistance, of Dr Gary Phillips, who is a senior office bearer in the Australian College of Emergency Medicine—which I might add was formed with my enthusiastic support—and Mr Donald Simpson, who is one of the father figures, literally, and one of the most respected members of the medical profession in this State, the recommendations of the Allen report are being implemented.

The funding has been made available to extend the sessions in the emergency services. That, in turn, of course, will result in a smoother flow of work through th theatres normally used for elective surgery. To the extent that difficulties in the emergency services at the RAH were raised as a matter of public interest by Mr Lehonde Hoare—not by me—my response has been careful, measured, restrained and positive, and that is publicly acknowledged by the State President of the AMA in the letter that I have just read into the record and tabled. It is acknowledged by the Administrator of the hospital and by the Chairman of the board of the hospital, Mr Lewis Barrett, one of South Australia's most distinguished citizens.

ART AND DESIGN EDUCATION

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking a question about art and design education.

Leave granted.

The Hon. L.H. DAVIS: The Premier and Minister for the Arts, Mr Bannon, has made frequent claims about South Australia's leadership role in arts and design. The point has been made that Australia's economic recovery is dependent largely upon the success of Australian designed and manufactured goods in both local and international markets. Improvement of design standards will occur only as a consequence of high quality design courses at tertiary level supported by strong school programs in art and design.

At present South Australia is the only State in which students can study design as an independent strand of the art craft and design curriculum to matriculation level in schools. South Australia is also the only State to possess a Design Bachelor of Education course for secondary teachers in the School of Art and Design Education of the South Australian College of Advanced Education.

The reason why art and design education in South Australia assumed leadership status within the nation is due now in large part to the efforts of senior art and design support staff within the Department of Education (and, of course, high standards of tertiary education courses). However, sadly all this is about to change. At a time when demand for individuals with art and design skills in the work force has increased to unprecedented levels, the financial support for these areas in the school system has decreased disproportionately.

At the beginning of 1985 there were three superintendents of study for the arts in the central office of the Education Department; one for design, one for art, one for performing arts. In May 1985 the Superintendent of Design retired, his position was discontinued, and his portfolio was assumed by the Superintendent of Art. At the end of 1985 the Art/Design Consultant's position and system support services in this area were removed from Wattle Park.

In late November 1986 the Superintendent of Art position was removed, the portfolio for art and design and all the performing arts now being assumed by the Superintendent for the Arts. This means that there is no senior administrator who is a specialist in design or art to argue for the status of the subject at the highest level. Three supervisory positions have been reduced to one, and it is impossible for one person to be a specialist in design, art and the performing arts. There has been no compensatory increase in system support for design and art at the regional level.

There has also been trenchant criticism of the Department of Education's sluggish recruiting process. Graduates in art and design seeking teaching positions got sick of waiting for confirmation from the Department of Education. Understandably, in a tight job market, they are anxious to secure employment. Therefore, many top students are being lost to private colleges and the private sector, or go interstate.

My questions to the Minister assisting the Minister for the Arts on a subject that presumably she knows something about, are:

1. How does the Government explain its support for top quality art and design in South Australia when it has effectively ripped the guts out of art and design in education?

2. Why have the visual arts (art and design) suffered disproportionate reductions in support staff and services?

3. Will the Government ensure that the Department of Education lifts its game when recruiting teachers in art and design?

The Hon. BARBARA WIESE: Obviously, as far as the arts are concerned, these are very important issues in terms of the kinds of people who are trained and qualified to fill the various positions both in the visual arts and in the performing arts. They are matters of concern to the Government. I do not have any first-hand information about the recent decisions that have been taken within the Education Department or the tertiary institutions and I am not really sure whether I should refer this question to the Minister of Education or the Minister of Employment and Further Education, but I will certainly seek a report on these matters and I will bring back a reply.

JUBILEE 150

The Hon. K.T. GRIFFIN: Recognising the budget blowouts on previous major Jubilee 150 events, particularly the opening ceremony, the World Three Day Event and the Youth Music Festival, I ask the Minister of Tourism what is the total budget for the Jubilee closing day celebration plans for which she announced yesterday; what Government funds have been allocated; and is the Government confident that this event will come within budget?

The Hon. BARBARA WIESE: I am not able to give the exact budget figure for the closing ceremonies on 28 December, but the event will come in on budget because the sorts of problems that existed with the opening ceremony and the military tattoo (which of course were two ceremonies that received a lot of public attention because they ran over budget) will not occur. The major difference between those events and the closing ceremonies is that the latter are not dependent on takings of the day. Funds will be allocated for particular events during the day and the meeting of the budget figure will have nothing to do with amounts of money that might be taken for particular functions throughout the day.

As far as the Jubilee 150 budget for the year is concerned, it is very likely that not only will the Jubilee come in on budget, but also in the end there may be a small surplus of funds. This has been achieved because of decisions that have been taken during the year following the problems that occurred with a couple of functions earlier in the year.

There has been a reassessment of the year's program as well as a reallocation of funding. Some subsequent programs were trimmed and, as a result of those decisions and adjustments that have been made during the year, the Jubilee 150 will come in certainly on budget and possibly it will have a small surplus.

The Hon. K.T. GRIFFIN: As a supplementary question, if the Minister is not aware of the budget, subsequent to rising this week, will she make inquiries and inform the Council or me of that total budget figure?

The Hon. BARBARA WIESE: I will be happy to do that.

HOME ASSISTANCE SCHEME

The Hon. M.J. ELLIOTT: I seek leave to make a short explanation before asking the Minister of Local Government a question about the Home Assistance Scheme.

Leave granted.

The Hon. M.J. ELLIOTT: Recently, my attention was drawn to funding and accessibility problems in relation to the Home Assistance Scheme, which is funded by the Minister of Employment and Further Education, but it is administered by local government. I understand that there has been a great deal of advertising of this scheme, but that councils are finding that they are either unable to receive an allocation for the scheme, or that in some instances they have to accept a great deal less than they previously received.

I was rather confused by a reply given by the Minister of Employment and Further Education (Hon. Mr Arnold) in the House of Assembly on 25 September this year where he seemed to have the Home Assistance Scheme and the Transitional Trainee Program somewhat confused. The question he was asked related to the Home Assistance Scheme, which of course is quite separate and it addresses different needs and aims. I ask the Minister:

1. Can she confirm that there have been no funding cuts to the Home Assistance Scheme?

2. Will she provide details of funding allocation for this scheme?

3. What is the actual amount of money available to councils this year for the home assistance scheme after workers compensation payments to SGIC (which I believe might take up a quarter of the total funding)?

4. How does the number of applications for the scheme this year compare with the number received last year?

The Hon. BARBARA WIESE: Clearly, I cannot be expected to have that information stored in my head. I will refer the honourable member's questions to my colleague in another place and bring down a reply about the financial aspects of the home assistance scheme. However, the scheme itself has been an overwhelming success; it is very popular in the community and I know that councils have had an enormous response to the scheme when it has been established in particular areas. It is very difficult for councils to keep up with the demand for the scheme, just as it is very difficult for the Government to keep up with the demand that has been placed on it by councils that would like to be able to extend their services further in the community.

The Minister of Employment and Further Education is in exactly the same position as every other Minister in this Government this year in that he is unable to allocate as much money to particular programs as he would like, because the money is just not there. However, we have been allocating as much as we can to the home assistance scheme, and the Government certainly recognises its value. In fact, it was a Labor Government which established the home assistance scheme in the first place. With those few remarks about the scheme I am happy to refer the detailed questions about funding to my colleague in another place and bring down a reply.

The Hon. M.J. ELLIOTT: I desire to ask a supplementary question. Is it possible that the scheme could work on more than a 12 month funding basis so that councils could adequately plan ahead?

The Hon. BARBARA WIESE: I will have to refer that question to my colleague, as well. The problem with funding on more than a 12 monthly basis for any scheme is that State Government budgets are determined on an annual basis. It is very difficult to predict very far in advance just how much money will be available. Perhaps the last budget period is a very good indication that it is very difficult to predict where the State will be during any one year. We certainly received much less from the Federal Government this year than we anticipated; and that in turn influenced the amount of money that we were able to allocate to various programs in our own budget. So there are always these unforeseen difficulties, and sometimes it is very difficult to make allocations on more than an annual basis. However, I will refer the honourable member's supplementary question to my colleague and bring down a reply.

DOMESTIC VIOLENCE

The Hon. DIANA LAIDLAW: I seek leave to make a short explanation before asking the Attorney-General a question about domestic violence.

Leave granted.

The Hon. DIANA LAIDLAW: This morning I was contacted by the landlord of a residence occupied by a sole supporting mother with a nine-week-old baby. The woman has a restraining order against her *de facto* husband who, nevertheless, has repeatedly ignored the order and has subjected the woman to harassing telephone calls and threats on her life. Last night, apparently, the *de facto* husband tried to break into the house through the main front door and through the bedroom window. Understandably, the woman, and in turn the landlord, are extremely upset. I also understand that, in respect to every complaint that has been lodged with the police about the harassing telephone calls and the threats to her life, no action has been taken in relation to these breaches of the restraining order.

This is not the first occasion that I have received complaints about the ineffectiveness of restraining orders. I believe that the Attorney would be well aware of widespread concern in the community about this. There was a report by Ms Marie Naffine on behalf of the Women's Advisory Unit released in June 1985. That was subsequently sent for report to the Domestic Violence Council. That council was set up in August 1985 at which time it was promised that it would report 12 months later. As the Attorney can see, it is already three months overdue.

I have not raised this matter in the past—about the inefficiencies and ineffectiveness of restraining orders—because I believed that by this time the Government would have acted on this glaring problem and the widespread concern. The fact that the Government has not acted to date prompts me to raise this matter at this time. Can the Attorney advise how much longer victims of domestic violence will have to wait before the Government is prepared to act to ensure that the law is effective in restraining violent behaviour directed at women?

The Hon. C.J. SUMNER: The Government has acted, as the honourable member knows full well.

The Hon. Diana Laidlaw: It's just talk.

The Hon. C.J. SUMNER: That is not correct. The Government has acted. The restraining order procedure has been introduced, as the honourable member knows. If the honourable member has a concern about this particular case, she should take it up with the police. She has given no details, except to come into the Council with an example of something that has happened without indicating who it is, where it is, what the circumstances are, or anything. If the honourable member wants to provide me with the names of the individuals concerned, no doubt I can take up the matter with the police. Alternatively, if the person complaining to her is concerned about it, I am sure it is not beyond the honourable member's capabilities to contact the police herself.

The Hon. Diana Laidlaw: I have in the past.

The Hon. C.J. SUMNER: Apparently, she has not contacted them about this particular matter and has decided, instead of contacting the police, to raise it in the Council without giving any detail. Of course, we have become fairly used to that sort of action in this Parliament, because virtually every one of these sorts of issues that have been raised by the Hon. Diana Laidlaw, the Hon. Mr Griffin and other members opposite always has another side to it. Of course, members opposite never bother to find out the details and never attempt to take a balanced view of the situation.

I do not know what the circumstances are in this matter. The Hon. Diana Laidlaw has made certain assertions and she has not contacted the police to find out why no action has been taken about the breach of the restraining order. On the one hand what the Hon. Miss Laidlaw says may be correct but, on the other hand, before making any response to the point raised by the honourable member I would want to know all the facts. Apparently, she does not know all the facts at this stage and has not bothered to find out about them from the police. I can only suggest that the honourable member talk to the police. If the honourable member wants me to take up the matter with the police to see why no action has been taken in this case with respect to apparent breaches of a restraining order, I am happy to do that, particularly if the honourable member feels that she is incapable of carrying out that action for some reason. As the honourable member knows, the question of domestic violence and changes to the law have been under consideration by the Domestic Violence Council, which is due to report in the near future.

At that time the matters will be considered and the effectiveness of the restraining orders will be considered. The honourable member will then have to make up her mind as to whether or not she wants them to continue or whether she adopts the view that the restraining orders do not have any part to play in our system of dealing with domestic violence. However, until that report comes forward, I am not in a position to indicate whether there will be changes to that system.

All I can say is that, if there are examples of where action has not been taken following breaches of restraining orders, then they can be drawn to the attention of the police and they can also be drawn to my attention. I have given instructions to the police, through the prosecutors, that where there have been breaches of restraining orders and inadequate penalties imposed, appeals ought to be launched against the leniency of sentence handed down following breaches of restraining orders. Therefore, the Government has acted in this area. There is a major report due very shortly and no doubt that—

The Hon. Diana Laidlaw: They are already three months overdue.

The Hon. C.J. SUMNER: No doubt when the honourable member receives the report she will be able to consider the issues and decide whether or not she is going to support the views of the Domestic Violence Council. If she wants me to pursue this particular matter with the police, I am perfectly happy to do so.

SELECT COMMITTEE ON ENERGY NEEDS IN SOUTH AUSTRALIA

The Hon. I. GILFILLAN brought up the interim report, together with minutes of proceedings and evidence.

Ordered that report be printed.

ROAD SAFETY

The Hon. I. GILFILLAN: Does the Attorney-General have answers to my questions of 23 October on road safety?

The Hon. C.J. SUMNER: the replies are as follows:

1. The study was funded principally by the Centre for South Australian Economic Studies. Financial contributions were made by the Departments of Tourism, State Development, Recreation and Sport, Premier and Cabinet and Treasury.

2. Yes.

3. Work by the Road Safety Division of the Department of Transport suggests that the increase in accidents at the time of the Grand Prix was less than that suggested by the study. It is not possible to conclude from one year's data whether the Grand Prix was responsible for any increase in accidents. The Road Safety Divison is undertaking investigations in relation to the 1986 event. The results of this work will be available early in 1987. At that time the need for any special action in relation to future events will be determined.

4. It is considered unlikely that any direct connection between sponsorship by a brewery and variation in traffic accidents will be demonstrated. Necessary action wil be determined if and when such a connection is found.

5. Several well known Grand Prix drivers and racing identities cooperated in the production of road safety messages. The drivers were asked to participate by the Grand Prix Board at the request of the Road Safety Division. The Government has no direct influence on the driver's willingness to participate in such promotional exercises.

LEAVE OF ABSENCE: HON. B.A. CHATTERTON

The Hon. C.M. HILL: My question deals with the leave of absence granted to the Hon. Mr Chatterton while he is overseas. Can the Attorney-General, as Leader of the Government in this Chamber, say whether the Hon. Mr Chatterton whilst overseas is carrying out any form of Government business? If so, what is the nature of that business?

The Hon. C.J. SUMNER: I would have anticipated that the honourable member would raise this before the matter of leave was considered. I am not aware of the business that the Hon. Mr Chatterton is involved in overseas.

The Hon. C.M. Hill: It is only the Government business I am concerned about. Are you going to find out whether he's overseas on business?

The PRESIDENT: Are you asking a supplementary question?

The Hon. C.M. HILL: Yes. Will the Attorney-General ascertain whether the Hon. Mr Chatterton is involved in

any form of Government business and, if so, will he report back to the Council what kind of business is involved?

The Hon. C.J. SUMNER: As the Hon. Mr Chatterton is not a member of the Government, I assume he is not overseas on Government business.

The Hon. C.M. HILL: Madam President, I have another supplementary question. I am not satisfied with assumptions—

The PRESIDENT: A supplementary question is only a question and there is no explanation, Mr Hill.

The Hon. C.M. HILL: Would the Attorney-General, rather than making assumptions in this Council, in due course and in proper time ascertain whether the Hon. Mr Chatterton is involved in any form of Government business and what—

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

The Hon. C.M. HILL: You said you assumed he wasn't.

The Hon. C.J. Sumner: He's not a member of the Government.

The Hon. C.M. HILL: It does not matter. Governments can delegate responsibilities to members of Parliament, and you know it.

The PRESIDENT: Order! Are you asking a supplementary question?

The Hon. C.M. HILL: My supplementary question was: will the Attorney-General, as Leader of the Government in this Council, ascertain whether his backbencher, the Hon. Mr Chatterton, is involved with any form of Government business (which includes the expenditure of public money, but I am not pressing that point)? I only want to know whether he is involved in any form of Government business and, if so, what Government business is involved?

The Hon. C.J. SUMNER: The Hon. Mr Hill is a strange person because, as I have said, the Hon. Mr Chatterton is not a member of Government. I would have thought that that was fairly obvious. As far as I am aware, he is not on any business on behalf of the Government.

The Hon. C.M. Hill: Will you find out?

The Hon. C.J. SUMNER: Well, he is not; he is not a member of Government.

The Hon. C.M. Hill: Are you saying that he's not involved?

The PRESIDENT: Order! Order!

The Hon. C.J. Sumner: As far as I am aware, unless he has received some secret brief from the Premier to go overseas.

The Hon. C.M. Hill: Find out.

The PRESIDENT: Order! Mr Hill, you have asked your question.

The Hon. C.J. Sumner: He is not in Government; he is a backbencher who sits over here. The Hon. Mr Hill is not in Government, either.

The Hon. L.H. Davis interjecting:

The Hon. C.J. Sumner: He could be all sorts of things. I'm not quite sure what the honourable member's question is. The Hon. Mr Chatterton is not a member of Government so I repeat that on that basis I can't see what he would be doing overseas on Government business.

The Hon. C.M. Hill: Why don't you be specific?

The Hon. C.J. Sumner: What more do you want?

The Hon. C.M. Hill: Say whether he is or isn't.

The Hon. C.J. Sumner: He's not a member of Government.

The Hon. C.M. Hill: It's getting worse and worse.

The PRESIDENT: Order!

The Hon. C.J. Sumner: He's not a member of Government; therefore, I can't see how he can be overseas on Government business.

The Hon. C.M. Hill interjecting:

The Hon. C.J. Sumner: I haven't delegated any work for him to do overseas.

The Hon. C.M. Hill interjecting:

The PRESIDENT: Order! Mr Hill, you have asked your question.

The Hon. C.J. Sumner: As far as I know the Government hasn't delegated any. Whether he is on parliamentary business is another matter but that was not the question the honourable member asked. I suppose, like Mr Hill, he is entitled to proceed overseas on the same sorts of study arrangements that the Hon. Mr Hill indulges in from time to time. Whether the Hon. Mr Chatterton is on a tour of that kind I am not able to say.

The Hon. C.M. Hill: I think you're trying to cover something up.

The PRESIDENT: The Hon. Mr Lucas.

Members interjecting:

The Hon. C.M. Hill: He can't give a definite answer.

The Hon. C.J. Sumner: I gave a definite answer.

The Hon. C.M. Hill: You said you 'assume'.

The PRESIDENT: Order!

The Hon. C.M. Hill: Find out!

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order! Order!

The Hon. R.I. LUCAS: Throw him out! He's not allowed to speak when you're speaking, Ms President. That's the rule on this side of the House. Look at him, he's still going.

The Hon. C.M. Hill: Yes or no.

The PRESIDENT: I have called the Council to order. The Hon. Mr Lucas has the floor. If he does not wish to speak, I will call on somebody else.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: He is misbehaving. It is unbelievable.

The Hon. C.M. Hill: He is trying to cover something up, I am sure. There is more to this than meets the eye.

The PRESIDENT: If you do not wish to speak, Mr Lucas, will you sit down?

Members interjecting:

The Hon. R.I. LUCAS: I cannot hear you over the Attorney-General, Ms President—or over the Hon. Mr Hill.

Members interjecting:

The PRESIDENT: Order! The Hon. Attorney and the Hon. Mr Hill, could you continue your private conversation at a lower volume. The Hon. Mr Lucas has the floor. If he does not wish to speak, will he sit down?

The Hon. R.I. LUCAS: I can hear you now, Ms President, thank you. I did not know I had the call.

The PRESIDENT: I called you a long time ago and you thanked me at that time.

CORRESPONDENCE SCHOOL

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Education, a question about the Correspondence School.

Leave granted.

The Hon. R.I. LUCAS: I thank the Council for its attention. Some 12 to 18 months ago there was an agreement by the Minister of Education for the development of five new school assessed subjects for year 12 students in the Correspondence School. These school assessed subjects for year 12 students had not existed prior to this agreement from the Minister. The development of the courses needed five salaries to write the courses, plus $65 000 to print, publish,

prepare and distribute texts and course materials for teachers and students in readiness for next year's subjects.

The Minister agreed with the five salaries, and those five persons have been working assiduously in the Correspondence School this year. The Correspondence School received $16 000 earlier this year, and I understand that last week it was promised a further $10 000 towards the required $65 000 to publish the work being undertaken this year by those five persons. It is still $39 000 short of the required amount of money. This matter was raised with the Minister of Education some two months ago in the Estimates Committees, and the Minister said then:

> The budget provides for additional staffing for the Correspondence School, so I would have thought that quite the contrary situation obtained.

That is, the Minister indicated he did not believe that what was being raised with him by a member in another House was correct. I am advised as of late last week, and again this week when I checked, that the project has now reached a critical stage and, if the required amount of money is not received by this week, the work of the project of this year, the five persons working full time, could well be wasted. I am advised that at the moment that there are bills currently with the Correspondence School, sitting on the desk of the administrators, which cannot be paid. I am further advised that they have ordered texts as part of this course, and that they will not be able to pay for those texts when the bills arrive in the next week or two because of the lack of money being provided by the Government.

I am further advised that there are already 165 secondary school students throughout South Australia—not just in the country areas, as there are students in the metropolitan area taking year 12 subjects through the Correspondence School—enrolled for these SAS courses for next year. If the results of all the work that has been undertaken this year in a very worthwhile project are not able to be published and distributed to teachers and to students, these 165 students will obviously not be able to undertake the courses through the Correspondence School next year, and it has clearly reached a critical stage and is a matter of some urgency.

Is the Minister now aware of the problem that exists within the Correspondence School in relation to this project? Will he institute urgent action to ensure that the work of these five teachers through this year is not wasted and will be able to be used for the students next year?

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

SPECIAL EDUCATION

The Hon. PETER DUNN: I seek leave to make a brief explanation prior to asking the Minister representing the Minister of Education a question on special education in the Western Area.

Leave granted.

The Hon. PETER DUNN: Special education in the Western Area has in the past been extremely good and very much appreciated by the people who have received that service, but the Western Area is a very big area and covers a huge part of the State, and a considerable part of the budget required to provide that service is taken up with travel. To provide equity with the rest of the State, an adequate sum of money needs to be provided in that area. There has, in fact, been a cut in that travel budget by some 4 per cent, which has meant that those special education teachers have had to stay in their offices. It has been reported that they have withdrawn their services to school close to their offices as well as those at some distance.

A number of letters have been written by recipients of special education which imply that they would like the very good services that have been provided in the past to be continued. A paragraph from a letter I received (and I have received some 20 letters in the past three weeks regarding this matter) from Chris Scott of Kimba states:

> My child, who has been diagnosed as dyslectic, is one of the children who has benefited greatly this year by the program supplied by . . .

and the teacher is named. The letter continues:

> It is imperative that he—[the child] continue in this program if he is to be allowed to develop to his fullest potential.

That sums up the concern by the parents in the Western Area. There appears to be plenty of money available for other things within the State that do not, in my eyes, seem quite as important as education. Will the Minister make available to the Western Area the comparatively small amount of money needed to allow special education teachers to travel to children in need of their care and, if not, what are the expected cuts to travel for special education teachers in the Western Area for the financial year 1987-88?

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

COMMONWEALTH SECONDARY ALLOWANCE SCHEME

The Hon. M.J.ELLIOTT: Has the Minister of Tourism an answer to the question I asked on 4 November about the Commonwealth Secondary Allowance Scheme?

The Hon. BARBARA WIESE: The Minister of Education has advised me that he is aware of the problems which will be caused by changes to the Commonwealth Secondary Allowance Scheme which will be introduced in 1987. The State Government has made and continues to make vigorous representations to the Federal Minister for Education. The Federal Minister is still considering the matter. Further consideration will be given to the situation, in the light of the response from the Federal Minister. However, there is already in existence a State government scheme to financially assist students (the Government Assisted Students Scheme), as well as a range of other forms of financial assistance for young people, including the Commonwealth Government's Family Allowance Scheme.

SHOP ASSISTANTS

The Hon. DIANA LAIDLAW: Has the Attorney-General an answer to a question I asked on 5 November in relation to shop assistants?

The Hon. C.J. SUMNER: No South Australian Government submission was made in connection with initiatives to encourage the promotion of permanent employment of both a full and part-time nature. No Government submission was made in connection with an extension of the shop trading hours on Saturday from 12 noon until 4.00 p.m. or beyond.

QUESTION ON NOTICE

EDUCATION DEPARTMENT PAYROLL

The Hon. R.I. LUCAS (on notice) asked the Minister of Tourism:

1. What is the percentage of the total Education Department payroll represented by the level of overpayments for each of the last five years and what is the estimate for 1986-87?

2. What is the estimated cost of departmental resources engaged in the follow up and recovery process?

3. What average level of overpayments per fortnight is the department predicting for this financial year?

The Hon. BARBARA WIESE: The replies are as follows:

1. *(a)* Outstanding overpayments as at 30 June as a percentage of the total Education Department payroll:

1982.....	.05 per cent
1983.....	.04 per cent
1984.....	.05 per cent
1985.....	.06 per cent
*1986	.06 per cent

*As at 30 September 1986 an amount representing .025 per cent of the total 1985-86 payroll remained outstanding with .013 per cent requiring further negotiation for recovery.

(b) An estimate of overpayments for 1986-87 is not available. The department is continuing its efforts to reduce the incidence.

2. No individual component of the task is costed separately.

3. Predictions of the level of overpayments are not made.

LITTLE SISTERS OF THE POOR (TESTAMENTARY DISPOSITIONS) BILL

The Hon. C.J. SUMNER (Attorney-General) brought up the report of the select committee, together with minutes of proceedings and evidence.

Ordered that report be printed.

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

That the Bill be not reprinted as amended by the select committee but that the Bill be recommitted to a Committee of the whole Council forthwith.

Motion carried.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Contain disposition to benefit Southern Cross Homes Incorporated.'

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

Page 1, line 16—
Leave out 'A' and insert 'Subject to subsection (1a), a'.
After line 29—Insert subclause as follows:
(1a) Subsection (1) does not apply to a testamentary disposition that is subject to an express or implied condition that the nursing home at Myrtle Bank must be conducted by the Little Sisters of the Poor.

This amendment arose out of the report of the select committee which has just been tabled and which deals with the situation where a testator clearly intended that the disposition to the Little Sisters of the Poor should take effect only if the Little Sisters of the Poor were conducting a nursing home: in other words, it was felt that if a testator gave to the Little Sisters of the Poor expressly on the assumption that the Little Sisters of the Poor were conducting the nursing home, the Bill should not apply, as Southern Cross Homes is now conducting the nursing home.

It was felt that, if they were to be the original terms of the will, then if there was any condition over then that should apply, or alternatively, if there were not, it ought to go as on intestacy. That was the only area of concern for the committee. The amendment gives effect to the report of the select committee.

The Hon. K.T. GRIFFIN: I support the amendment, which really arises out of a concern that I expressed that there may be testators who have provided in their wills for the situation where the Little Sisters of the Poor are no longer working in South Australia and, in that event, there may be a gift over to some other beneficiary. If this amendment were not included in the Bill, the Bill would have the effect of overriding that gift in the event of the Little Sisters of the Poor no longer operating in this State. The amendment protects the legitimate wishes of a testator and brings the Bill very much into line with what I believe to be appropriate in the circumstances of this matter.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

MENTAL HEALTH ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 November. Page 2147.)

The Hon. M.B. CAMERON (Leader of the Opposition): The Opposition supports this Bill, although we will need further information on some areas, particularly relating to wills, testaments and real property. The Hon. Mr Griffin will take up that area later. The primary objective of this Mental Health Act Amendment Bill is to enlarge the Guardianship Board so that it can be split into two boards of similar composition to handle the increased workload that will come about as a consequence of the proclamation of the Mental Health Act 1985. It has some subsidiary aims that affect the making of wills of mentally abnormal people under guardianship. Because of publicity given to some parts of the Bill dealing with age of consent, it has been wrongly assumed by many constituents that the 1985 Act took away parental rights over mentally abnormal children.

As I understand it, and the Hon. Dr Ritson will give more information on this area, it did not. The Hon. Dr Ritson was on a select committee in relation to this Act. The recommendations of the select committee included recommendations that where an adult was mentally incapable of understanding the nature and consequences of a particular treatment, the board should be given the power to consent on behalf of the patient. In practice many mentally abnormal adults have a caring relative, or parent. In many cases it was felt that the board should be able to delegate its power to the parents or relatives, thus giving the parents or relatives, for the first time, the legal power they previously thought they had. I will be very interested to hear the Hon. Mr Griffin, who has recently done some work on this matter, and he will indicate whether that power is sufficient and whether we are giving them exactly what they now think that they will have.

It is envisaged that general and continuing powers to consent on behalf of those adult patients will be delegated to suitable caring relatives or institutional authorities in most cases. Many mentally abnormal adults were not certified patients in institutions or otherwise under guardianship orders. Many parents or caring relatives had traditionally given consent to various treatments, believing that they had some legal right to do so, where in fact, the Bright report concluded that this was not so.

From a medical point of view, this Bill will establish the administration necessary for the delegation of authority to consent to medical and dental treatment on behalf of mentally abnormal adult patients. To that extent it is consequential on the Mental Health Act Amendment Act of 1985

and the select committee recommendations in relation to that. Because of that this Bill is an enabling Bill.

It has one section dealing with psychiatric hostels, under which provision is given for the delicensing of psychiatric hostels where instances of abuse of patients in some hostels may or may not occur. In one case there has been sexual abuse by a proprietor. I certainly would not agree to any person or persons continuing to hold a licence for a psychiatric hostel in that case.

I do not wish to hold up the Council where we are supporting a Bill. However, there will be some questioning in Committee. If necessary, if the replies are not sufficiently clear, at that stage I or the Hon. Trevor Griffin will seek to delete clause 9, which deals with wills, testaments and real property, but that will depend entirely on whether the replies of the Minister are satisfactory.

The Hon. R.J. RITSON: I rise to support the remarks of the Hon. Mr Cameron, who has covered most of the matters. It is important to make it very clear to the public of South Australia that this Bill, in conjunction with the 1985 legislation, does not erode any parental rights whatsoever but, rather, for the first time gives some legal basis for parents making decisions involving adult mentally abnormal people.

As my colleague, the Hon. Mr Cameron, mentioned, the late Mr Justice Bright, in a report brought down some seven or eight years ago, pointed out that once mentally abnormal children achieve adult age the parent no longer has a right to make medical decisions on behalf of that adult, and that adult, if mentally incompetent to make decisions, is in a situation where no-one has authority to make such decisions. Whilst a number of people unfortunate enough to suffer from intellectual deficiency are already provided for because for some reason or other they are under guardianship or in hospital, scattered throughout our society are large numbers of people suffering anything from Down's Syndrome to brain damage to trauma who are not under guardianship and who have a caring relative but, when such a person is faced with an invasive medical treatment, consent to such a procedure presents a problem for the relatives and the medical practitioner.

I had the pleasure and privilege of serving on the select committee that considered this matter in 1985, and it was a recommendation of that committee that the board be given legal authority to make such consents and the power to delegate that authority. It was envisaged that where there was a caring relative that authority would be delegated to the caring relative. Of course, how many such people there would be in the community and in how many instances an ongoing delegation of authority could be given to the caring relative were somewhat of an unknown quantity. What the workload for the Guardianship Board would be was an unknown quantity when it virtually would have to examine each individual request to exercise its consent, at least in the first instance, and then decide in which situations it was suitable for a continuing delegation of authority to consent to be granted.

As the Hon. Mr Cameron has said, this Bill, by enlarging the board and enabling it to split into two boards, will enable, hopefully, the board to handle the extra workload that will come on it with the proclamation of the 1985 legislation in conjunction with the amendment Bill now before us.

There are some treatments which may be regarded as controversial treatments. You, Madam President, also served on this committee and you would understand the difficulties and the complexities involved when one begins to talk about termination of pregnancy, sterilisation and hysterectomy because, in some cases, these procedures may be suggested for reasons other than therapeutic reasons. Hysterectomy is sometimes resorted to in the case of female patients who simply lack the intellectual capacity with which to care for their normal bodily hygiene. Of course, it is a fairly grave decision to invade a person's body to that extent. That is an example of the sort of decision that the board will reserve for itself.

It is arguable that that sort of non-therapeutic invasion for some other social reason is a form of assault to which nobody at common law can consent. That view was put by some witnesses to the select committee, so really it is not taking away a right to say that that type of consent for those measures should be reserved to the board but, rather, to resolve any doubt as to whether or not anyone can consent to such a procedure the board has been given statutory powers to give such consent and I believe, having discussed these issues with the members of the board, that that power to consent to controversial treatments will be exercised with great care, with compassion and with concern for the overall welibeing of the patients.

The Bill provides that the tribunal, when reviewing cases, can hear interested parties and, as a member of Parliament, having received constituent representations from time to time, I know that one of the sources of dissatisfaction amongst people who have mentally abnormal relatives is that they see the tribunal as a body that tends to discharge people from guardianship under circumstances where the caring relatives often believe that the person should not have been so discharged. However, in terms of civil liberties, the tribunal has a responsibility and, if it errs at all, it errs on the side of respect for civil liberties.

Primarily, it tends to consider factors such as dangerousness and treatability, but nevertheless I think it is important that the caring relatives have an opportunity to appear before the tribunal and explain the domestic situation so that the tribunal will make its decision in the light of the home situation and perhaps that course will minimise the amount of constituent complaint that we receive in relation to patients who are discharged whilst, in the view of the caring relatives, being unfit to live at home. Having said that, I support all of the medical aspects of this Bill, but I believe that it is important that the Hon. Mr Griffin have an opportunity to examine some of the legal aspects relating to wills and estates.

The Hon. M.J. ELLIOTT: I support the second reading of the Bill. This Bill addresses two important issues: first, consideration of the rights and needs of those people deemed to be unable to make decisions due to various mental health disorders; and, secondly, more effective administration of the Guardianship Board without decreasing its accountability. It attempts also to address several more humane measures aimed at improving the lot of the sufferers, the relatives and those of some significance to the sufferer. I am aware that there are some 900 people whose affairs are now attended to by the Public Trustee and that there is no provision for instigating a review of those situations. As a result, many people have endured undue hardship.

One such situation brought to my attention involved a couple where the wife worked for some 15 years unaware that the Public Trustee held substantial funds which were previously in her husband's control. If that case could have been reviewed, both people could have enjoyed a much improved lifestyle and substantial funds would have remained with the Public Trustee. The amendments allow the board to make decisions regarding treatment of those

deemed incapable of deciding. Currently, the board makes decisions without necessarily having comprehensive information. This Bill provides for the board to order presentation of relevant documents and the attendance of relevant people who may be required to answer questions. The usual safeguard against self-incrimination is included.

Conversely, the board is required to consider the express wishes of relevant significant individuals. The board has been working under considerable disadvantages which, in turn, has not been in the best interests of the people with whom it deals. This is not a reflection on the board; by all accounts, it has performed admirably.

I think that it is a great pity that these amendments have taken so long to be introduced. I understand that they were first requested 2½ years ago. One of the more obvious anomalies relates to a requirement that the complete board meets to deal with all matters. In dollar terms (not considering the frustration and pointlessness of the exercise) this costs the taxpayer in excess of $500 per meeting. The amendments allow for the dividing of the board which will rationalise its functions and so provide a more efficient service at a reduced cost. Over and above this provision, the board may delegate some functions to the Chairman.

Finally, procedures are clearly outlined relating to licensing of rehabilitation centres and withdrawal or suspension of licences. When considering accountability, it should be noted that, in any situation where control of an individual is assumed by others purporting to do this on the individual's behalf, the best interests of the individual are demonstrably achieved. There is recourse available to the Mental Health Review Tribunal for any individual who disagrees with the decisions made by the Guardianship Board and, further, an individual will, upon request, be provided with free legal advice for an appeal to the Supreme Court. The extra provisions in these amendments actually improve accountability in that they allow for the board members to be more fully informed. My only concern about the amendments is that they have taken so long to be introduced in this Chamber. I support the Bill.

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

MEDICAL PRACTITIONERS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 November. Page 2321.)

The Hon. R.J. RITSON: The Opposition supports the second reading of this Bill. I understand that there is now no tribunal. The amendments have the effect of writing out of the script the existing incumbent Chairman, who is a senior practitioner, and provide that the tribunal shall in future be chaired by a judge or a magistrate appointed by the Senior Judge of the Local and District Court.

This causes some concern to members on this side. I understand that the present thinking of the Government is that it will not contemplate any amendments. Nevertheless, I will put my point of view and argue in favour of some change. The first issue is the question of the status of the person chairing the tribunal. In the past it has been a judge, magistrate or senior practitioner and it is now restricted to a judge and a magistrate. The fact is that the tribunal, to my knowledge, has never had a magistrate as its chairperson, and I do not believe that it should. That is not a reflection on magistrates, but it is a fact that magistrates courts have limits as to the matters they can hear in terms of the severity of punishment they can inflict and in terms of the financial consequences of their decisions. As I say, their jurisdiction is limited.

The Medical Tribunal has great powers of punishment and in many cases the consequences of its decisions can be far in excess of the matters to which magistrates courts are normally limited. I consulted fairly widely on this issue: I contacted the majority of members of the Medical Board, which is one of the principal complainants that refer matters to the tribunal, and I contacted the legal representative on the board. I could not find anyone who did not want the chairperson to be restricted to the status of a judge. I could not find anyone who was comfortable with the idea of it being a magistrate. Similarly, the Australian Medical Association, which has an interest in the general standards of medical practice, believes that it should be a judge. It consulted its legal adviser, who produced an opinion for my Party to the effect that it should be a judge.

The Medical Tribunal is a very serious and powerful body: it can strike practitioners from the register, and that can amount to a fine of $500 000. The other issue is the question of constancy in the chairing of the tribunal or the presiding over it. I am aware of the argument that any judge is trained to hear any case. However, this is a very special area in which decisions are being made. They are not decisions about convicting someone of a crime in accordance with law; that is done in the criminal courts. They are not decisions as to where damages should lie; that is a decision of the courts. The tribunal must decide whether the conduct of a practitioner, apart from these other areas of law (or because of them), is in breach of his or her professional ethic to the extent that he or she should be punished. That depends on an understanding of the ethic being considered, as well as the facts of the case.

I think it is very important that the principal parties—the principal people and groups who have an interest in the proper functioning of the tribunal—have confidence in the tribunal. I sought advice from a senior Queen's counsel who specialises in medical litigation. He was of the view that it needs to be a judge; and that it should be substantially the same person or the same group of persons to hear these cases so that they can come to understand the ethical component that makes conduct professional or unprofessional. The consequences of a wrong decision are very serious and go far beyond the question of justice for the person before the board.

If it is decided that a certain X-ray should have been taken, and that decision is wrong, the consequences are not just for the doctor before the board; what also must be considered is the millions of dollars that will be spent when every other doctor in self-defence starts to take that particular X-ray in circumstances in which they thought it should not have been taken. The consequences of that will include the additional deaths from leukaemia as a result of unnecessary exposure to the legally defensive increase in X-rays. That is but one example of the way decisions from a tribunal like this can have ramifications far beyond anything that goes on in a magistrates court. So the weight of opinion is there. Every member of the Medical Board whom I contacted wants it to be a judge and wants some constancy so that there can be confidence in the institution of the tribunal.

The AMA and senior Queen's counsel that I consulted said that it must be a judge. It is not the sort of body that should get a presiding officer based purely on who can best be spared from an overburdened courts system. I do not know whether the Attorney-General will take cognisance of

what I have said; or whether he will even consider reporting progress to discuss the matter further; or whether the Attorney has made up his mind, that he knows all about medical ethics and who should decide it, what is professional and unprofessional and that any magistrate that can be spared from hearing road traffic offences can be sent along. I put it to the Attorney that, because of the weight of advice received from people who are legally and medically qualified, he should give serious consideration to an amendment to provide that it should be a judge or judges as President and Deputy President of the Medical Tribunal. Having said that, I support the second reading.

The Hon. K.T. GRIFFIN: I will make several observations. The Commercial Tribunal Act provides for a Chairman and Deputy Chairman of the tribunal to be appointed by the Governor; and for the appointment to be made by the Governor on the nomination of the Senior Judge. I can see that it is desirable not to tie up particular judges or magistrates or other persons on the one tribunal. I have argued very much for flexibility to be in the hands of the Senior Judge of the District Court in the appointment of officers to bodies such as what was the Planning Tribunal and all the other appeal tribunals.

I notice that in the Commercial Tribunal Act there is still a specific appointment by the Governor and that at the moment (and previously) it is a judge, but we introduced the Senior Judge as the person making the nomination. I can appreciate the need for some consistency in this area. Whether it is a District Court judge or a legal practitioner of not less than seven years standing, the criteria are similar: that is, to be a District Court judge one has to be a practitioner of not less than seven years standing. With magistrates it is appointment after not less than five years standing. I can understand that there may be some reluctance in dealing with matters such as those dealt with by the Medical Board in having someone who has not had a couple of years extra experience at least. I draw attention to those options which the Minister may care to consider in order that the highest level of expertise is available in the administration of this Act.

The Hon. J.R. CORNWALL (Minister of Health): I will make two or three fairly important points in my reply. First, this Bill should be seen in the context of further amendments that I intend to introduce next year.

The Medical Practitioners Act was passed by the Parliament as a bipartisan effort. The principal drafting was done—and, in fact, the Bill was introduced—during the time of the Tonkin Liberal Government and that was picked up by me and, with some minor amendments, was introduced by the present Government and proclaimed in 1984.

We have now had about two years experience with the operation of the Medical Board and the Professional Conduct Tribunal. I think it is fair to say that there have been some difficulties. One of the difficulties has been the fact that the members of the board, particularly the medical practitioners on the board, have been—perhaps subconsciously—rather loath to relinquish the disciplinary powers which they held under the previous legislation. Traditionally the board has acted in a variety of roles, including that of prosecutor, judge, jury, and the body which eventually handed down penalties for misconduct, where appropriate.

The spirit and intent of the Act is that in those cases of misconduct, where there is anything more than a severe reprimand involved, they ought to be referred to the Professional Conduct Tribunal. The Professional Conduct Tribunal is quite clearly a *quasi*-judicial body which has very extensive powers, as the Hon. Dr Ritson pointed out.

The Hon. R.J. Ritson interjecting:

The Hon. J.R. CORNWALL: Suspension of registration can be a very serious monetary penalty, amongst other things. The tribunal also has the power to strike people off. The Hon. Dr Ritson interjects and says 'That is why they want a judge.' Strangely enough, they managed from about 1846 without any sort of legal input whatsoever. In fact, the old board was comprised entirely of members of the medical profession.

As I said, there is nothing intrinsically wrong with the Act, as I am advised by a number of people, including the Chairman of the Medical Board, Dr Hardy. However, there are some matters that will need finetuning, which will be the subject of amendments to be introduced at a more leisurely pace next year.

I will give a dramatic example to show that in a sense the spirit and intent of the Act is not being followed as well as I might like. Before I do that, I want to make it crystal clear that I understand my relationship with the Medical Board and the Professional Conduct Tribunal. The Act is my responsibility, as Minister of Health; the Act is committed to me, as Minister of Health; however, any interference whatsoever in the conduct of the proceedings of the Medical Board or the Professional Conduct Tribunal by the Minister of Health or by anybody in health administration would constitute quite improper behaviour. So there is a very clear distinction between the way in which the board and the tribunal conduct their affairs with their statutory autonomy and, on the other hand, the responsibility which I have, as Minister of Health, to see that the Act is in the sort of shape that enables the board and the tribunal to work.

Let me say again that in a sense this was trail blazing legislation. There had not previously been a Professional Conduct Tribunal and obviously we were going to have to look at the first two years of operation, or thereabouts, and see just how it worked. When you consider the relatively high number of cases that go to the board involving a wide range of allegations and at the same time when you consider that only nine such cases—according to the information I obtained 10 or 14 days ago—have actually been referred to the Professional Conduct Tribunal, then you realise that there is a problem somewhere. Indeed, I think there are probably a number of problems.

One of the ways we propose to overcome that is to delete the legal practitioner provision from the legislation and replace that with either a District Court judge or a magistrate, as allocated by the Chief Judge of the District Court. There is no desire to downgrade the importance of the work of the Professional Conduct Tribunal in any way: quite the reverse. The spirit and intent of the amendment is to upgrade significantly the status of this *quasi*-judicial body by providing that the chairperson must be either a magistrate or a judge.

I had a number of discussions with the Attorney-General on this matter before arriving at what we believed was the best proposal. Obviously, we considered a number of things—one would have been to appoint a District Court judge to be the chairman of the Professional Conduct Tribunal on an ongoing basis. Of course, the potential difficulty with that is that you would be tying up a judge, sometimes with long proceedings, with the Professional Conduct Tribunal or, alternatively, the judge may be listed to hear a large number of cases in a District Court and be unavailable for periods of many months on occasions. Therefore, the whole question of getting a matter to the Professional Conduct Tribunal would hang about for an unreasonably long time.

On balance, after discussing it with the Attorney-General—and in these matters I nearly always take his advice—we decided that the sensible thing to do was to provide for either a judge or a magistrate to be able to act as chairman of the tribunal on any particular case. The allocation of the appropriate judge or magistrate will be made by the Chief Judge. Obviously, the Chief Judge will have regard to the nature of the case, the seriousness of the allegations and any other relevant matters.

The Hon. R.J. Ritson: You're not going to have trifling allegations before it, are you?

The Hon. J.R. CORNWALL: Obviously you are not going to have trifling allegations before it. It is a poor reflection on the magistracy to suggest in cases of professional misconduct—and we are not talking here about criminal misconduct, which may involve striking somebody off the register—that a senior magistrate, chosen by the Chief Judge of the District Court, could not function as chairman of the tribunal for that particular case. I think what we propose is flexible, sensible and ensures that in every case that is referred to the Professional Conduct Tribunal the most senior judge of the District Court (the Chief Judge) will be the person who allocates the magistrate or the judge whom he considers to be appropriate for the particular matter to be considered. For that reason I do not believe that we should amend the Bill as it has been presented to this Council.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Amendment of section 5—Interpretation.'

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

Page 1, lines 17-22—Leave out these lines.

I indicate that these amendments are essentially all consequential, having the effect of restricting the office of presiding officer of the tribunal to judges, whilst leaving flexibility. Obviously, the situation the Minister posed can arise if there is only one presiding officer, namely, that the judge can be involved in long hearings, so I agree that it is necessary for there to be deputies. I would even accept the lack of consistency, if necessary, and give way on that rather than give way on the status of the presiding officer. The Minister—I think, unfairly—accused me of casting injurious reflection upon the magistracy, and went to great pains to point out that there are already restrictions as to the seriousness of matters that can be heard in magistrates courts. Matters that are more serious than the limits applied to magistrates courts do, of course, go to judges.

The argument I advanced to the Minister—and which he, himself, volunteered—was that the consequences of the decisions of this tribunal can, in financial terms, be many times greater than the limits placed on matters that can be decided in magistrates courts. For that reason, I think, we need judges. I have a fear that, with the Bill drafted as it is, it could easily become a sort of unpopular fag end of the judicial system in which people might be seconded to serve on the medical tribunal, the criteria of choice being the particular pressures on the court system.

The amount of time in sitting hours is probably not enormous. In the past 12 months there have been about six cases determined by the tribunal, with an average sitting time of the order of three days per case. So, we are probably looking at about 20 days of judicial time. I assume that is about one-tenth of a judge *in toto*. Obviously, no-one would want to do it all the time, and one person could probably handle it, except that the proceedings of a tribunal should not grind to a halt if that one person were not available owing to involvement in other duties.

So, I accept flexibility. The amendments provide for that flexibility. If the Minister has had second thoughts about the seniority of the presiding officer, but still keeping the total flexibility, if he would just provide for judges, with random flexibility, I think he would be doing a service to the tribunal.

The Hon. J.R. CORNWALL: I have now had the opportunity to look at the Hon. Dr Ritson's amendment, and I must say it is even less acceptable than I anticipated. I thought that he was talking about a panel of three or four District Court judges. On reading this amendment I see that 'the presiding officer must be a District Court judge'. A person must be specifically appointed. He is allowed under this amendment to have a deputy, but, in fact, it is a very significant departure from what we propose in the Bill. As I said, the matter of how we might substantially improve the Professional Conduct Tribunal was discussed with a number of interested and interesting parties.

Obviously, it was discussed with the Chairman of the Medical Board on a number of occasions. It was discussed with the Attorney-General and his officers and, in turn, the Attorney, from my recollection, discussed it with the Senior Judge. It was the Senior Judge, in particular, who was not at all attracted—given that the workload may well increase very substantially in the next few years—to the idea of tying up one of his judges as a permanent presiding officer of the Professional Conduct Tribunal. It was, in fact—and this again is from my recollection; I would not want to be held to it on pain of losing my seat in Parliament for misleading it—my recollection, based on discussions with the Attorney, is that the Senior Judge himself asked for the sort of flexibility which is contained in the Bill before us. I make clear that I cannot accept the amendment. The Attorney has made very clear to me that both he and the Senior Judge want the Bill in the form in which we brought it in. Therefore, I ask members to support the Bill and not the amendment.

The Hon. R.J. RITSON: Of course the Attorney and Senior Judge would want it in that form: they are defending another system against inroads upon its scarce resources. That is understandable. All I am saying is that if you want a *quasi*-judicial body with powers of punishment that far exceed the powers of punishment of magistrates courts—

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

The Hon. R.J. RITSON: Yes, it is true. What is a year's suspension worth? It is a $500 000 fine to a top—

The Hon. J.R. Cornwall interjecting:

The Hon. R.J. RITSON: I am not impugning anything; I am talking about the Bill. It is the Minister's standard technique to ascribe awful motives to people who are just trying to achieve one thing. I do not think we will get anywhere here: the Government has given a good indication of that. The consultation the Government had with interested parties is somewhat overblown by the Minister. Certainly, every member of the Medical Board that I contacted, including the Chairman, wanted the matter restricted to judges. They were not really consulted with on the Bill in this form. I know that the Minister may have had some general conversation with Dr Hardy about opening up the Act in the future, but this particular amendment certainly was not floated past the people directly involved.

It is a source of some sadness to me that the Government has put the tribunal in this position of just taking what it can get from an overstressed judicial system rather than providing specifically for it as a very substantial *quasi* court. From what the Minister has indicated, it would appear that there is little point in arguing further.

The Hon. J.R. Cornwall: There is a right of appeal to the Supreme Court.

The Hon. R.J. RITSON: That is of great interest; there is, indeed. Whilst the Minister indicated earlier that he would like to see far more people before the tribunal, and thought that there was something wrong because only nine cases have been heard, it is of interest that most of those decisions have not withstood the rigours of the appeal process.

The Hon. J.R. Cornwall interjecting:

The Hon. R.J. RITSON: The Minister indicated that, because the number of cases decided by the tribunal was so low, there was something wrong with the system. His implication, of course, is that somehow doctors are being protected from being proceeded against.

The Hon. J.R. Cornwall: No.

The Hon. R.J. RITSON: That implication was there. Obviously the Government has decided that the tribunal shall be a backroom kangaroo court that gets whatever presiding officer that it is convenient for an overstressed court system to give it. They will be officers who will not necessarily sit regularly and come to a deeper understanding of the nature of the work. In view of the adamant and intransigent attitude of the Government, I shall not argue the case further.

The Hon. M.J. ELLIOTT: I knew that there were amendments coming, but when I got the paper it was still warm from the photocopier, so it was difficult to analyse the deeper implications of the amendment. I had only a brief outline, in a conversation with the Hon. Dr Ritson, of what was to come. I find it difficult to support the amendment, given the argument of the Attorney-General, who has concern about the way the courts function.

The Hon. R.J. Ritson: He is defending an overstressed system against further inroads on its resources.

The Hon. M.J. ELLIOTT: I see. In light of the concerns about the effects on courts, I defer to the Attorney-General's opinion on this matter. I have full sympathy for what the Hon. Dr Ritson is trying to achieve. Perhaps this is a matter that we should address at a later time. I will not support the amendment.

The Hon. J.R. CORNWALL: There are two things that I have to respond to. The Hon. Dr Ritson said that by what we were doing we were creating a backroom kangaroo court. That is a shocking reflection, not only on the magistracy but on the judges of the District Court. I am sure that they would be most unimpressed by it. I am sure that he must have had a lapse, because he is usually better than that. Secondly, he said that I had some sort of concern that, because only nine cases had been referred from the Medical Board to the Professional Conduct Tribunal, doctors were being protected. It is not my role to have concern one way or another and it is certainly not my desire that more doctors be referred to the Professional Conduct Tribunal.

It is my concern, however, to see that the legislation is working. I do not have the figures before me for the number of complaints which are laid with the board. By no means all of those, of course, finish up coming before the board because there is a conciliation procedure in the legislation which allows the aggrieved party and the doctor to make representations before the matter even goes to the board. So there are a series of protections quite properly built in for any medical practitioner against whom a complaint, whether frivolous, vexatious or legitimate, is made. That is the way it ought to be.

There is no question that I have concern that doctors are protected or overprotected. The whole point is that justice must not only be done but must be seen to be done. We are striving, at the forefront in this country, through this legislation and its operation to ensure that the profession is protected. That is a very important role for the board, which is responsible for registration, among other things, so it is important to see that the profession is protected and that charlatans, quacks and incompetents, and people without appropriate qualifications, are not registered to practise in the first instance—that is very important and the board does it well.

Then, of course, there is the question of protecting the patients. There must be quality assurance and a guarantee that if you attend a doctor's surgery, or if you are treated by a doctor in a hospital situation, you can expect that that doctor will be competent, appropriately qualified and registered either as a general practitioner or in his particular specialty. They are the very important functions that the board performs. In addition to that, as part of its consumer protection role, then, of course, ultimately the time may come in its processing of a complaint where it believes that the allegations are so serious, that they should appropriately go to the Professional Conduct Tribunal.

It is again appropriate that the tribunal, as a *quasi*-judicial body, should have a senior legal person as its chairman. Based on our experience, the board's experience and the profession's experience in the first two years of operation of the Act, we now believe that the person assigned to be the presiding officer or chairman of any tribunal as constituted, ought to be a judge or magistrate assigned by the chief judge after due consideration of the seriousness of the charges which it has to hear. I think that that is the best that we can achieve in practical terms at this time, and, in any case, as the Hon. Mr Elliott has quite rightly observed, the Act will be open again next year and if, based on our experience at that time, we need further amendments which will protect the profession and the public I will be quite open minded about it.

The Hon. R.J. RITSON: In view of the Hon. Mr Elliott's remarks, I will not divide on this amendment.

Amendment negatived; clause as amended passed.

Clause 4—'Repeal of section 24 and substitution of new sections.'

The Hon. R.J. RITSON: I indicate that I will not proceed with my amendments, in view of the previous decision.

Clause passed.

Remaining clauses (5 and 6) and title passed.

Bill read a third time and passed.

STANDARD TIME BILL

Adjourned debate on second reading.

Continued from 27 November. Page 2462.)

The Hon. C.J. SUMNER (Attorney-General): In replying to this debate, I must say that I am extremely disappointed by the quite insular attitudes adopted by members opposite and the Democrats on this important Bill. They have accused the Government of not researching the proposal properly. Nothing could be further from the truth. The fact is that members opposite in their contributions to the debate have shown very little capacity for any decent analysis of the legislation and have come up with a large number of fairly tired old furphies in order to attempt to justify the position that they have taken on this matter.

The Leader of the Opposition (Hon. Mr Cameron), when talking about the research, suggested that the matter was not researched properly, yet one really has to consider his contribution as being less than satisfactory and certainly

not particularly well researched. He said in reference to Central Standard Time, that in some cases when leaving Adelaide for interstate, 'It just gives us a bit more time to get there, and that is probably a very good thing.' Of course, it will take exactly the same time to travel interstate whether we have Central Standard Time or Eastern Standard Time. Perhaps the Leader did not mean what he said: but if he was referring to the time of leaving, the fact is that a plane for the Eastern States that now leaves at 6.50 a.m. would under Eastern Standard Time leave at 7.20 a.m. and would still arrive in interstate capitals at the same time. So, the reality is that he would get half an hour extra time in Adelaide in the morning, not as the honourable member apparently said that he would take more time to get there. It rather indicates that the Leader has not given much thought to the matter.

He also said that we would have two types of people in South Australia: one would be on Central Standard Time and the rest on Victorian time. However, the proposal to Central Standard Time in the western part of the State for the whole year and Eastern Standard Time in the eastern part of the State was the first proposition put up for examination by the Government earlier this year. That was subsequently abandoned in favour of the proposal encompassed by this Bill, which is to adopt Eastern Standard Time throughout the year. There will be only one time zone in South Australia for eight months: only in the summer months we would have daylight saving in the eastern part and no daylight saving in the western part on Eyre Peninsula, and there would be two time zones in South Australia. It is interesting to note that the honourable member voted for a provision in the Bill—

The Hon. M.B. Cameron: No, I did not. I opposed it.

The Hon. C.J. SUMNER: Yes, the honourable member did. He did not oppose the proposition. The Democrats—

The Hon. M.B. Cameron: You want us to divide on everything for the rest of the week?

The Hon. C.J. SUMNER: As I recall the honourable member's proposition, the power to divide this State into two time zones was inserted in legislation at the Democrat's suggestion. My impression—

The Hon. M.J. Elliott: And asked you to consult, too, what's more.

The Hon. C.J. SUMNER: There has been a lot of consultation on this matter. In any event, the Parliament earlier this year inserted in—

The Hon. M.B. Cameron: Do you want a division on everything for the rest of the week?

The Hon. C.J. SUMNER: No.

The Hon. M.B. Cameron: You will get it.

The Hon. C.J. SUMNER: The honourable member is interjecting. Perhaps he will indicate to me where he opposed the Bill. He does not have to divide on everything. The Democrats suggested that power be given to the Minister to divide the State into two zones, and that was acceded to by the Government to deal with the summer time daylight saving problem in the west. Now we come along with the proposition to divide the State into two time zones and they oppose it. The Democrats, in particular, are adopting a double standard.

The Hon. M.J. Elliott: I said consultation.

The Hon. C.J. SUMNER: The honourable member said consultation: there has been extensive consultation, I can assure him. Furthermore, the honourable member and his colleague suggested that the State could be divided into two time zones to deal with—

The Hon. M.J. Elliott: —could be, not should be.

The Hon. C.J. SUMNER: All right, could be. If the honourable member did not think it was such a good idea he would not have even put it up to give power in the legislation to divide the State into two time zones. The fact is that we are swapping a permanent all-year time zone boundary, which runs along our eastern border, for a time zone boundary running through an arid, unpopulated area of South Australia for four months of the year.

Examination of *Hansard* will reveal that the Leader of the Opposition said that because of the difference of longitude the sun rises and sets 40 minutes later on the West Coast than in Adelaide. The difference in sun time between Adelaide and Ceduna is in fact 25 minutes. That means that the Leader of the Opposition has used a place near the Western Australian border as his example of the West Coast: that is misleading.

We all know that the area west of Ceduna is not particularly closely inhabited. Again, despite information provided to honourable members opposite that the average summer temperatures in February afternoons vary by less than one degree celsius at hourly intervals from 1 p.m. to 4 p.m. Central Standard Time, we still get the hoary inaccuracy that children will be travelling home in buses during the hottest part of the day. Variations between noon and 4 p.m. Central Standard Time are so negligible as to be irrelevant. In Adelaide, the average temperature at noon in February is 22.6°C; at 1 p.m. 27.2°C; at 2 p.m. 27.4°C; at 3 p.m. 27.1°C; and at 4 p.m. 26.7°C. Whilst many country centres will experience higher temperatures than Adelaide, the variations in relevant levels at hourly intervals are similar.

There was a reference in the debate to cutting off a huge slab of the State for the convenience of a few people on the eastern side. It should be remembered that about 30 000 people live in the huge slab and of these a large number follow rural pursuits with commercial dealings with their local towns in the main. That means that there are about 1.3 million South Australians in the eastern part of the State and, whilst I would not claim that all are affected by dealings with the Eastern States, it is obvious that there are a lot more dealings with Sydney and Melbourne that are affected the whole year round than the dealings between the 30 000 people on Eyre Peninsula and the eastern part of the State during the only four months of the year in which there would be separate time zones.

The question of crisis care was raised. The criticism was that with increased daylight saving there would be more call on crisis care, but that really had no discernible basis.

One member opposing the Bill said he thought that the matter was brought forward as a 'piece of mischief because the Liberal Party, supported by big business and the rural sector, would be pulled in two directions which made for a bit of fun'. I assure the honourable member that that remark is fatuous in the extreme. The request emanated from the Green Triangle Council to the Border Anomalies Committee to the Minister and thence to this Parliament. It is illuminating that there have been several references in another place also to the possibility that the Bill is some sort of ruse to embarrass the Liberal Party. It seems, as it has turned out, that the Bill has unexpectedly touched a sore spot. However, I assure honourable members opposite, and in particular the honourable member who made that fatuous remark, that the Government is concerned to pursue this Bill not because it may be embarrassing to the Liberal Party but because it firmly believes that it is in the interests of the State.

I know that the Premier is very strongly committed to the proposition. I know that in terms of not just the Green

Triangle Council raising the issue; I know that from my discussions with the Adelaide business community, in particular. When I go to meetings, as Ministers do from time to time, with business people in the city, this is an issue that is raised almost inevitably on every occasion. The proposition that somehow or other the Bill is being introduced to cause some embarrassment to the Liberal Party is quite fatuous.

The Government has introduced the Bill because it feels that it would be in the interests of the State as a whole. One member opposite said that I claimed that the original idea to move to Eastern Standard Time came from the Green Triangle Council. That is indeed so, and all the honourable member need do is to ring the Executive Director of the Green Triangle Council to verify this. The fact that some members of the Green Triangle Council may have objected to the representation does not mean that the representation was not made.

The Hon. Mr Irwin commented on the fact that the summer time zone line was 'zigzag'. He said that he has seen no evidence that anywhere in the world are there zigzags delineating time zones. That only shows that no research was done in this area. Any person who has some knowledge of the situation would know, for example, that the International Dateline crosses the Pacific Ocean in a very zigzag manner. I refer members to a map of time zones in the *University Atlas for Australia*. It will be noted from the map that, in the United States of America, there are permanent time zones which often separate various parts of particular States and they are certainly not straight lines. This applies also in other countries of the world.

It is apparent that sensible Governments vary time lines to suit the convenience of local residents as much as possible and, given that the Government has tried to meet the objections to daylight saving on Eyre Peninsula by proposing a daylight saving free zone, the line proposed, which runs down 137 degrees meridian except for a deviation of 30 kilometres to put Woomera, Roxby Downs and Olympic Dam in the eastern zone with Andamooka, and a deviation which puts the Mitchellville area in the same time zone as Cowell, before running down Spencer Gulf to the east of Wedge Island, has done its best to accommodate local people in the Woomera/Roxby Downs area and in the Mitchellville area.

I have not heard a single suggestion from the Opposition as to what other variations there might be to this line. I suggest that it is members of the Opposition who have given the matter very little thought. It might also be interesting to note comparisons with other cities. It has been suggested that Eastern Standard Time would put Adelaide 45 minutes ahead of sun time. Such an advance is not uncommon in cities throughout the world. Buenos Aires is 45 minutes ahead; San Diego, 43 minutes; Cape Town, 46 minutes; and Montevideo, 45 minutes. These are the largest cities on our latitude. The most western city in New Zealand is 46 minutes ahead and, in the northern hemisphere, Paris is ahead by 51 minutes and Madrid, 75 minutes. Once again, the fact that some cities are ahead of what might normally be applicable is something that is not uncommon.

Members interjecting:

The Hon. C.J. SUMNER: Forty-five minutes Eastern Standard Time ahead of sun time.

The Hon. Peter Dunn interjecting:

The Hon. C.J. SUMNER: The honourable member is interjecting. Apparently, he does not realise that some cities in the world are prepared to adjust their time to obtain the best advantage and I have just indicated some of the situations that exist throughout the world. I think the fact that some other cities apparently can go through some slight inconvenience in order to get what they consider to be in their best interests is something that could be done in South Australia also. The major thrust (and members may as well realise this) for moving in this area is not because of the increased leisure time (although that may be advantageous to some people); it is simply that the South Australian Government believes that this legislation would bring significant commercial benefits to our State and I believe—

The Hon. Peter Dunn: Give us some examples.

The Hon. C.J. SUMNER: If the honourable member wishes, I will give some examples in a moment. The reality is that the Liberal Party is being incredibly short-sighted. It was not prepared to give this matter serious consideration. It is absolutely astonishing that Mr Olsen, the Leader of the Opposition in another place, when this proposition was announced by the Deputy Premier, said that it had considerable merit.

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: Well, he did. He said that it had considerable merit. That is the quotation from Mr Olsen.

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: Whether he said it had 'merit' or 'considerable merit', I will not enter that argument. The fact is that he thinks it is a good idea. We know what happened to Mr Olsen. He got into his Party Room and he was told, in no uncertain terms, by the likes of the Hon. Mr Dunn that this was not on and that, even if it might benefit the State of South Australia, that was too bad; it did not benefit the Hon. Mr Dunn and his cohorts decided to sit very firmly on top of Mr Olsen, despite the fact that he said that the legislation had considerable merit.

The fact is also that the Liberal Party is being incredibly short-sighted about this issue. Apparently, it is not prepared to inconvenience itself one jot in order at least to try a proposition that, in the Government's view, will be of benefit to South Australia. The Government has introduced a perfectly reasonable compromise for a one or two year trial period. A sunset clause simply means that the legislation would be repealed automatically after one or two years, depending on what members felt was reasonable. At the end of one or two years the legislation would be no more and, if Parliament and South Australians wanted to continue with the Eastern Standard Time, a Bill would have to be introduced into Parliament.

Surely members ought to be prepared to give that proposition a trial. The compromise is a reasonable and responsible one but, as I understand the Opposition and the Democrats, they are not even prepared to give this Bill a second reading to enable that compromise to be discussed in Committee and to enable members in this Council to have a reasonable debate on that matter. The Democrats, apparently having supported this idea of splitting South Australia into two time zones at certain times, have now completely reneged and, having put it in the legislation when it was before Parliament a few months ago—

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: You did it and you know it; you moved the amendment to provide that the State of South Australia could be divided into two time zones. You gave the power for that to happen. You're trying to get out of it now.

The Hon. M.J. Elliott: Read the speech.

The Hon. C.J. SUMNER: You introduced an amendment to enable South Australia to be divided into two time zones.

The Hon. M.J. Elliott: Did you look at what I said at the time?

The Hon. C.J. SUMNER: You said that there ought to be consultation or something. I am not quite sure what more consultation there could be than this. The proposition was floated for the first time in about April this year. We have been consulting ever since.

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: I am not worried about the President of the ALP Branch at Port Lincoln; I am worried that you, having decided a few months ago that the division of South Australia into two time zones was worthy of consideration—

The Hon. M.J. Elliott: I said 'could' and not 'should'.

The Hon. C.J. SUMNER: All right—and now you have gone to water on it. That is just another example of the Democrats not being able to make up their minds about anything.

The Hon. M.J. Elliott: If you read the speech, you'll know that you're wrong.

The Hon. C.J. SUMNER: You're as bad as the Hon. Mr Milne. The fact is that you proposed the division of the State into two time zones. The Government accepted that that was a power that should be introduced into the legislation and we further considered the matter. It has been on the public agenda for several months. No-one could say that it has been snuck in the Parliament without consultation.

The Hon. M.J. Elliott: There were 11 000 signatures in two weeks in Port Lincoln.

The Hon. C.J. SUMNER: I'm sure that you would get more than 11 000 signatures in Adelaide. The honourable member is embarrassed; he has proposed the idea and now his country constituents have decided to give him a hard time of it. I believe that South Australians must make a decision on this Bill. The reality is that, whether we are South Australians or Australians, we have to develop attitudes which are different from those that have applied hitherto. Over the past three or four years the Government's policy has been to try to get South Australia into the mainstream of commercial activity and the actions that we have taken with support for one of the foreign banks to set up headquarters in South Australia, the Grand Prix and other activities, have all been designed to try to bring South Australia into the mainstream of commercial activity in this country.

The reality is that we in this State cannot continue to be divorced from Australia or from the rest of the world. The Government puts forward this Bill as a serious proposition to overcome the sort of entrenched conservative attitudes that say that we cannot be inconvenienced, we cannot change our approach to anything and we cannot be bothered about the eastern States (despite the fact that 80 per cent of the population of Australia lives in the south-east corner). It is all too much trouble for the Opposition and Democrats.

An honourable member interjecting:

The Hon. C.J. SUMNER: The Adelaide City Council supports it, and members opposite should get some evidence from it. I refer to a letter from the Chairman of Bennett and Fisher, Mr Summers—

The Hon. Peter Dunn interjecting:

The Hon. C.J. SUMNER: That is all very well. That is his problem.

The Hon. Peter Dunn interjecting:

The Hon. C.J. SUMNER: I am sure, that being the case, he considers that he speaks in the interests of South Australians as he sees it. It may give even more force to this letter, if the honourable member is prepared to say that it will lose him business on the West Coast. I find that to be an absolutely intolerable interjection from the Hon. Mr Dunn. Apparently, the Hon. Mr Dunn says that Bennett and Fisher will now be disadvantaged because its Chairman wants to take a position which is to the advantage of South Australians. I find that to be a despicable approach by the Hon. Mr Dunn.

If members opposite do not believe that the letter from Mr Summers reflects a point of view that is worthy of consideration by South Australians, I think the Liberal Party is worse than I thought it to be. The letter states:

> I have noted over recent days the extraordinary debate going on between all political Parties regarding Adelaide adopting Eastern Standard Time from 1987. I wish to advise that, as you know, I have been operating head offices of national public companies from this city for the past decade.
>
> I can assure you that communications are probably the most important aspect of running any business, and particularly a national business where, when operating from Adelaide, the bulk of the operations are in the eastern States. Adelaide, being half an hour being the eastern States capitals, is at a significant commercial disadvantage in loss of executive time, loss of eastern States' vital marketing opportunities by South Australian manufacturing companies employing thousands of people. Also confusion with international communication connections and indeed the view of the eastern capitals that Adelaide is commercially behind.
>
> From a substantial commercial point of view, and that clearly being in the best interests of all citizens in South Australia, I strongly urge you to support changing Adelaide to EST from 1987. My long experience in operating head offices from here indicates that there would be significant advantages to this city by advancing its time by 30 minutes.

That is only one example of a sensible proposition and a sensible analysis of the position put to this Council in good faith. It is no doubt laughed at by people like the Hon. Mr Dunn, because he is not prepared to think about the issue beyond his West Coast interests. All the Hon. Mr Dunn has done about this issue is to get Mr Olsen into the Liberal Party room and tell him that, if he supports this Bill, he is in trouble. Members opposite know what happened in their Party room on this issue.

Mr Olsen said that the proposition had considerable merit, but he has now been told to pull his head in. Honourable members in this Chamber have been told to toe the Party line. The fact of the matter is that these particular sentiments are echoed, on my experience, throughout the Adelaide business community. This sort of approach by the Liberal Party means that we will miss out on a very significant opportunity. In conclusion, the Government has put up a reasonable compromise. We have said, 'Give it a go. You might not like it at this stage, but let's give it a go.' Surely that is not too much to ask of honourable members opposite, whether they are from the country or wherever in South Australia.

The benefits have been indicated to us by the business community in particular. We cannot continue to be divorced from the rest of Australia. We should try and do whatever we can, psychologically or practically, to become part of the mainstream of commerce and industry in the economy of this country. The attitude from members opposite completely negates that. I put it to honourable members: surely a one year trial is reasonable. I believe that members opposite should allow the Bill to pass the second reading stage. However, members opposite will throw it out at the second reading and will not consider the compromise proposition put forward by the Government. I make one final appeal to honourable members who have indicated their opposition to the Bill: pass it at the second reading and let us consider the compromise put forward by the Government to have a sunset clause.

The Council divided on the second reading:

Ayes (7)—The Hons G.L. Bruce, J.R. Cornwall, M.S. Feleppa, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller), and G. Weatherill.

Noes (10)—The Hons J.C. Burdett, M.B. Cameron (teller), Peter Dunn, M.J. Elliott, I. Gilfillan, K.T. Griffin, J.C. Irwin, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Pairs—Ayes—The Hons B.A. Chatterton and Barbara Wiese. Noes—The Hons C.M. Hill and L.H. Davis.

Majority of 3 for the Noes.

Second reading thus negatived.

LIQUOR LICENSING ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 25 November. Page 2221.)

The Hon. K.T. GRIFFIN: The Opposition supports this Bill. The Bill results from a review of laws relating to the consumption of liquor by minors in public places. The report of the review was published in September this year. The Bill seeks to do a number of things, including increasing the monetary penalties applicable to licensees and others who unlawfully supply liquor to minors on licensed premises. The maximum penalties will now be increased to $10 000.

The Bill provides that when a licensee faces disciplinary action for a second conviction of supplying liquor to minors or allowing minors to consume liquor on licensed premises, the licensee will be required to show cause why the licence should not be revoked or suspended. The Bill also prohibits minors from consuming or possessing or being supplied with liquor in any unlicensed public place, which includes a motor vehicle, but this is not to apply when the minor is in the company of an adult parent, legal guardian or spouse.

The Bill also gives the Liquor Licensing Commission a power to impose conditions at short notice on licensees of licensed premises near to a special event where large numbers of people may gather, consume too much liquor and create disturbances. This power is envisaged to be used in cases such as those where the sale of takeaway bottles may ultimately result in those bottles being used as missiles. The Liquor Licensing Commissioner, in anticipation of that potential use, may in fact prohibit bottle sales in particular areas. The Bill also gives licensees power to refuse entry to their premises to any person who is intoxicated or acting in an offensive or disorderly manner.

The Attorney-General indicated in his second reading explanation that the Government is drafting regulations under section 131 or section 132 of the Liquor Licensing Act with a view to prohibiting the consumption of liquor by both minors and adults in specified problem areas. However, there is no identification of the nature of those regulations—who will exercise the powers, what consultation will be required with local government and local communities and, generally speaking, how the whole scheme is to be administered. When the Attorney-General is replying, I would like him to give some indication as to the structure of those proposed regulations and how they are to be administered and, if it is possible, to make available some draft regulations which would give us a lead as to where the Government believes it should go on this issue.

I have made some inquiries of various bodies which might be affected by the operation of this Bill. It appears that there is no opposition from the police and, in fact, one could expect that this will make the task of police officers administering the law much easier, particularly in potential problem areas in public places where the excessive consumption of alcohol can lead to disturbances and even riots, as we have seen recently.

With respect to the Rundle Mall traders, there was an initial concern that the Bill did not have any provision in it for dealing with the banning of alcohol in the Rundle Mall, Hindley Street, Colley Reserve, and other places which have been identified by the Liquor Licensing Commissioner—the Colonnades shopping mall at Noarlunga, certain parks and foreshore areas in Port Augusta, the eastern parkland area occupied for the Grand Prix, Elder Park during such events as Carols by Candlelight, and around Memorial Drive. However, as I said, it is clear from the Attorney-General's second reading explanation that they are issues which are to be addressed by regulations under the existing provisions of the Liquor Licensing Act.

The Hindley Street traders had the same concern together with an additional concern about the difficulty of determining who is 18 years of age or over and thus administering the law, which places quite harsh penalties upon licensees. I do not disagree with the penalties. I think that they are appropriate, but we have to recognise that there is a potential difficulty for licensees and their staff in dealing with patrons who may in fact be under 18 but who may look to be over 18. The task of administering this will be extremely difficult.

The Australian Hotels Association expresses the same sort of concern about the difficulty of identifying the age of patrons. The Act gives fairly wide powers to a manager or a licensee under sections 122 and 123, which state that, where a person suspects on reasonable grounds that a person on prescribed premises may be under the age of 18 years, the age of that person can be required to be established and, if there is false evidence given or if there is a failure without reasonable excuse to provide information, then an offence occurs and the person who can demand that information is the occupier of the prescribed premises, an employee of the occupier, a manager or a member of the Police Force. An authorised person can require a person, whom that authorised person suspects on reasonable grounds to be under 18 and to be on the premises for the purpose of consuming liquor, to leave the premises, and if the person does not leave the premises then an offence occurs.

Therefore, there is already a penalty imposed for young people who seek to obtain alcohol when in fact they are unable to do so by virtue of the law and also there is a provision requiring production of evidence of age. As I said, the difficulty is that driving licences are swapped around, birth certificates are photocopied and swapped around and it is certainly an unsatisfactory area which places licensees under threat of suspension of their licence or even revocation of their licence.

That aspect has drawn some comment also from the Law Society, but without any effective remedy being available. The Liquor Licensing Commissioner proposes an alternative, that is, an identity card or, more particularly, a photograph on drivers licences. I do not want to open up the debate on that issue, which is contentious, but it is certainly a means by which evidence of age can be established. The Australian Hotels Association, in its submission to this review, drew attention to the Australia Card—again, another highly contentious area—but made the point that even if the Australia Card came in with a photograph (and I understood that was in doubt) there may also not be any evidence of age on it, because many people objected to having their age on that sort of identity card.

There is a system operating under the authority of the Attorney-General in Queensland, where the Attorney-

General issues for a fee a certificate bearing a photograph when a person turns 18 years of age and enrols as an elector. That is an entirely voluntary system. I floated that as one area the Government ought to consider, because it is one way by which licensees can be satisfied that a person is or is not over the age of 18. There are difficulties with the Queensland system, as I understand it. First, many young people do not want to pay the fee attached to it but, also, only about 1 per cent of 40 000 eligible persons actually avail themselves of this identity card. It may be appropriate, if there are difficulties in the administration of this law, for the Government to consider further a voluntary scheme free of charge, or even operating under the auspices of the Australian Hotels Association, to ensure that there are some means by which evidence of age can be established.

In respect of the proposal to ban the consumption of alcohol by young people under the age of 18 in public places except in the presence of a parent, spouse or guardian, I and the Liberal Party support that proposal. I raise, though, the question of how it is to be enforced, and I would like the Attorney to indicate how he envisages it being enforced. I would have thought the power would need to be exercised sensitively by police officers, not only in relation to the identification of whether or not a person is a minor but, more particularly, as to whether an adult person in the company of that apparent minor is a parent, guardian or spouse. The last thing I want to see is members of the Police Force conducting a regular check of all picnic spots, interviewing what may appear to be a family group to obtain evidence about whether or not there has been a breach of this provision in the Bill. It may be that a great deal of common sense has to be used in the way in which it is administered, but I foresee some difficulties with the enforcement of it and in the identification of the status of the people who might be consuming alcoholic liquor in a particular area.

I wish to comment on other areas. In the area of the licensing law which is proposed to deal with consumption of alcohol in public places—not just in relation to minors but generally speaking—the Liberal Party made a proposition last year that would have given councils much greater say—in fact, control—over public areas within their jurisdiction. That was defeated. I still think that local government ought to have a great deal of say in what areas should be available for the consumption of alcohol, provided they are public places, and I would ask the Attorney-General what role he sees for local government in the imposing of bans in public places.

With respect to the definition of 'public place', the Attorney-General has indicated that a public place extends to a motor vehicle. There is some value in dealing with public places and the consumption of alcohol in public places, because a number of instances have been brought to my attention where cars may be parked at the side of the road, and young people—and not so young—sit in those cars drinking alcoholic beverages and creating a nuisance to pedestrians passing by. There is some limit to the power of the police to move them on. They can, of course, use loitering laws, but that is not so easy to do.

The other difficulty is when people cruise around the streets in their cars, consuming alcoholic liquor while driving and, in some instances, throwing their stubbies or other bottles out the window, creating yet another hazard for road users and pedestrians. It is an area of major concern, and I think that this Bill will contribute towards controls being placed over that sort of behaviour.

I want to draw attention to two other areas. First, under clause 7 of the Bill there is a provision which means that disciplinary action may be taken against a licensee who is convicted of an offence against section 118. If it is a second or subsequent offence, the licence must be suspended or revoked unless the licensee shows cause why that action should not be taken. The question has been raised with me why clause 7 does not also deal with the breach of section 119a, which provides that:

> A minor may not enter or remain in any part of a licensed premises defined in a late night permit at any time when liquor may be sold in pursuance of the permit, or licensed premises in respect of when an entertainment venue licence is in force at any time when liquor may be sold otherwise than to a diner in pursuance of the licence.

It seems to me that a legitimate question to raise is why, when there is a conviction for supplying alcohol to a minor in ordinary licensed premises, and certain consequences are to flow as a result of clause 7 of the Bill, dealing with section 125 of the principal Act, that should not also extend to a breach of section 119a in relation to the minor on those premises in the circumstances envisaged under section 119a.

Another question is whether any offence relates to the purchase of alcohol by an adult and the supply either on the premises or outside the premises to a minor. It may well be in the Act, but if it is not I would like the Attorney-General to address that issue, because I think that some penalty ought to be imposed, if it is not already in the Act, on persons who acquire alcohol in licensed premises and then make it available to minors, whether on those premises or in a public place. It is a major area of concern that, where a young person cannot purchase or consume alcohol on licensed premises, he can nevertheless find a way around it by sending in a mate to do the purchasing and then participating in the results of the purchase. Subject to those questions being answered satisfactorily, we support the second reading of the Bill as a valuable legislative development towards greater control over the abuse of alcohol by young people and in public places.

The Hon. M.J. ELLIOTT: The Democrats also support the second reading. I must disagree with the Hon. Mr Griffin. I do not believe that this Bill will control the consumption of alcohol, *per se.*

The Hon. K.T. Griffin: I didn't say that: I said it was a useful development of a legislative means by which it can be controlled.

The Hon. M.J. ELLIOTT: Well, I believe that the one thing this Bill is doing is removing the public nuisance of juveniles drinking in a public place. Having been young myself not all that long ago, when the legal drinking age was 21 years, I recall that a dedicated 16 year old had no problem at all in getting alcohol. I do not believe that things have changed much—nor will this Bill change that. Alcohol will continue to be readily available. If this Bill happens to have any success in that area I will welcome it, but I suspect that the only real success that this Bill will have will be in removing the nuisance of juveniles drinking in a public place.

If we want to tackle the question of juvenile alcohol abuse, we have to go a lot further than this Bill goes and much further than it is intended to go. Until we are willing to tackle questions of alcohol advertising, the willingness to allow alcohol to be so readily linked with the Grand Prix and other such matters, we really are not making a serious attempt at tackling the promotion of alcohol among young people.

While this Bill is before us I would like to comment on something else which is before the public at the moment. We have recently seen that Port Augusta is to have certain

areas declared dry. I think that we will see that situation rapidly come into force in other towns, as well. I believe that the criteria for inclusion under section 132 of the Act will be that they will need to be submitted by local government and that each case will be on its merits. There will be a need to illustrate a case of heavy public use and persistent abuse by drunks.

I think that this Bill is trying to tackle the problem of the public nuisance of people abusing alcohol. I hope that the decision that the Government is now making does not itself become abused because what we are doing is shifting a problem. There are two problems, one of public nuisance. I can understand the concern there, because I have been in areas where there are large numbers of people drinking and one does not feel particularly safe—the sorts of areas now being contemplated for action by regulation. Nevertheless, there is a great deal of concern among people dealing with matters of rehabilitation that as far as the problem of alcohol abuse is concerned what we will be doing is simply relocating it.

I hope that we do not get to the point where we try to relocate people simply because certain members of the community find the situation offensive to look at, which in some cases is the real problem. People say, 'I do not want to look at it: I want it to be taken somewhere else.' By moving the problem we do not remove it. I hope that the Government keeps that firmly in mind. The only reason we should have for declaring areas dry is where the public nuisance is of the sort that there is some threat of injury or where a person feels a threat of injury. I can imagine that with people abusing alcohol in Rundle Mall that may be an understandable concern, as it may in some other places.

However, we must be very careful. I am very fearful that eventually we will try to do more than that and will be removing people because out of sight is out of mind, and that we will neglect the real problem, just as to some extent we are with the question of juvenile drinking, which is being confronted by the Bill before us. Certainly, we stop the public nuisance, but we are not doing anything in real terms about the problem of juvenile drinking. I support the second reading.

The Hon. C.J. SUMNER (Attorney-General): First, to answer the Hon. Mr Griffin's question relating to the supply of liquor to a minor by an adult, that is an offence under section 118 of the Liquor Licensing Act. It is an offence for a minor to request an adult to obtain liquor for him and it is an offence for an adult to supply that liquor on licensed premises, or in a place appurtenant to the licensed premises. Now, under the legislation, it will be an offence for an adult to supply liquor to a minor for public consumption in a public place unless, of course, that minor is accompanied by his or her parent or guardian.

The second point that the honourable member raised was with respect to the enforcement of the ban on minors drinking in public places. I agree with the honourable member's remarks about enforcement and the fact that the enforcement will need to be sensitive to avoid problems occurring in the way in which the honourable member has outlined. I expect that the police would adopt a reasonable approach to the enforcement of that provision and use it, in particular, where there appear to be problems brewing so far as public order and the like are concerned.

With respect to the question of the so-called dry areas, the Government has announced that it is prepared to entertain submissions from local communities to declare certain areas dry—that is, areas in which the public consumption of alcohol by adults would be prohibited. One such application has been received from the Port Augusta council and in Port Augusta a dry area has been proclaimed in Gladstone Square, Commercial Road and part of the foreshore area. Other areas indicated as possibly appropriate for this are the Colonnades Shopping Centre at Noarlunga and some areas in Whyalla. Each application will be dealt with on its merits by the Liquor Licensing Commissioner and the local community will have to establish a case for determining an area to be dry.

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: They may and if they apply the applications will be considered on the merits. The Government has opposed the proposition that local government ought to have complete authority in this area. That is a position I still think is quite valid. If local government had the authority to ban alcohol consumption in certain areas there would be a patchwork quilt of dry areas all over the State with people just not knowing where they stood.

Some councils might decide that their parks ought to be dry areas even though they may be in very significant tourist areas. That clearly would be inconsistent with the promotion of tourism as a State-wide effort. The control of it ought to remain with the Government, but obviously when any of these areas are considered there is consultation with the local government authorities and the local members to determine what are appropriate areas to be delineated as dry areas. The people making the application would have to establish to the satisfaction of the Government, which has to make the regulation after assessment by the Liquor Licensing Commissioner, that there are serious concerns about public order, offensive behaviour—

The Hon. M.J. Elliott interjecting:

The Hon. C.J. SUMNER: Urinating, defecating, vomiting, abusing passers-by and these sorts of things.

An honourable member: Throwing bottles?

The Hon. C.J. SUMNER: Throwing and breaking bottles and that sort of thing, which has really created significant problems in Port Augusta, in particular. But, I agree with the Hon. Mr Elliott that it should not be just a matter that people do not like the look of other people drinking in public. There needs to be some continuing problem in the manner that I have outlined, which would have to be identified and established to the satisfaction of the Liquor Licensing Commissioner and the Government before such a regulation was made. That is how I envisage that being administered: local communities applying, presumably with the support of their local councils, being assessed by the Liquor Licensing Commissioner, comment from the local member, then implementation by way of regulation under section 132 if the Government believes that a case has been made out.

I have mentioned the sorts of areas that are already being indicated as possible. Honourable members have also heard talk about Rundle Mall, Rundle Street, Hindley Street and other areas that may be declared by regulation to be dry areas for particular events, and for particular periods (such as Glenelg). Each of those, apart from Port Augusta, which has been dealt with, will be considered on their merits.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. K.T. GRIFFIN: Is it proposed that all of the Bill, if enacted, will come into effect at the same time and, if so, when is that likely to be? If not, what sections will be proclaimed separately?

The Hon. C.J. SUMNER: It is hoped that it can all be brought into operation within a couple of weeks, but if there is a difficulty I would like to see the provision relating to drinking by minors in public brought into operation before Christmas.

The Hon. K.T. GRIFFIN: If I could have a little latitude, because I do not think there is any other clause that might be appropriate to deal with it, in relation to the question of the regulations under which public places may be prescribed where alcohol is to be banned in respect of adults and minors, can the Attorney-General confirm the date when those regulations will be promulgated?

The Hon. C.J. SUMNER: As the honourable member says, they are not technically related to the Bill; they are promulgated under the existing legislation. The Port Augusta regulations were done on 20 November. There may need to be some adjustment to those, because there is some concern that they did not do precisely what the council wanted and, in particular, I think we now include the road around Gladstone Square. The others will depend on when the applications are received and when they are processed. I cannot say when that will be done, because that depends upon the local council.

The Hon. K.T. Griffin: There is a separate regulation for each area?

The Hon. C.J. SUMNER: Yes.

Clause passed.

Clause 3 passed.

Clause 4—'Sale or supply of liquor to minors.'

The Hon. K.T. GRIFFIN: In relation to the establishment of identity of minors, has the Attorney-General given any consideration to mechanisms like the voluntary identity card system in Queensland or some other mechanism for making it easier for licensees and their employees to establish the age of patrons?

The Hon. C.J. SUMNER: The Government recognises the problems associated with identity. The Liquor Licensing Commissioner, in his report, drew attention to possible ways of improving the identity system. I will consider the honourable member's comments about a voluntary identity system when I consider the matters in the Commissioner's report.

The Hon. K.T. GRIFFIN: Again, if I can be given a little latitude, because no clause relates to this specific issue, I refer to the question of liability of directors. This matter was thrashed out fairly extensively in the debate on the principal Act. In the principal Act there seems to be an absolute liability upon directors of a body corporate and generally no defences are allowed to directors where the licensee is convicted. Can the Attorney-General give any indication whether he has given some further consideration to the relief of directors who have acted reasonably and conscientiously in the application of the laws where a body corporate is convicted of an offence?

The Hon. C.J. SUMNER: That has not been done, because the Government does not believe that it is warranted. At present, if a corporate licensee is convicted of an offence each director is also guilty. The honourable member may recall that under the repealed Act (and I refer to the Act which existed before the introduction of the 1985 Act) in such circumstances the shareholders were guilty. The reality is that liquor is a drug and the scheme of the Act is that anyone involved in its sale must be approved and must take responsibility if it is sold unlawfully. In some States companies may not even hold a liquor licence because the responsibility rests only with natural persons. In South Australia companies may hold a licence, but the natural persons involved in it must take responsibility for actions on licensed premises. If a director genuinely has taken steps to prevent unlawful acts occurring, but they nevertheless occur, no doubt that would be taken into consideration by a court in mitigation of penalty. This is a difficult area, but the Government believes that the obligations ought to be fairly strict—traditionally, they have been fairly strict and that situation should continue.

Clause passed.

Clauses 5 and 6 passed.

Clause 7—'Disciplinary powers exercisable by the court.'

The Hon. K.T. GRIFFIN: One of the issues that I raised during the second reading debate was whether, under this clause, a breach of section 119a ought also to be a basis for action. After further consideration I think it would probably be inappropriate because section 119a deals only with minors being on premises and not consuming. Does the Attorney-General have anything further to add to that?

The Hon. C.J. SUMNER: Section 119a relates only to presence on licensed premises and, as such, it does not deal with the question of consumption or supply. The serious offence relates to consumption and supply which leads to the disciplinary provisions. The Government does not feel that the presence on licensed premises ought to warrant the more serious penalties.

Clause passed.

Remaining clauses (8 and 9) and title passed.

Bill read a third time and passed.

STAMP DUTIES ACT AMENDMENT BILL (No. 2)

In Committee.

(Continued from 26 November. Page 2323.)

Clause 2—'Commencement.'

The Hon. C.J. SUMNER: Perhaps, with the Committee's indulgence, I can respond to questions raised by the Hon. Mr Griffin in relation to this clause and then, if there is any further debate, those remarks can be considered in relation to the specific clauses. The first query by the honourable member related to inspection powers under sections 27a, 27b and 27c.

These are essentially drafting amendments and the inspection provisions have been re-written in accordance with current drafting style and to progressively obtain consistency between all State taxation legislation. The format adopted in this Bill follows that adopted in the most recent tax enactments (for example, FID).

The introduction of search warrants is considered necessary and again is consistent with approaches now being adopted in other State taxation legislation although there is not a specific instance to date in relation to stamp duty matters where tax revenue has been lost because of an inability to obtain a search warrant.

Negotiations on an Australia-wide basis, which were undertaken initially with the support of the previous Government, are aimed at obtaining consistent, but not necessarily identical, provisions for investigation and exchange of information between States and the Commonwealth, and steps are being taken progressively to rationalise State powers in South Australia towards this end.

The existing section 27a provision relates only to 'instruments' but there are now a number of stamp duty provisions which apply to transactions (for example, rental duty, annual licence, etc.) and it is necessary for the inquiry powers to be extended to records associated with these types of activities.

The second query relates to search warrants and legal professional privilege. It appears that the Hon. K.T. Griffin is referring to guidelines which have been recently formulated in discussions with the Director of Public Prosecutions, the Australian Federal Police and the Law Council of Australia in relation to search warrants issued under section 10 of the Crimes Act. At this stage local officers of the Commonwealth Taxation Office are unaware of the guidelines.

It is believed that it would not be appropriate for these guidelines to be included in the legislation but it is a question which would be considered, in conjunction with other legislation now under review, to establish compatible inspection procedures between the States and the Commonwealth and to provide for 'Trans-border investigations'. Part IIIA (Division 2) of the Commonwealth Taxation Administration Act, as amended in 1985, refers to this matter. It would seem that, if guidelines similar to those agreed by the Commonwealth were to be introduced into South Australia, it would be better for them to remain in the same format, that is, as guidelines rather than be included in legislation.

The third question raised by the honourable member related to self-incrimination, presumably following a search warrant. It is understood that the protection of self-incrimination is always given and read into such inspection provisions unless it has been expressly excluded. For this reason it was not considered necessary to specifically state the protection, although it is agreed that it has been included in some other legislation.

The fourth question relates to the honourable member's query about opinions on unexecuted documents. An 'opinion' under the stamp duty provisions is effectively an assessment and should not be given on an unexecuted instrument. In this respect the provision in the Bill does not modify the existing Act which in section 23 (1) states '... the Commissioner may be required by any person to express his opinion with reference to an executed instrument ...'. It is argued that the Commissioner should not be required to give advice of what might be the stamp duty implications of a particular transaction or document and we have adequate examples to show that advice which is sometimes given on an informal basis can either result in the instrument being re-drawn in a manner to avoid taxation or result in the presentation of a slightly modified instrument and a resulting argument when tax assessed on that form of instrument differs from the advice given on the draft previously supplied.

In respect to the distribution of general guidelines which are also referred to by the Hon. K.T. Griffin and the references to those provided by the Federal Commissioner of Taxation, it is agreed that there are advantages to practitioners if State taxation authorities were able to provide this type of material, which presumably would be read in conjunction with the already existing taxation manuals compiled and issued by law publishing firms. It is accepted that New South Wales has recently embarked on such a program by transferring an experienced senior officer exclusively to this task, but it is not practical, at least in the short term, for this State to be able to provide the level of guidelines suggested by the Hon. K.T. Griffin. Introduction of such guidelines is seen as an administrative measure and, while they will be considered in conjunction with the progressive upgrading of the Stamp Duties Office, it is not believed that a requirement to provide such guidelines should be included in legislation.

Clause passed.

Clause 3 passed.

Clause 4—'Repeal of section 6 and substitution of new sections.'

The Hon. K.T. GRIFFIN: I thank the Attorney-General for his response to the questions I raised during the second reading debate. One question related to the Commissioner not being permitted to express an opinion in respect of an unexecuted instrument. I accept the advice given to the Committee by the Attorney-General that it does not make any major change to the present Stamp Duties Act. However, it highlighted to many people who contacted me the desirability of the State Taxation Commissioner providing at least practice directions, rulings or guidelines much as the Federal Taxation Commissioner does, so that there is a lot more certainty available as to the way in which the Commissioner of Stamp Duties in this State will administer the Stamp Duties Act.

There is a lot of practice which can identify the way in which the Commissioner will treat particular documentation, but there are always a number of areas of uncertainty. It is for that reason that I think the publication of guidelines by the Commissioner as to the way the Act is administered and applied would be helpful not only to legal practitioners and accountants but to a whole range of people who have some contact with the State taxation jurisdiction. I accept the advice given by the Attorney and merely urge that as soon as possible the Commissioner be given sufficient resources to enable him to undertake the practice of publishing guidelines as to the administration and application of the Act.

Clause passed.

Clauses 5 and 6 passed.

Clause 7—'Repeal of sections 27a, 27b, 27c and 27d and substitution of new sections.'

The Hon. K.T. GRIFFIN: I draw attention to new section 27c, which is an addition to the powers of the Commissioner at the present time. I have no difficulty with the concept of a warrant to search and enter premises, but I have some difficulty with the concept of a justice of the peace actually issuing the warrant, particularly if the justice of the peace is a compliant JP or even actually on the staff of the Commissioner. It worries me that there is at least that potential there. I would have thought, consistent with other legislation, that some reference could be made to a magistrate issuing a warrant rather than a justice of the peace issuing it.

More particularly, I have raised in relation to this clause and these new sections the question of whether or not there should be some protection of questions like legal professional privilege and against self-incrimination. It is a difficult area. I do not want to delay consideration of the Bill, but I would like to believe that, next year when this legislation is again considered by Parliament, we could revise the powers of inspection and gaining access to records and the other matters covered by this clause so that there are inbuilt protections which at least have been acknowledged in other areas which we have debated during the current session and which are evident in legislation dealing with the Companies Code, powers of the Corporate Affairs Commission and even under the Federal income tax assessment legislation. Apart from that one question in relation to new section 27c as to whether it should be a justice of the peace or magistrate, I will go along with the clauses for the time being and hope that they can be reviewed some time next year.

I must confess that with all the pressure of other Bills I have not had time to arrange an amendment. However, I raised the point in the hope that the Attorney-General might be persuaded that it is appropriate to amend 'justice of the

peace' to replace it with 'magistrate'. Is the Attorney-General prepared to accept that?

The Hon. C.J. SUMNER: Apparently this follows a formula that was in the FID legislation so I am not necessarily opposed to what the honourable member is suggesting but it is already in existing tax legislation. If the honourable member wants to move that it be a magistrate, I would not oppose it, but I am saying that a justice of the peace has this authority under the FID legislation.

The Hon. K.T. GRIFFIN: I realise that it is desirable in all these areas of inspection to have some consistency. I think it varies from Act to Act but I accept that this is consistent with the FID Act. Personally, I think there are matters of such significance involved—probably more so because it covers a wider range of instruments and transactions—that I think a magistrate exercising the responsibility would be more appropriate. Can I move an amendment without having it formally circulated, with your indulgence, Madam Chair? I move:

Page 4—
Line 6—Delete 'a justice of the peace' and insert 'a magistrate'.
Line 10—Delete 'justice' and insert 'magistrate'.

The Hon. C.J. SUMNER: I do not oppose the amendments.

Amendments carried; clause as amended passed.

Remaining clauses (8 to 18) and title passed.

Bill read a third time and passed.

COMMERCIAL ARBITRATION BILL

Returned from the House of Assembly without amendment.

GOODS SECURITIES BILL

Returned from the House of Assembly with the following amendments:

No. 1. Page 8, after line 4—Insert new clause as follows:
Clause 15—Goods Securities Compensation Fund.
(1) A fund entitled the 'Goods Securities Compensation Fund' shall be established and administered by the Registrar.
(2) Fees paid to the Registrar under this Act shall, after deduction of the cost of administration of this Act, be credited to the fund.
(3) Compensation payable under an order of the tribunal under section 14 shall be paid out of the fund.
(4) The Treasurer may advance money to the fund on such terms and conditions as the Treasurer thinks appropriate.
(5) Any money standing to the credit of the fund that is not immediately required for the purposes of this Act may be invested in such manner as is approved by the Treasurer.
No. 2. Page 9, after line 8—Insert new clause as follows:
Clause 21—Exemption from Stamp Duties Act 1923, section 27.
Section 27 of the Stamp Duties Act 1923, does not apply in relation to an entry made in the register under this Act.

Consideration in Committee.

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

That the House of Assembly's amendments be agreed to.

These are money clauses that have been formally inserted by the House of Assembly.

Motion carried.

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

PRIVATE PARKING AREAS BILL

In Committee.

(Continued from 6 November. Page 1909.)

Clause 6—'Offences'—reconsidered.

The Hon. BARBARA WIESE: It turned out that we did not need to amend this clause.

Clause passed.

Clause 8—'Offences—driver and owner to be guilty'—reconsidered.

The Hon. BARBARA WIESE: I move:

Page 4, line 38—Leave out 'Where' and insert 'Subject to subsection (6a), where'.
Page 5, after line 2—Insert subclause as follows:
(6a) Where a motor vehicle in which a disabled person's parking permit is exhibited is parked in a private parking area in excess of a time limit, a contravention of subsection (6) does not arise until the vehicle has been parked for 90 minutes in excess of the limit.

This amendment makes clear that a person whose motor vehicle displays a disabled persons parking permit is allowed an extra 90 minutes parking time in excess of the parking limit which might apply for a particular private parking area. The reason why this provision is being included in the Bill is in recognition of the extra time a disabled person will usually need to do his or her business. If he or she is parking at a shopping centre, a doctor's surgery, etc., he or she will often require more time to move around the stores.

The Hon. K.T. GRIFFIN: I support the amendment, I add that it is reasonable to allow a period of grace for persons who are disabled. It takes into account the difficulties which may occur in circumstances where a person who is disabled is having difficulty getting to and from a parked motor vehicle in those circumstances.

Amendment carried; clause as amended passed.

Clause 9—'Agreements by owner of private parking area and council for the area'—reconsidered.

The Hon. BARBARA WIESE: I move:

Page 5, lines 14 and 15—Leave out 'to enforce' and substitute 'for the enforcement by the council of'.

I understand this is lawyer's law. Parliamentary Counsel has recommended that the words 'For the enforcement by the council of' rather than 'To enforce' are more desirable.

The Hon. K.T. GRIFFIN: I support the amendment.

Amendment carried; clause as amended passed.

Clause 13—'Summary offences'—reconsidered.

The Hon. BARBARA WIESE: I move:

Page 6—After line 13—Insert subclauses as follows:
(2) In proceedings for an offence against this Act, an allegation in the complaint—
(a) that the complainant is an authorised officer;
(b) that, at the time of the alleged offence—
(i) a specified thoroughfare was a private walkway;
(ii) a specified road was a private access road;
(iii) a specified area was a private parking area;
or
(iv) a specified part of a private parking area was—
(A) a disabled person's parking area;
(B) a loading area;
(C) a no standing area;
(D) a permit parking area;
or
(E) a restricted parking area,
(and was duly marked as such);
(c) that, at the time of the alleged offence, a condition set out in the complaint was in force under this Act and was exhibited as required by this Act in relation to a particular private walkway or private access road;
(d) that, at the time of the alleged offence, a time limit was in force under this Act and was exhibited as required by this Act in relation to a particular private parking area;
(e) that, at the time of the alleged offence, a person named in the complaint was the owner or driver of a motor vehicle referred to in the complaint;
or

(f) that, at the time of the alleged offence, an agreement for the enforcement of Part III by a council was in force in relation to a specified private parking area,

will be accepted as proved in the absence of proof to the contrary.

(3) The owner and driver of a motor vehicle are not both liable to be convicted of an offence arising out of the same circumstances and consequently conviction of the owner exonerates the driver and conversely conviction of the driver exonerates the owner.

(4) Before proceedings are commenced against the owner of a motor vehicle for an offence against this Act, a notice must be sent to the owner by the person who proposes to commence the proceedings ('the prosecutor')—

(a) setting out particulars of the alleged offence;

and

(b) inviting the owner, if he or she was not the driver at the time of the alleged offence, to provide the prosecutor, within 21 days of the date of the notice, with a statutory declaration setting out the name and address of the driver.

(5) In proceedings against the owner of a motor vehicle for an offence against this Act, it is a defence to prove—

(a) that, in consequence of some unlawful act, the motor vehicle was not in the possession or control of the owner at the time of the alleged offence;

or

(b) that the owner provided the prosecutor with a statutory declaration setting out the name and address of the driver in accordance with an invitation under subsection (4) *(b)*.

These amendments arose out of the discussion which took place last time we considered the Bill. The Hon. Mr Griffin and the Hon. Mr Elliott indicated during that debate that they would prefer issues relating to evidentiary burdens and defences spelled out clearly in the Act, rather than being included in regulations. Therefore, these amendments have been drafted to meet that wish.

The matters referred to in new subclause (2) relate to those issues which would be accepted in a prosecution in absence of proof to the contrary, and the issues included in new subclause (3) provide that the owner and the driver of a motor vehicle will not both be liable for a parking offence. New subclause (4) enables an owner to identify the driver of a vehicle at the time a parking offence was committed, and new subclause (5) provides for it to be a defence for the owner of a vehicle to give evidence that a vehicle was not in his or her possession or control at the time that an offence was committed, or to provide a statutory declaration indicating that another person was actually in charge of the vehicle at the time of the offence.

The Hon. K.T. GRIFFIN: I am pleased to support this amendment. It accommodates the issue which I raised, as the Minister has indicated, and puts clearly into the statute the rights of citizens where it is alleged that they have committed a breach of this Bill. Members will recall that the Bill contained a provision which allowed regulations to prescribe those matters which might be deemed to be proved in the absence of proof to the contrary, and to allow regulations to give defences and withdraw defences.

I expressed the very strong view that as a principle that should not be endorsed by the Committee and that these matters ought to be set out in the statute itself, have been the subject of debate in Parliament and clearly be issues which have been voted on by Parliament, so that citizens were alert to their rights, obligations and duties on the face of a statute and not have to worry about what was a regulation.

Further, if an issue arises such as a defence or some burden of proof with which the Parliament does not agree, it is much more appropriate to express that disagreement in the vote on a Bill than it is to move for disallowance of regulations, which resolution for disallowance would have to be for the whole of the regulations and not just a part of them. The amendment accords with the view that I have expressed. I appreciate the fact that the Minister has been prepared to go down this track with the Bill, and I suggest that there will be no difficulty with the matters referred to in this clause. If there are, it means that the matter will have to be amended in Parliament, but I suggest that most matters of practice can be accommodated within the framework of the amendment proposed by the Minister.

Amendment carried; clause as amended passed.

Title passed.

Clause 4—'Interpretation'—recommitted.

The Hon. BARBARA WIESE: I move:

Page 2, lines 8 to 12—Leave out these paragraphs and insert:

(a) a vehicle that is being used by an authorised officer in the course of official duties;

(b) a fire services vehicle that is being used for purposes related to fire fighting or fire prevention;

(c) an ambulance or similar vehicle;

(d) a police vehicle;

(e) a vehicle that is being used for the purposes of the State Emergency Service;

or

(f) a vehicle that is being used for purposes related to road safety or road maintenance or repair.

This is a drafting improvement, relating to vehicles that will be exempt from the provisions of the Bill. It relates to emergency vehicles and other vehicles, which should not be subject to the provisions of the Bill. Parliamentary Counsel has said that it would be advisable to specify in detail the vehicles referred to, rather than the more general provision contained in the original drafting.

The Hon. K.T. GRIFFIN: I think it is a better idea to be specific rather than general, and this provision will help all those who are responsible for administering the legislation to appreciate which vehicles are entitled to be on premises covered by this legislation. I support the amendment.

Amendment carried; clause as amended passed.

Bill read a third time and passed.

TERTIARY EDUCATION BILL

Adjourned debate on second reading.

(Continued from 25 November. Page 2256.)

The Hon. R.I. LUCAS: I support the second reading. As has been the case with a number of Bills, as we near the end of this part of the session, unfortunately Parliament has to consider hastily what is a most important measure. Obviously, I will not go beyond the bounds of Standing Orders and refer to other important measures that will come before Parliament at a very late stage in the session, and this makes it extraordinarily difficult for members in this place and in the other Chamber to give due consideration to what is important legislation.

The Hon. I. Gilfillan: Hear, hear!

The Hon. R.I. LUCAS: I note, 'Hear, hear' from the Australian Democrats. I appreciate how difficult it must be for the Australian Democrats, there being only two of them, in trying to keep pace.

The Hon. Carolyn Pickles: Surely you don't want any more of them.

The Hon. R.I. LUCAS: No, I would not extend my compassion that far, but I can certainly understand the problem that the two Australian Democrats must have in keeping pace with legislation as a new Bill seems to roll off the assembly line every day.

The Hon. K.T. Griffin interjecting:

The Hon. R.I. LUCAS: No, not at all; I am not saying that, because I might need their vote on an amendment—

I might say that afterwards. As every day goes by, a new Bill seems to come through. The haste with which we are being asked to consider legislation, and I refer particularly to the Bill before us, leads to problems, and we have been lucky enough to uncover two or three problems already in relation to the Tertiary Education Bill, and I refer to clauses 6 and 7, on which I will have more to say later. We have been lucky enough to uncover those problems in a short space of time through quick consultation and discussion with interested bodies. However, I fear with this legislation and with other legislation that is being rushed through Parliament that there are many hidden problems that we as legislators do not pick up because we just do not have the time for the proper consultation that is required in relation to important measures, such as the one before us.

I point out once again that to address these matters is beyond the bounds of a second reading debate, in this case on the Tertiary Education Bill, and that certainly adds greater weight to the argument for a standing committee system of Parliament, where some of the hard committee work could be done prior to our having to stand up in this Chamber and there would be some sort of restriction on what the Executive arm of government could do to the Parliament.

In particular, I refer briefly to clauses 6 and 7 of the Bill (I will come back to them later) as an example of the sorts of problems that Government and eventually Parliament gets into when legislation such as this is treated with haste. I note from the second reading reply of the Minister (Hon. Lynn Arnold) in another place that he stated:

> As to the actual draft Bill itself that was circulated to all the tertiary institutions on 3 November (and of course it is now some three weeks later), it was because of comments made by the member for Adelaide and the Hon. Anne Levy in another place, who came to me with some concerns about certain aspects of the legislation, that we made further contact with the universities.

One of the reasons why people like you, Ms President, started to receive telephone calls from people (and who shall remain anonymous in this debate) fairly highly placed within the University of Adelaide was that they were alarmed. You would know those people well, because I had discussions on the Friday after the Bill was introduced in the House of Assembly and as a result of the alarm that certain highly placed persons in the universities felt about the Bill that was introduced into the House of Assembly, they very assiduously organised themselves with people they considered to be of influence in the Government, such as you, Madam President. Also, they circulated letters to all members of Parliament and the Adelaide University Council in which they included a very strong critique of the Government Bill as it was introduced into the House of Assembly. It is some credit (albeit late and delayed) to the university that it was able to act quickly and do the appropriate amount of lobbying that was required. There was some discussion in the House of Assembly and the Minister in charge of the Bill introduced significant amendments to clauses 6 and 7 of his own Bill.

As I indicated, I will refer in detail later on to those amendments, but it is a significant indication of the problems with which members of Parliament are faced when important legislation is introduced into the House of Assembly on a Thursday and the Opposition in that place is required by the following Tuesday to have undertaken consultation with all interested groups and to have formed a considered opinion on important legislation within two working days. Of course, it is very difficult to contact people over a weekend if they do not want to be contacted.

The major feature of the Tertiary Education Bill is the abolition of the Tertiary Education Authority of South Australia and, in part, that is to be replaced by an administrative arm of Government under the new Government and Management Employment Act. The Office of Tertiary Education is to be created. The Minister indicated that the staff levels will be cut by approximately one half and that it will result in a net saving of about $500 000. It is apparent that that saving will not be experienced immediately by Government, because obviously some of that staff will be transferred to other Government departments. It will be an initial saving to the TAFE budget of $500 000, but of course some of those persons employed in TEASA will continue to be employed in other arms of Government. Eventually, there will be a possible saving to Government of up to $500 000. Clearly, that is something to which the Opposition must give weight and that is one of the reasons why we support this Bill.

In the latter part of the 1970s when TEASA was introduced, it was appropriate that we had some form of body like that. We remember the 1970s with some fondness from certain aspects: money was fairly easy; education and further education experienced great growth; and new institutions cropped up all over the nation. Clearly, there was a requirement for coordination and planning on behalf of Government. Of course, the 1980s have been very different. The economic climate has changed. In South Australia the four Colleges of Advanced Education were amalgamated into one single College of Advanced Education. In my view, we have seen a demonstration of greater maturity by the individual institutions in South Australia. We have witnessed the development of, in effect, self-assessment of courses by many of our institutions and, quite clearly, the responsibility of Government has changed in relation to the planning and coordination that is required of the tertiary sector.

For those and many other reasons the Opposition supports the abolition of a statutory authority (namely, TEASA). The argument for the abolition of that authority has been in existence for some time. Certainly in the early 1980s during the Tonkin Government a proposal was considered, but it was rejected by that Government for reasons to which obviously I am not privy. For the past two years I have argued within and without the Party that I do not believe that there is a justification for the continued role of TEASA as it existed. During the last State election campaign the Liberal Party policy, while not openly endorsing my view, stated that the future role and function of TEASA would be kept under review by a Liberal Government, if there had been one, after the last State election. Obviously, that policy left open the sort of decision that has now been taken by the Government and that is a decision that I would have supported within a Liberal Government under Michael Wilson as Minister.

In my view, there is no doubt that there is a need for continued planning and coordination by some body and that is obviously why we will have a body called the Office of Tertiary Education. The Opposition also supports that change. The Bill that was originally introduced into the House of Assembly had some significant weaknesses and major problems. I now refer to those problems that existed in the original legislation. First, I refer to clause 7 of the Bill which mentions the duty of institutions to provide information. Clause 7 (2) provides:

> In particular, such an institution must, when making an application or representation related to funding of the institution . . . inform the Minister of the nature and content of the application or representation.

That information would be required, if possible, at least one month before making the application or representation. I know that consultation did take place, but I am not sure

where the hiccups occurred in that process. I had discussions last Friday week with institutions such as the South Australian Institute of Technology, the University of Adelaide, the South Australian College, and Flinders University. Representatives from those institutions expressed alarm at the possibility that this subclause had got through under their guard.

It meant that Government and the Minister would require, prior to an institution having any discussion at all not necessarily with a Government instrumentality such as CTEC but with a private company such as IBM or Santos in relation to funding or partial funding of a chair, a project or program within the tertiary institution, to be advised, if possible, at least one month prior to any such discussions. As the heads of the institutions indicated to me, many of these discussions arise over a convivial lunch or perhaps cocktails after work or social engagements and functions, and it is just not possible for those sorts of discussions between representatives of tertiary institutions and private bodies to be incorporated under the sorts of strictures and restrictions that the Government envisaged in subclauses (2) and (3) of clause 7.

The Hon. R.J. Ritson: Do you think that was intended?

The Hon. R.I. LUCAS: The indication that I was given is that there was an argument that Government advisers felt that the Government should be advised of applications or representations to private bodies prior to those applications and representations going ahead. Nevertheless, the result of discussions, consultation and then lobbying after the introduction of the Bill has meant that the Minister has seen the problem in clause 7 and introduced in debate in another place a Government amendment to that provision to restrict it to applications made to Commonwealth and State departments and instrumentalities. The Opposition certainly supports that application, as do the institutions. I am further advised by certain persons involved in trying to attract funding for programs such as the Mawson Institute at Adelaide University and others that they have gone to all sorts of strange Government departments and instrumentalities and not necessarily those that are education oriented. However, they believe that with the changes they can live within the new provisions of clause 7.

Clause 6 is the other major clause which caused major problems and alarm within the universities in particular. Clause 6 provides for the first time that before the universities choose to introduce a new course or all other proposals of a kind or kinds prescribed by regulation—a delightfully vague phrase in the legislation that we will explore later—the universities would have to inform the Minister in writing at least three months before implementing these proposals. It then went on to indicate that the Minister and the Government would have for the first time the power to direct a university not to implement a certain proposal, if the Minister was not satisfied with that proposal under certain criteria.

I know that you, Ms President, and other members in this Chamber who have had anything to do with universities share concern for the cherished independence of the universities; and all members sharing that view could not accept that provision in the Government legislation. Certainly, the Opposition could not have supported that proposition in the Government legislation. To his credit, after receiving significant lobbies from those affected and those who were contacted, the Minister introduced a Government amendment in another place during debate on the Bill last week. As I said, I credit the Minister for recognising the deficiencies in the original Bill introduced in another place.

A principal function of TEASA relates to accreditation of courses. As currently exist prior to the passage of this legislation in South Australia, there is in effect a continuum of assessment or accreditation procedures in our institutions in South Australia. At one end of that continuum we have the two universities which in effect are wholly self-assessing and self-accrediting, that is, if there is to be a proposal for a new course within a university, they go through all their own procedures in establishing the need for the course, its structure and the resource requirements. On the resource side, obviously they must go through Government funding applications, as well. The assessment and accreditation process is left completely within the bowels of the universities and, in effect, it is left to them to decide the course content of any new course that might be developed.

Coming through the continuum, then, we have the next bracket of institutions: the Institute of Technology, the South Australian College and Roseworthy College. All of those institutions, if they want to establish a new course, establish their own assessment committees. Those committees comprise persons from within the institution and persons external to the institution. They go through their assessment and accreditation procedures themselves. The South Australian Institute of Technology then forwards a one page sheet to TEASA. That sheet basically says, 'We have followed all the required accreditation procedures. It has gone through our institute council and we are now introducing a new course', and the course is then described. It is a little more restrictive for the South Australian College and Roseworthy.

While the South Australian College and Roseworthy have their own committees, they must send off to TEASA all the documentation so that it can look at the documentation considered when the course was developed. The Department of TAFE is at the other end of the continuum. For many of the courses in TAFE, TEASA is involved in establishing the assessment or accreditation committee itself and obviously it takes a much larger role in the accreditation procedure for some courses established within TAFE. TEASA has advised me that three institutions—the Institute of Technology, the South Australian College and Roseworthy—will all be (in their terms) completely self-assessing by the end of this year. In other words, by the end of this year the South Australian College and Roseworthy will have exactly the same procedures as already exist with the South Australian Institute of Technology: that is, they would have simply sent off a one page sheet to TEASA advising that the appropriate accreditation procedures had been adopted. At the moment, TEASA has an accreditation subcommittee comprising three members—two members of the authority and one staff member. TEASA registers the new award and forwards it to the Australian Council of Tertiary Awards (ACTA).

ACTA is actually the Commonwealth body that finally accredits the new award that might be offered in one of our institutions. That is a summation of the current situation in relation to assessment and accreditation within our institutions. As I indicated, it follows a continuum with the universities at one end and the Department of TAFE at the other end. One of the major features and changes of this legislation with the abolition of TEASA (which is the formal body that accredits within South Australia under the eyes of ACTA) is that something must replace it within South Australia. The Government Bill recommends that the Minister of Employment and Further Education be that person. I have personal reservations about a political figure such as the Minister of Employment and Further Education being that person. That is no criticism of the current Minister; I refer to the principle of a Minister being involved in this

way. I have been advised that all other States and Territories—with the exception of the ACT—have virtually independent bodies for accreditation within their States.

I note from some research taken out by the Parliamentary Library that in New South Wales, for example, the Higher Education Board's functions include advice to the Minister on the general planning of higher education in New South Wales and the assessing or accrediting of courses in advanced education in New South Wales. Evidently there has been an announcement of a review of that board in late November to report by 28 February 1987 on the effectiveness of the present structure. Perhaps there will be similar changes in New South Wales. The Parliamentary Library indicates to me that in Victoria there is an accreditation board and it was announced in late November there will be a committee of review chaired by Dr Don Anderson of the Australian National University.

In New South Wales and Victoria the situation exists where there is a virtually independent body accrediting but there are reviews going on. I guess there is always the possibility that the change we see in this Bill may flow through to other States. I suppose my concerns, in part, are based on the fact that in primary and secondary education in South Australia we have assiduously—unlike other States—kept the political figures (the Minister of the day) out of the question of curriculum and what is in essence taught in schools. I know that there would not be anyone in this Parliament who would want to change the situation where the Minister of the day (a political figure) would control the curriculum in primary and secondary education. I see a comparison here where, for the first time, we are saying in South Australia that we will have a political figure having the power and responsibility in a similar area such as tertiary education.

I repeat that it is no particular criticism of the Hon. Lynn Arnold, as the present Minister, or any criticism of the next Minister in a Liberal Government, but we cannot speak now of the attitudes of Ministers many years in the future. I considered an amendment to this provision and I looked in particular at the possibility of drafting an amendment which would place the accreditation power in an accreditation subcommittee of the advisory council. Frankly, however, there was not strong support for such a change from our institutions in South Australia: there was not strong opposition either, but they equivocated about the need for such a proposition.

I have expressed my reservations about the change and I hope they are misplaced. However, if there are to be problems in the future, I would give notice that I would certainly seek to reintroduce something like an accreditation subcommittee of the advisory council, taking it out of the hands of a Minister who might want to get his or her political fingers into the accreditation and development of new courses in our universities and colleges of advanced education in South Australia.

During the Committee stage I will introduce amendments to clauses 5 and 6 to at least go part of the way to covering some of my reservations about the matter I have just raised. I seek to amend clauses 5 and 6 to indicate that, if the Minister of the day took the unprecedented step of refusing to accredit a course under clause 5 that had gone through proper accreditation procedures and had received advice from the Office of Tertiary Education that it should be accredited, but for whatever reason the Minister of the day refused to accredit the course, the Minister would be required within a set period to table in both Houses of Parliament his or her reasons for so doing.

I think in that way at least there could be some public debate about an unprecedented action of a Minister to refuse to accredit a course that had followed all the proper procedures. It would enable members of Parliament in both Houses and the public at large to be able to see and then debate the reasons for a Minister taking such an unprecedented step.

Equally, under clause 6, where a Minister might direct an institution not to introduce a new course, I will seek to amend that clause also so that the Minister of the day once again would be required within a set period to set down his or her reasons for so doing in both Houses of Parliament. That would allow for parliamentary and public discussion of that decision or directive of the Minister. I hope that the Australian Democrats will give some favourable consideration to the amendments that we will be moving in the Committee stage of the Bill.

One matter which has not been discussed in the House of Assembly, or anywhere else, has been the effect of this Bill on any proposal to introduce a private university in South Australia. One of the hidden effects of this legislation is that it will place some restrictions on the possibility of private entrepreneurs establishing private institutions or universities in South Australia. In particular I want to refer to clauses 4 and 5 and place my views on the record with respect to their effects on this particular matter. Subclause 4 (1) states:

> Subject to subsection (5) an institution of tertiary education (other than a university) must not—
>
> *(a)* confer a degree in relation to any course;
>
> or
>
> *(b)* confer any academic award in relation to a prescribed course,
>
> unless the course is accredited by the Minister.

Clause 5 then goes on to give the procedure upon which a Minister could refuse to accredit a course, and we will be talking about that a little later. Subclause 4 (1) is the operative clause in relation to proposals to establish new institutions. At present, if Alan Bond or Robert Holmes a Court or anyone else wanted to establish a private university in South Australia there are, in essence, no restrictions at all. If a Bond university were to be established on Eyre Peninsula and it wanted to confer degrees in agricultural science and daylight saving or whatever on the West Coast, then it could do so.

The provision that has been introduced here means that, subject to subsection 5, an institution of tertiary education such as a Bond university must not confer a degree unless the course is accredited by the Minister. What this subclause is saying to us is that, if a Bond university wants to offer a degree in agricultural science on Eyre Peninsula, it can do so, but it can only do so if the course is accredited by the Minister of the day. Of course, Bond university can offer all sorts of other awards and call them whatever it wants and there would be no restriction on that. However, the attraction of a university and higher education in some other institutions is to get that bit of paper that says you have a degree in agricultural science or whatever your particular discipline might be.

In this indirect way this legislation will be introducing some restrictions on the possibility of private institutions or universities being established in South Australia. I indicate that I am not opposed to the proposition that is being put forward by the Minister in this regard. I think we must all accept that institutions like the Boston University (which was established some years ago off Port Lincoln) which offer degrees in any discipline you could want debase the currency. Clearly those of us interested in further education

would not want to support private universities and institutions along that line.

Equally, at this stage there is a possibility (as exists in many countries overseas) for many private universities of very high calibre that offer quality courses to students, and there should not be anything within this legislation which would prevent the possibility of that occurring should the Parliament and the Government of the day wish that to occur. I do not believe that the legislation we have before us will prevent that occurring. Whilst talking about private universities I want to read into the record the views of the Australian Vice Chancellors Committee. The press release of 29 September says:

> The Australian Vice Chancellors Committee (AVCC) is not opposed to the establishment of new universities, either public or private, but it believes it is essential that certain criteria are met before such universities proceed. The new AVCC Chairman, La Trobe University's Professor John Scott, said it should not be possible for anyone simply to establish an institution and call it a university or rename existing institutions as universities.

There is much debating going on in other States and certainly in South Australia at the moment in relation to the possibility of some of the institutes of technology being renamed universities of technology, and there is certainly discussion in this State and others in relation to those possibilities. The AVCC policy statement about the establishment of funding new universities says:

> Privately funded universities: the term 'university' should be used only if the institution meets certain standards of academic quality; there must be breadth and depth in course offerings; awards must meet national and international standards and satisfy the criteria prescribed by professional associations for recognition; and staffing, equipment and library resources must be of at least the same standard and level as that in publicly funded universities.
>
> The level of funding must be such that, in the short term, the institution can demonstrate that it has the depth and breadth of resources to maintain academic quality and that, in the longer term, it can guarantee it will not make calls on the public purse. The independence of any private institution termed a 'university' should be assured, preferably by its own Act of Parliament.

Particularly in relation to questions of standards and academic quality of private universities I certainly agree with the statements that have been made by the Australian Vice Chancellors Committee. Because of the unusual situation of not having the Minister in charge of the Bill in this Chamber, with the concurrence of the Minister handling the Bill I want to indicate in a general way, without breaching Standing Orders, some of the questions that I might well have raised in the Committee stage, so that the Minister can consult her advisers and bring back a reply so that we do not have to hold up the proceedings in the Parliament for any longer than we need to.

I will be raising some matters in the Committee stage but I will address them in a general way here, without being specific. First, in relation to clause 3, 'institution of tertiary education' means 'any body or person by whom tertiary education is provided'. I would like an indication from the Minister as to exactly what bodies other than our principal institutions in South Australia could be included under this provision.

I am advised that possibly the Australian Institute of Management, the College of Ministries, Lutheran Theological College, the Adelaide College of Divinity, possibly the Aboriginal Community College and possibly even the WEA may be bodies which most of us might not have thought of as institutions of tertiary education but, under this definition, would be included within the definition and then, of course, included in the legislation. Anyone reading the Bill ought to bear that factor in mind. I will be seeking from the Minister confirmation of those bodies, if that is correct, and any others of which the Minister may be aware. The definition of 'tertiary education' is as follows:

> Education, not being primary or secondary education, directed wholly or primarily at those who have completed their primary and secondary education or are above the age of compulsory school attendance.

Most of us, I think, are probably aware of what we thought tertiary education was, but in this Bill I think there are some possible problems, and I would be looking for a response from the Minister. The Department of TAFE provides, through the Correspondence School, to students year 12 secondary school subjects, so that we have the Department of TAFE, a principal institution of tertiary education, offering secondary school courses to students through the Correspondence School.

I believe that that possibly creates some problems for this legislation. Clause 6 (1) *(a)* says that TAFE must inform the Minister in writing of a proposal to introduce a new course. 'Course' is defined to mean a course of tertiary education leading to an academic award; the inference from that is, obviously, further or tertiary education. If one looks at the definitions of 'tertiary education' and 'course' and if one contrasts them with clause 6 (1) *(a)*, it would appear that the Minister might not have the power to refuse TAFE the authority to go into secondary education in any greater degree than it might currently be engaged in. I am advised at the moment that the reverse is probably the case; that TAFE is trying to get out of some of its secondary school arrangements, but that may not necessarily always be the case. I will be seeking a response from the Minister as to whether, under the definitions and under clause 6 (1) *(a)*, the Minister believes that there is the power that he would currently require in relation to TAFE introducing courses in secondary schools, as it does for year 12 through the Correspondence School.

I referred to clause 4 (1) *(b)* earlier; it talks about conferring any academic award in relation to a prescribed course. I seek an explanation from the Minister as to exactly what is envisaged under that subclause, so that we can address it sensibly in the Committee stage. Upon reading clause 4 (2), I cannot see the reason or explanation for having clause 4 (2) at all, and I would have thought that, if clause 4 (1) was redrafted so that it said 'subject to section 4 and section 5', as currently drafted clause 4 (1) would already cover what is recommended to be covered under 4 (2). If my understanding of that is wrong, I would be interested to know exactly what in addition is covered by 4 (2). I will be seeking a response from the Minister on my interpretation of clause 4 (3), that the institutions such as the Institute of Technology, South Australian College, Roseworthy—and the Department of TAFE, of course—would not be able to be penalised for contravening clause 4: that is, the only bodies that could be penalised by a fine of $1 000 would be those institutions to which I referred earlier, such as the Adelaide College of Divinity, the Aboriginal Community College, etc., and possibly any new private university, but that the existing institutions such as the Institute of Technology could not be penalised under the current drafting of 4 (3); if that is the case, whether that was what was sought and, if it is not, what sort of amendment we ought to be looking at.

Clause 4 (4) to me is a complete mystery, and I seek an explanation from the Minister as to what courses currently being offered by principal institutions of tertiary education of one year or less offer a degree in South Australia. I would seek an explanation from the Minister in relation to clause 4 (5) as to what the circumstance is in relation to courses and awards approved by the Industrial and Commercial Training Commission under the new legislation. I under-

stand that some of the awards offered by the ICTC currently are voluntarily processed through TEASA and registered and accredited.

If that is the case, I will seek a response from the Minister as to what those courses and awards are and whether it is envisaged that that arrangement will continue. I have indicated my views on clause 5 and have referred to the amendments that I will move. In relation to clause 6, I have indicated some of my amendments. Particularly in relation to subclause (1) *(b)*, I will seek from the Minister an explanation of what 'all other proposals of a kind or kinds prescribed by regulation' is envisaged to cover. It has been suggested to me that perhaps this is referring to when a college might be seeking to abolish a certain course within a college. If that is the case, and if that is all that is envisaged, why not just indicate that in legislation, rather than having such an all-encompassing proposition? I shall seek a response from the Minister on that matter, and subject to that response I might seek to amend clause 6 (1) *(b)* to limit it to the way as has been suggested to me it was envisaged that that provision would operate.

Subclauses (2) and (3) use the phrase 'the institution', and subclause (3) provides that 'the Minister may direct the institution . . .'. To assist understanding, I think the drafting should refer to the 'principal institution of tertiary education', to distinguish it from the other definition, namely, 'institution of tertiary education'. This particularly relates to subclause (5). Principal institutions of tertiary education are referred to elsewhere, that is, our universities and colleges, but all of a sudden subclause (5) refers to 'institution of tertiary education', that is, bodies like the Aboriginal Community College and the Adelaide College of Divinity. Suddenly, within one clause we seem to have moved from the principal institutions to the other definition of institutions of tertiary education. The Minister and his advisers ought to look at the drafting of clause 6, and provide me with a response as to why it should be drafted in this way. If an adequate reason is not provided I indicate my intention to amend subclauses (2), (3) and (5) to refer only to a 'principal institution of tertiary education'.

I shall seek an explanation from the Minister in relation to clause 6 (3), which provides that the Minister may direct a certain proposition not to go ahead if the Minister is satisfied that the proposal:

(d) would, for any other reason, be contrary to the public interest.

This public interest provision is extraordinarily wide. The others are quite sensible, referring to standards and efficient planning and efficient use of resources. However, all of a sudden we have this catch-all provision in *(d)* which refers to 'public interest', which really can mean anything in my view, and I will seek from the Minister some sort of indication how he envisages that this proposition will be interpreted. It should be remembered that this clause for the first time will give the Minister of the day very important powers in relation to refusing to allow institutions to go ahead with certain courses.

In relation to clause 8, the Minister will be able to appoint nine members to the new Advisory Council on Tertiary Education. This advisory council will replace the South Australian Council on Technical and Further Education (SACOTAFE). The Opposition supports this proposition. However, it has been put to me that a problem that we have at the moment in relation to tertiary education concerns the passing of students from secondary schools through to tertiary education. There has already been some vigorous and rigorous debate between TAFE and the Education Department as to the interface between those two organisations. I think it would be quite sensible if one of these nine persons, together perhaps with a member representing rural interests or women, or whatever the other provisions are under this clause, could bring with them the expertise of secondary school interests and some knowledge of the interface from the Education Department's side of the relationship between the Education Department and tertiary education.

Whilst I suppose the Minister cannot give a commitment on this matter, I would be interested in a response from the Minister as to the possibility of that provision being encompassed. I recollect now that this proposition was put to me by the President of the Secondary Principals Association of South Australia, Mr Thorpe. I think it is a very sensible proposition and one that deserves consideration by the Minister. I indicate that I will seek to amend clause 11, to set down a time within which the Minister must cause a copy of the report of the operation of this legislation to be tabled in both Houses of Parliament.

I am sorry to have taken a little longer during the second reading debate to outline these views, but I think it will assist the passage of the Bill in that it will give the Minister in charge of the Bill here an opportunity to take back my comments to the Minister in the other place and his advisers. This should hasten the passage of the Bill through the Committee stage, and I will not have to delay the Committee to any great degree at all. With those words, I indicate my support and that of the Opposition for the second reading.

The Hon. R.J. RITSON: I support the second reading. I congratulate the Hon. Mr Lucas on the amount of work and preparation that he has done and for his sympathetic understanding of the Bill. It demonstrates very clearly what an asset he is to this Parliament. I want to comment on a couple of points. First, I support the Hon. Mr Lucas in his expression of concern about the general interference that this Bill will make possible—and I refer to interference with universities, which have survived many decades of glorious history without such interference, and I wonder what it makes it now necessary. I do wonder about the hidden agenda: the question of private universities. It is a matter that is just beneath the surface. The controls in this Bill could be used as a statutory stumbling block to the establishment of such universities. It is useful, therefore, to canvass briefly some of the arguments that have been raised for and against the question of permitting private universities.

Some people have an ideological objection to privatised tertiary education, intimating that it smacks of class and may indeed offend the socialist conscience which does, after all, desire the socialist objective of State education entirely, with no private education whatsoever. But leaving that aside, the remaining arguments devolve down to the share of the cake argument and the unmet demand argument. Whilst it may be said that a private university should have little to do with the taxpayer, since it would be charging cost recovery fees, nevertheless, a number of university dons have expressed the fear that a university may start off in this position, then find itself in financial difficulties, and go to the Government seeking assistance, claiming assistance perhaps as of right, along similar lines to the assistance given to the existing Government universities.

That cause of concern is that it may affect the taxpayer and the share of the cake available to the existing universities. On the other hand, a great demand for tertiary education is unmet, hence the quota system. Every year in Australia thousands, and perhaps tens of thousands, of

young people cannot gain admission to a university, even though a large number of them probably would have the intellect to complete tertiary education in some form or other at one of the universities.

I believe that education is an enormous asset to any society. In the past, when tertiary education was much harder to come by and when our society was racked by depression and war, many people very successfully made their way in life without university education, but I think that it is still generally true that the more people who can have the benefit of such education, the richer our society will be and the better will be its forms of government and communication. I do not think that we can ignore the unmet demand. I hope that this Bill is not a wolf in sheep's clothing or a device by the Government to give it the power to ensure that there will never be any private tertiary institution, regardless of the quantity of unmet demand for the educational services of such an institution.

Finally, in relation to the question of the definitions of 'tertiary institutions', 'tertiary education' and 'academic awards', as I read them they tend to lean on each other for support. I think that a wide variety of courses of instruction which may be carried out by industries, businesses, seminaries and theological colleges would fall within the definition of the Bill. I hope that the Government does not intend to give or to withhold approval of an award for studies in a course in theology at, say, St Francis Xavier's Seminary, or to give or to withhold approval for an award of merit in a course of education conducted by an insurance company or some other business. I ask that the Minister comment during the Committee stage on those definitions, because I have been approached by constituents who are concerned that the Bill may reach these other matters. Some reassurance in that direction would not go astray. With those remarks, I commend the Bill to the Council and I will support the amendments proposed by the Hon. Mr Lucas.

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

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 4)

Adjourned debate on second reading.

(Continued from 27 November. Page 2425.)

The Hon. I. GILFILLAN: I do not intend to canvass all the issues that are raised in the Bill. We support the Bill which we consider to be constructive and which tidies up some gaps and improves the workability of the revamped Local Government Act. Initially, I proposed to file an amendment to provide that a longer period of time apply between the actual closing of the roll and when the nominations opened. I have since decided not to proceed with that amendment. The reason for the original requirement to extend the period was that the Adelaide City Council, in particular, indicated in a letter to the Minister its concern that it had inadequate time to properly complete the rolls and then prepare for an election. That is a very valid concern by the Adelaide City Council, and I am told that other councils share a similar problem. As a result, I drafted an amendment which was identical to the one which is on file from the Hon. Diana Laidlaw.

That amendment related to clause 8, but I have had a discussion with the Chief Executive Officer of the Adelaide City Council. I put it to him that the Electoral Commissioner indicated that he could make the computer roll available to the council within 24 hours of the close of the roll and that could give the council an extra six days to prepare for an election. The Chief Executive Officer said that he would prefer it to be stated in the Bill and therefore would have preferred my original draft amendment. Ms Laidlaw now has that amendment on file. However, I understand from the Minister's comments that she will be sensitive to the way in which councils deal with this and the problems that may arise from the quick availability of the computer information, so I will not proceed with my amendment.

Also, I am not prepared to support such an amendment at this stage. I believe that the virtual immediate release of details from the Electoral Commissioner deserves a trial for at least one election. My second amendment is in sympathy with that on file from the Hon. Murray Hill in that, where there is a commission recommendation for councils to be amalgamated, there should be a poll. There are several reasons for that: first, the Local Government Association at its annual general meeting passed a motion, albeit with a relatively small number of people voting in its favour. There were quite a lot of abstentions, but the motion was carried that the process of some amalgamation should be qualified by the result of a council poll. The proposed amendment by the Hon. Murray Hill indicates that any council that was the subject of a proposed amalgamation could call for a poll of its electors and that, if that poll were unfavourable to the amalgamation, that would be the end of the matter.

We believe there is a very good argument that the poll or referendum of electors in an area which is subject to amalgamation should be accepted as a valid opinion on that matter; but we feel that it should be available to all those electors who would be subject to the amalgamation—not just a group who may live in one particular council area. So my amendment on file actually embraces the expansion so that, if a council in an area proposed for amalgamation sees fit to put it to a referendum, it would automatically involve all the electors in the proposed area. We believe that that will safeguard against the risk of a small or smaller area being subject to a highly emotive campaign and therefore frustrating what easily could be a very sensible amalgamation and development of local government.

The Hon. C.M. Hill: A separate poll in each council area.

The Hon. I. GILFILLAN: It would be run separately, but it would be a total of all those voting. It would be run separately and contemporaneously; so it would be run on the same day.

The Hon. C.M. Hill: You could have one council area in favour and another area against. It is a question of aggregation.

The Hon. I. GILFILLAN: Yes, the interjection is an intelligent one. The actual method of conducting the referendum would be left to the individual councils, but it would be conducted on the same day. Although the voting returns would be tallied individually for each council, it would be a totalling of the votes in both council areas. So the majority vote for the total area would be the effective voice of the people in a referendum. That is an extension of the actual material dealt with in the Bill. Therefore, both the Hon. Murray Hill and I will need to seek suspension of Standing Orders for this to be dealt with. I am sure the Hon. Murray Hill recognises (as I do) that it is quite a significant increment to the other contents of the Bill. I sympathise with the Minister in having this extension included in what she intended to be the general contents of the Bill.

I believe that it is a very important right that local government electors do not have decisions arbitrarily imposed on them from above, if you like, and that the referendum in this case would not be subject (and should have its own inbuilt counterbalances) to any campaign based purely on a local hysterical and emotional argument. If it has done its work properly, the commission would have substantial argument in favour of any proposed amalgamation, anyway, and would have the opportunity (and I hope would use it) to ask the local press to make it well known and, in fact, to campaign for its point of view. I see no reason to suggest that it should be spared that. I indicate our support for the second reading of the Bill. We will be looking for some discussion and debate in the Committee stage on the proposal on file from both the Hon. Murray Hill and me.

The Hon. BARBARA WIESE (Minister of Local Government): I thank honourable members for their contribution to this debate; and I thank members for the general expressions of support indicated for the Bill. However, I note that there are a number of amendments on file. Before going into Committee, I will address some of the issues and questions raised by a number of members during the debate so that they can be more fully informed about the provisions contained in the Bill. I will leave any responses to particular amendments until we reach the Committee stage.

First, I will deal with two matters raised by the Hon. Mr Hill during his second reading contribution. He asked questions about the amendments contained in clauses 26 and 27. These clauses enable councils to declare public pathways and walkways as public roads and to allow only part of a street, road or public place to be closed by resolution of a council. The Hon. Mr Hill sought further information as to why this amendment was necessary. I point out that the amendments in clauses 26 and 27 are quite separate; they are in no way related.

The amendment in clause 26 is intended to overcome any administrative difficulties that have arisen recently. As the Hon. Mr Hill would be aware, in the past councils have adopted the practice of declaring pathways and walkways as public roads for the purpose of invoking the Roads (Opening and Closing) Act to effect their closure usually after complaints have been received from local residents about nuisance by vandalism, noise or matters of that nature. Recently the City of Marion received legal advice that it could not continue to declare walkways as public roads for the purpose of invoking the provisions of the Roads (Opening and Closing) Act. That advice has been subsequently confirmed by the Crown Solicitor. So we now have a situation where the Surveyor-General and the Registrar-General are unable to process any further applications to close walkways in these circumstances. Therefore, this amendment is included in the Bill to make it quite clear that this provision can be enacted so that councils can continue to close walkways in these circumstances.

The amendment contained in clause 22 is also to overcome any legal doubt that there might be as to whether a council can close only portion of a road for such things as street parties. This has been raised in the same context as the first amendment. I hope that satisfies the queries raised by the Hon. Mr Hill.

The Hon. Jamie Irwin also raised a number of matters in his contribution, and I will deal with those, as well. First, he referred to those clauses of the Bill relating to the provision for postal ballots for some councils during council elections. He was interested to know who would define the areas which would be permitted to conduct postal ballots, how that procedure would be conducted and how small the areas would be. Clause 15 of the Bill provides that the application to use postal voting must come from the council affected. Effect will be given to the council's application by the issue of a proclamation by the Governor defining the area or the ward which is the subject of the application; and the proclamation may apply to a ward or wards in a council area or the whole area. In other words, the proclamation must apply to the whole of an electoral unit. In considering any application from a council regard must be had to such factors as the size of the council, the geographical configuration and the sparseness of settlement.

I think that that should satisfy the queries raised by the Hon. Mr Irwin concerning that question. He also raised questions concerning the provisions to strike the names of voters from the roll. He expressed concern about the extent of the power to be vested in the chief executive officers. This power will only be exercisable in relation to persons enrolled under section 91 (1) *(a)* (ii)—that is, those persons who are enrolled on the voters roll by reason of residence in the area but who are not on the House of Assembly roll and not the sole owner or occupier of rateable property.

Principally the persons enrolled under this clause are those persons who do not have Australian citizenship. At present they complete an enrolment form and forward it to the chief executive officer in a council area but there is no requirement for them to notify the chief executive officer if they leave that address or for the chief executive officer to remove their names from the roll after they have moved away. It is important to recognize that the chief executive officer will not have the power to remove the names of people who are enrolled because they are on the State electoral roll or because they are ratepayers.

The Hon. Mr Irwin was also interested to know whether the alteration to the closing date of voters rolls would result in additional costs being borne by councils. The short answer to that question is, no. The amendment contained in this Bill results from requests from councils to ensure that the revision of the voters roll is completed before the nomination of candidates commences so that the validity of nominations can be quickly checked against the roll, so there is no extra cost to councils by the enactment of this provision.

The Hon. Mr Irwin also asked why we were requiring that candidates be supplied with details of electoral offences. This provision has been included because the election review working party received submissions from various people that candidates not experienced in using the Local Government Act because of its size found it difficult to identify the electoral offence provisions. The working party was also told that in areas where, as a matter of practice, the returning officer provided a copy of these provisions of the legislation, that the incidence of complaints alleging the commission of electoral offences was less and therefore the working party recommended that all candidates should be given copies of these provisions of the Act so that they would be fully informed at the time that they nominated for council elections.

The Hon. Mr Irwin also asked what was envisaged in terms of the use of electronic counting equipment. I point out here that the object of the amendment is to provide the opportunity for councils to introduce new technology into local government elections. Although this has not occurred anywhere in South Australia yet, there are some councils who have expressed interest in using electronic data processing equipment to count votes.

I guess there are two possible ways for making use of such equipment: first, it would be possible to key in the information from ballot papers with the computer process-

ing and the preferences could then be determined by that method. In addition, the voter could cast his or her vote on a treated marked sense card which is passed through a scanner during the count and the information read from the ballot paper and processed.

The Bill would enable the making of regulations to govern the use of such equipment should any particular council decide to introduce such technology in their own local government elections. As I say, although no council has actually moved on this issue yet, there are certainly some councils which have expressed an interest in doing so. I believe that some of this equipment is used in local government elections in Western Australia. What we are really doing is making a provision in advance of the need for such equipment.

The final point raised by the Hon. Mr Irwin related to the roads amendments, which were contained in the Bill, and he asked why they were being included with this Bill when they really bear no relationship to the electoral provisions which are the main subject of the Bill. I simply reply by saying that these are issues which have been raised by councils; they have emerged recently as administrative difficulties that they are facing; and it is important that these matters should be cleared up as quickly as possible for the convenience of councils. Therefore, it seemed convenient for these matters to be included in this Bill. I might point out that it is a fairly common practice when Bills are being opened up for issues that are not the main topic of the Bill to be included in such amending Bills for the sake of convenience.

On that point I would just add that the amendments which have been placed on file by the Hon. Mr Hill and the Hon. Mr Gilfillan would fall into this category. Those amendments do not relate to the topic of this Bill but the opportunity is being taken by those two members to raise those issues in relation to this legislation at this time.

The Hon. Mr Lucas raised a couple of matters concerning the electoral provisions in the Bill. First, he asked whether the effect of the amendments contained in clause 13 was only to remove the gender reference and therefore will have no effect on the operation of either counting system. I would like to indicate to the Hon. Mr Lucas that his interpretation of that clause is correct. The only effect of the amendment is to remove the gender difference.

The second issue raised by the Hon. Mr Lucas also related to clause 13 and the merit of that clause providing that a tick or a cross shall be accepted as a first preference vote. The Hon. Mr Lucas expressed concern that the acceptance of a cross, in particular, may lead to a number of votes which would otherwise be formal being invalidated; for example, where a voter allocated a first preference using the figure 1 and then placed a cross in all subsequent squares opposite the names of each of the other candidates to indicate they did not support those candidates.

This amendment arose from the report of the election review working party which received a number of submissions expressing concern that there was no clear direction as to whether a tick or a cross should be accepted as an indication of a voter's first preference. The concern arose because, prior to the 1985 council elections in South Australia, elections had previously been conducted using a system whereby the voter placed a cross in the square opposite the name of the candidate of his or her first preference. At the 1985 council elections, despite the fairly extensive public education program that was conducted at that time, a few voters still used a cross in particular.

Some returning officers accepted the cross as a valid vote and some returning officers did not. The working party took the view that there was certainly a need for consistency in the application of the Act and, for that reason, recommended that the precedent which has been set by section 76 (3) of the State Electoral Act should be invoked in the interests of uniformity. They therefore recommended that a tick or a cross be accepted as a first preference vote. So, I expect, with an amendment like this being enacted prior to the 1987 council elections, some ballot papers which were rejected as informal votes in 1985 would be admitted in 1987, but I stress that the numbers of ballot papers we are talking about overall are really very small.

The Hon. Mr Elliott also made a contribution during this debate, and raised a couple of issues. He referred to clause 7, and I would like to confirm that his interpretation of that clause was correct, in that the amendment contained in this Bill will ensure that a person nominated as an agent on behalf of a property has a direct interest in the property in respect of which the person is exercising the voting rights.

The second matter raised by the Hon. Mr Elliott, whereby a person obtains more than one vote because of their interest in a number of proprietary companies, or by being a member of several groups of owners and occupiers, is an issue which has been debated at some length for some years. It really is a problem which is inherent in a property franchise. I do not think that it can be addressed by simply limiting any person to a maximum of one vote in their own right and as a nominated agent without the accusation that this person or that company or group of persons are being disfranchised by that move.

So, it is an issue which I think will continue to be the subject of debate for some time before it is actually addressed by the Parliament. I note that the Hon. Mr Elliott was not intending to move an amendment with respect to this matter. Finally, I would like to address the remarks made this evening by the Hon. Mr Gilfillan. I would like to confirm the statements that he made concerning the City of Adelaide request for a longer period of time during which to prepare the rolls prior to council elections.

My officers contacted the Electoral Commissioner at my request to explore the possibilities of making available the computer tape for electoral rolls to councils like the Adelaide City Council in advance of the hard copy of the electoral roll, which would normally be sent to councils within seven days of the closing of the roll. The Electoral Commissioner has indicated that he would be prepared to make the computer tape available to the Adelaide City Council, and he would anticipate that that could occur within 24 hours of the closing of the roll.

I think, therefore, that the concern which has been expressed by the Adelaide City Council, that they have not had sufficient time to prepare the rolls for the election, will be overcome, because there should be a clear six days for them to work on marrying the two rolls that they have to prepare prior to an election. As I understand it, the Adelaide City Council is satisfied with that arrangement and I think it will find that it will solve the problems that they experienced during the period leading up to the 1985 council elections.

I would point out also that the Government will be conducting another review of the electoral provisions of the Local Government Act following the 1987 council elections and, if it appears at that time that some of these difficulties which have been raised by the Adelaide City Council are still being experienced, then most certainly I would be prepared to look at that issue again. However, I feel that the arrangements now being made by the Electoral Commissioner to provide access to electoral roll provisions earlier than was the case last year will overcome the problems that

have been raised. As I said, I will leave my arguments concerning particular amendments which will be moved by various members until the Committee stage.

Bill read a second time.

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

That it be an instruction to the Committee of the whole Council on the Bill that it have power to consider a new clause dealing with a citizens poll being conducted at the time of proposed amalgamations of councils.

Motion carried.

The Hon. I. GILFILLAN: I move:

That it be an instruction to the Committee of the whole Council on the Bill that it have power to consider a new clause dealing with a citizens poll being conducted at the time of proposed amalgamations of councils.

Motion carried.

In Committee.

Clauses 1 to 3 passed.

New clause 3a—'Insertion of new section 29a.'

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

Page 1, after line 18—Insert new clause as follows:

3a. The following section is inserted after section 29 of the principal Act:

29a. (1) If in a report to the Minister under Division X the commission recommends that two or more councils be amalgamated—

(a) the Minister must immediately notify the councils?

(b) the recommendation must not be referred to the Governor for the making of a proclamation under this part for at least two months after the notification is given; and

(c) during those two months a council to which the proposal relates may notify the Minister that it has resolved that the recommendation should be submitted to a poll of the elctors for its area.

(2) If a council gives notice to the Minister under subsection (1) in relation to a recommendation of the Commission—

(a) the council must hold the poll within six weeks of the giving of the notice; and

(b) the recommendation may not be submitted to the Governor for the making of a proclamation, unless a majority of the electors voting at the poll vote in favour of the proposed amalgamation.

I briefly reiterate the point I made in the earlier debate on this matter, that the fundamental principle in local government must prevail: that local people directly affected by amalgamations should have the democratic right to exercise their voice through the ballot box as to whether their local council should be amalgamated with a neighbouring council or not. It is really not a matter for Government at State level to decide. The final decision should be with the people out there in the respective local council areas.

The State Government has tried to distance itself from this major issue of amalgamations through the vehicle of the Local Government Advisory Commission but, as the Bill stands, after that commission has dealt with the matter it goes to the Minister and thenceforth a proclamation can follow, implemented indeed by the Government at State level, and those people out there in the council areas involved wake up next morning to find that their local council area has been amalgamated with another—and I suggest that that is wrong. I submit that the time has now come for local government throughout South Australia to accept this principle. I mentioned earlier the Victorian situation; the Victorian State Government tried to impose amalgamations on local government but there was tremendous resistance to the proposal by people, and it became so strong that the Government withdrew from the whole plan.

In my view, there is a groundswell of public opinion, not only in this State but throughout Australia, and especially in country areas, that this procedure should apply, so that the people involved have the final say as to whether or not their council is amalgamated with another council. As we all know, some of these council areas are very historic. In South Australia some councils have been in existence for over 100 years. Often, many local families have contributed service to councils and so forth and indeed their councils have become part of the local country heritage, serving them at council level. In my view, we should respect the wishes of people to at least have the final say.

There is also the very real factor applying today that financial constraints are such that some local government communities may not be able to continue. This is a very bitter pill for some local people to swallow. I would be the first to admit that, but the people should still have the right, through the ballot box, to say whether a council should be amalgamated due to financial considerations or whether a council should be given the chance to battle on for a few more years to see whether it can make ends meet.

Obviously, the groundswell, to which I referred, is apparent in rural areas now and it is beginning to become noticeable in urban areas as well. It is beginning to filter through to metropolitan Adelaide, for example. For instance, some people are saying that St Peters ought to amalgamate with Payneham or that Kensington and Norwood should amalgamate with Burnside. So, because of that movement of thought in urban Adelaide I think the Parliament would be forward looking in providing the necessary machinery that ultimately gives the people involved the final say, by means of a poll, as suggested in my amendment. In other words, we should be ahead of the problem; we should be ahead of the emotion which is now quite rife in many council areas, where people fear for the worst and are very critical of the State Government. I think some of this criticism would be alleviated if they knew that they had this opportunity of voting at their own local poll before an amalgamation was imposed on them. So, I think this is preparing a fundamental framework within which the citizens of South Australia at grassroots level can decide the destiny of their local government.

I do not want to play on the point too much but I must stress that, in areas where the advisory commission has held its hearings, emotions are running very high, and with this Bill now before Parliament it is time to do something to assist those people. It will not necessarily prevent amalgamations, but it will assist people to have a say as to whether or not amalgamations should take place. The answer lies in this very simple amendment. The amendment simply indicates that when the commission recommends to the Minister that two or more councils be amalgamated the Minister must immediately notify the councils. Further, a recommendation by the Government to the Governor for the making of a proclamation to amalgamate cannot take place within the following two months, and during that two month period a council to which the proposal relates may notify the Minister that it has resolved that the recommendation should be submitted to a poll of electors in the area. I stress here that my amendment is slightly different from the Hon. Mr Gilfillan's.

Under my proposal, any one council so affected by such a proposal could indicate that it requires a poll on the question within its specific local government area. My amendment further stipulates that a council must hold a poll within six weeks of having given notice, and then if a simple majority of electors favour amalgamation the Minister would proceed with proclamation in the ordinary way, but if the voters in a council area reject the amalgamation proposal, under this proposal, the Minister would not have the right to proceed with a proclamation to amalgamate.

So, that is the proposal. I think it is in the best interest of local government. It indicates to people in the various local government areas, especially in the far flung areas that at this time, when they are under threat, we do respect their democratic rights within the community and that we are prepared to give them that final chance to go to the ballot box and cast their vote as to whether or not they wish to be part of a proposed amalgamation.

The Hon. I. GILFILLAN: Madam Chairperson, is it appropriate for me to debate both the amendments at this stage?

The CHAIRPERSON: Yes it is.

The Hon. I. GILFILLAN: I would like to congratulate that doughty and famous democrat, the Hon. Murray Hill, for once again moving vigorously towards giving the little people a chance to have a say in their affairs—and I think it is a great credit to him. He has recognised that decisions of this nature should not be imposed arbitrarily from above, with no question to be asked by those who are most vitally concerned.

I think that he, along with anyone who is prepared to listen and think about this matter, would agree that councils, in the areas that are most susceptible to amalgamation (and I happen to live in one), are very sensitive and subject to a quickfire emotional reaction that is largely based on fear of being overwhelmed by a larger entity. That is where I see the awkwardness in the amendment as proposed by the Hon. Murray Hill. If the poll is to be initiated in and confined to the area that feels most at risk, it will virtually determine that no amalgamations (other than those few that do not have any area of concern about amalgamation) will come to fruition.

It is important for the growing stature and effectiveness of local government that rational amalgamation should occur. There may be bruised identities and at times some dilution of a sense of locality, but the increasing influence and effectiveness of local government is a very strong force. The third tier of government may very well grow in time to compete, dare I say, with the second tier and that may not be a bad thing. One of the major steps towards achieving that outcome will be rational amalgamation, bigger entities, and bigger areas on which the economies can be based and the decisions can be made in a wider framework than occurs in certain restrictive areas.

The Hon. Diana Laidlaw interjecting:

The Hon. I. GILFILLAN: 'Regional government' is a good phrase for it.

The Hon. J.C. Irwin interjecting:

The Hon. I. GILFILLAN: The question is raised as to what is 'local' and what is 'regional'. I think that if local government is not regional, it is a fracture of what is in fact one entity. Kangaroo Island is a classic case. I risk being lynched, because my general remarks in this context could in fact exile me from the Dudley Peninsula and I feel certain that these remarks will be relayed to my previous friends there. Kangaroo Island is a region; it is a unit. I have said for some time (so I suppose this is not a completely new revelation) that it really ought to be one local government area. If that were left to the whims of the amendment as proposed by the Hon. Murray Hill, it would never come into effect, because the Dudley Peninsula and the Dudley council area will always be vulnerable to the very simple argument that such a course of action could mean that they would be overwhelmed, that their rates would rise and that they would be the losers.

I have on file an amendment which to a certain extent overcomes that problem. It means that the whole of the area affected would be obliged to take part in a referendum if one or more councils in the proposed amalgamation area were concerned and wished to have it put to a referendum. In my opinion, that would counterbalance this particular localised emotive reaction. If it is to be put to a ballot, I think that the argument for democracy so eloquently proposed by the Hon. Murray Hill should be extended to all those people who will be affected because, for better or worse, all electors in the proposed amalgamation area will be affected if the change produces a wider area of economic and social interests.

I support the initiative of the Hon. Murray Hill and I am grateful to him for bringing the attention of the committee to the matter but, because I think that it would be more effective in the form that I have proposed, I intend to oppose his amendment, and I seek support for my amendment.

The Hon. BARBARA WIESE: The Government opposes the amendment moved by the Hon. Mr Hill, and also the amendment moved by the Hon. Mr Gilfillan. I think that both amendments are unnecessary and that it is premature for us to reconsider a system that we instigated in this Parliament only two years ago to consider the issue of amalgamation. An amalgamation of substance has not yet emerged from the work of the Local Government Advisory Commission, but that is about to happen because a number of proposals of substance are now being dealt with by the commission. It seems to be quite premature to open this issue for debate again when all of these questions relating to the best method of dealing with amalgamation were debated in this place only two years ago. We settled on a system which has not yet been tested and now the Hon. Mr Hill and the Hon. Mr Gilfillan want again to open the question and introduce another variation. They want to return to a system which partly existed in this State prior to 1984 and which was largely responsible for a change occurring in the first place.

I remind members that one of the reasons why amalgamations did not take place prior to 1984 was that the poll arrangements that were contained in the old legislation were used by some people to frustrate the process of amalgamation, and nobody should be more aware of that than the Hon. Mr Hill because, in an attempt to overcome the difficulties which were created by the use of polls, he introduced the select committee system for dealing with the question of amalgamation. He did that as a very deliberate policy because he recognised that it was important to remove emotion from the considerations that must take place when deciding on whether or not amalgamations should occur.

He knows that very often arguments are put forward by people who, in many cases, are too close to the situation and the real issues are clouded when the question of amalgamation is being considered. He knows, too, that the poll provisions that existed in the legislation were very often used to frustrate the move towards amalgamation when it was considered that it was proper and reasonable for that to occur. The highly charged and emotional atmosphere that existed at the local level very often prevented that from happening.

For that reason, we gave birth to a new system which established an independent commission to deal with the issues of amalgamation quietly, calmly, and rationally and removed it from the considerations that might be introduced by people who wanted to frustrate the process. The very important ingredient contained in this new process is that every citizen in a local community has the right to appear before the commission and to put his or her point of view about the issue of amalgamation and what is right and proper for the local area.

Another provision contained in this legislation which did not exist before is that public hearings are conducted to consider questions that are raised by local people. So everyone can be present if they so wish to hear the arguments put for and against amalgamation.

The Hon. I. Gilfillan: The amendments don't change that.

The Hon. BARBARA WIESE: No, they do not change that. I suggest, however, that we now have in place a very reasonable and appropriate system for dealing with the question of amalgamation. What is being introduced by the Hon. Mr Gilfillan and the Hon. Mr Hill is a return to a system that was universally regarded as inadequate. As I have indicated, the new system has been in place now for only two years. We have not had adequate time to test its effectiveness. However, it is my view that the commission will prove that it is a very effective means for dealing with the issue of amalgamation.

If I were forced to choose between the two amendments, I must say that the Hon. Mr Gilfillan's amendment is to be preferred over the Hon. Mr Hill's amendment. I think the Hon. Mr Hill's amendment is quite undemocratic in the sense that it would allow a minority of people in a local area to overrule the wishes of the majority. That seems to me to be quite inappropriate. There are some proposals before the commission at the moment which involve a number of councils: for example, there is one proposal which covers four council areas. Three of those areas currently agree with the idea of amalgamation and one does not. Under the Hon. Mr Hill's amendment that one area would be able to overrule the wishes of the majority of people in that region. I think that is quite undemocratic.

I also refer to another remark made by the Hon. Mr Hill when he suggested that under the current scheme local people will wake up one morning and suddenly discover that their council has been amalgamated. The Hon. Mr Hill knows that that is just nonsense. It does not happen that way at all. The Hon. Mr Hill knows what the procedure is. The procedure is that a council will make a proposal for amalgamation; it is then referred to the Minister; and the Minister refers it to the commission which must then advertise the details of the proposal locally so that people have an opportunity to understand what is being proposed for their local area. Residents then have an opportunity to put forward submissions.

During the course of the hearings, every citizen in the local area may put forward a point of view. Because it is a matter of great local concern (and I fully appreciate the sensitivity of the issue of amalgamation) the local press covers the issues with great interest.

The fine details of all debates relating to amalgamation are reported in the local press for all to read. So, everyone in the local community would know about the proposal for amalgamation and everyone would be able to get involved. Once a recommendation is made by the commission to the Minister and then acted on one way or the other by the Minister, everyone would know about that, too. So to suggest that these things are somehow done in secret behind closed doors is as far from the truth as one can possibly move. I do not think that it is a reasonable proposition.

Finally, I will address the question of the views of the Local Government Association on this issue. I know that that has strongly influenced the Hon. Mr Gilfillan and the Hon. Mr Hill in relation to their amendments. I appreciate their concern to represent the views of the Local Government Association. I point out to members that there is considerable division within the Local Government Association on this question. This issue was debated at the annual general meeting of the association some weeks ago. I was present for that debate. I report to the Committee that the motion concerning this issue was carried by 49 votes to 40 votes. That is a very small margin and it represents 89 councils out of 125 councils in South Australia. There were a number of abstentions on this issue.

It is very clear that there are very strong opinions on both sides of this argument within the Local Government Association. I ask members to consider that when voting on this matter. Finally, this issue which has been raised by members is a new issue. It is not relevant to the main substance of the Bill. In fact, it has been introduced at the eleventh hour. I suggest that there has not been adequate time for people who have an interest in this matter to consider the ramifications of the amendments that are being moved tonight. They are not issues that were dealt with by the election review working party; and they are not issues dealt with by other working parties established to look at such questions. I suggest to members that these questions should be debated more widely before a decision is taken on them. With those few words I indicate once again that the Government will oppose the amendments.

The Hon. C.M. HILL: I am disappointed at the Minister's response. She clearly implied that I said something untrue when I spoke a few moments ago. That is certainly not true. The machinery procedure which the Minister explained a moment ago is quite true up to the point where she broke off and talked about another subject. The fact of the matter is that, after the advisory commission makes its recommendation to the Minister under the present Act, the Minister can then proclaim. I repeat that people could wake up in their council areas the next morning only to find that their council area is no more but is part of a merged group. That is the problem that has been worrying people. That is the problem I had in mind some months ago when I asked the Minister in this place about the procedure she was going to adopt after she received recommendations from the commission, because the legislation empowers her to proclaim.

That is what has been worrying people; that is the problem that, because of the ground swell of concern and worry out in the council areas, I am trying to overcome. The Minister referred to four council areas and a situation where three want amalgamation and one does not, and she said that one council area can stop it. All right, let the other three amalgamate if that is what they want and leave the other one to its own history and its own future. Big is not best as far as local government is concerned. That is a principle that we should all bear in mind. The problem with the Minister and the Government in regard to local government administration is that they are out of touch with modern trends. There are many new trends today in local government. The Minister says that this system has been operating for two years and that because it was right two years ago it should be right now. That is not necessarily so.

The Minister said, 'There haven't been any amalgamations of a large nature, so what are you worrying about?' That does not mean there is not going to be one tomorrow, next week or next month. There is a great development of interest in local government throughout Australia. At the annual meeting of the Local Government Association an expert put the proposition, 'It is local government no more: it is community government now.' All the human services that the Minister is trying to introduce to local government are part of this involvement and participation of local people in local government.

There have been huge changes in local government representation at the Local Government Association level in this State over the last, say, two years. Look how the association has expanded its services and staff. It had a fellow

like Des Ross at its head who soon became the Federal President of the organisation. Local government has moved a tremendous distance along the line in two years and I am not going to sit here and have a Government tell me that, because local government did this or that two years ago, that should be the position now. We are living in changing times and we have to be sensitive to this—

The Hon. T.G. Roberts: That is why we have got the legislation.

The Hon. C.M. HILL: Which legislation?

The Hon. T.G. Roberts: We are living in changing times.

The Hon. C.M. HILL: You are not showing you are living in changing times if the Minister says 'This is what the machinery was two years ago; therefore, it should be good enough for us today.' I really do not think the Minister knows the depth of feeling amongst the people on this question. I am quite convinced the time has come when these issues have to be put to the people—interested people who want to participate.

The Hon. T.G. Roberts: A ground swell.

The Hon. C.M. HILL: It is a ground swell; there is no doubt about it. The Local Government Association is leading it and the Minister should know that.

The Hon. Diana Laidlaw: The honourable member opposite knows it too.

The Hon. C.M. HILL: I do not know how many honourable members opposite know it, because they can get out of touch with the people very easily after they have been in Government for so long.

I express my disappointment at the Government's rejection of my amendment and even greater disappointment when the Minister said that, if she had to favour one of the two proposals, she would prefer the Hon. Mr Gilfillan's proposal. I just cannot understand that at all because I am convinced that the proposal before us is the one better suited in the interests of the people. I am being quite realistic. The Government has said it is not going to give me support; the Hon. Mr Gilfillan, of course, has said he will not give his support because he has his own amendment; so I am not going to call for a division when the matter is put to the vote. Taking all aspects of this question into account, the amendment in my name is the better of the two.

New clause negatived.

The Hon. I. GILFILLAN: I move:

Page 1, after line 18—Insert new clause as follows:

3a. The following section is inserted after section 29 of the principal Act:

29a. (1) If in a report to the Minister under Division X the Commission recommends that two or more councils be amalgamated—

(a) the Minister must immediately notify the councils;

(b) the recommendation must not be referred to the Governor for the making of a proclamation under this Part for at least 2 months after the notification is given;

and

(c) during those 2 months a council to which the proposal relates may notify the Minister that it has resolved that the recommendation should be submitted to a poll of electors for all of the areas to which the proposal relates.

(2) If a council gives notice to the Minister under subsection (1) in relation to a recommendation of the Commission—

(a) each of the councils must hold a poll within 6 weeks of the giving of the notice (on a day fixed by the Minister in consultation with the Councils);

and

(b) the recommendation may not be submitted to the Governor for the making of a proclamation, unless a majority of the electors voting at the poll (irrespective of the areas in which they are voting) vote in favour of the proposed amalgamation.

I would like to point out to the Minister that the matter is not so extraneous to the contents of the Bill. Clause 9 deals to some degree with amalgamations and some of the procedures that could be involved with amalgamations and the timing of elections. I do not have any great embarrassment in discussing this matter and bringing this amendment forward.

The second significant point is that the vote at the Local Government Association annual general meeting is not, in my opinion, a clear indication of the appropriateness or otherwise of this move. It is very difficult, if one is sitting in a situation like that and a proposal of this nature is brought forward, not to react as one would consider the measure impacting on the local government area that one represents. So I would think there was probably some hesitation. Unfortunately, I was not there for the debate so I cannot speak with first-hand knowledge on it, but it still remains that, of those voting, it is quite a clear majority and I consider that it is a clear indication of what the representative body of local government in South Australia at this time wants. Therefore, it is with confidence that I move this motion. I understand the Hon. Murray Hill feeling slightly piqued that my amendment is going to get up and win by a short head, but I repeat again—

The Hon. C.M. Hill: Thanks to the way you are going to vote.

The Hon. I. GILFILLAN: I think it is fair enough that I have shown my preference for my own, because it is based on logic. I will put into *Hansard* yet again proper recognition that the division of this form of democracy was first put forward by the Hon. Murray Hill in his amendment and I think it is only the practical application of it that is in question. Perhaps he thinks on such an elevated plane that he does not see the sort of deficiencies that I can see when it is down at the grass roots level—little pockets could obstruct what could be a reasonably sensible development. Therefore, I would urge the Hon. Mr Hill to consider with good grace supporting my amendment.

The Hon. C.M. HILL: It is with considerable reluctance that I support the Hon. Mr Gilfillan. I feel for the people of Dudley, which is the smallest council area in the State, because my amendment, which the Hon. Mr Gilfillan just opposed, would have saved them. It would appear that the Hon. Mr Gilfillan does not mind if they become swallowed up by the giant aggressor alongside them on Kangaroo Island. However, that is only one detail of the whole thing. It reintroduces this democratic practice of local people saying whether they want amalgamation or not and having their destiny in their own hands rather than having it imposed upon them by Government at State level.

The Hon. BARBARA WIESE: I simply want to indicate again that the Government will oppose this amendment. I would like to point out that it is because there is great movement in the community at the moment and because there is a great ground swell and change which is now leading to councils proposing amalgamations that it is very important to preserve an impartial and neutral atmosphere in which to consider questions of amalgamation. For that reason I think we should preserve the current system using the Local Government Advisory Commission to consider amalgamations. Therefore, we oppose this amendment.

The Committee divided on the amendment:

Ayes (10)—The Hons J.C. Burdett, M.B. Cameron, Peter Dunn, M.J. Elliott, I. Gilfillan (teller), C.M. Hill, J.C. Irwin, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (7)—The Hons G.L. Bruce, J.R. Cornwall, Carolyn Pickles, T.G. Roberts, C.J. Sumner, G. Weatherill, and Barbara Wiese (teller).

Pairs—Ayes—The Hons L.H. Davis and K.T. Griffin.
Noes—The Hons B.A. Chatterton and M.S. Feleppa.
Majority of 3 for the Ayes.
New clause thus inserted.
Clauses 4 to 7 passed.
Clause 8—'The voters roll.'

The Hon. DIANA LAIDLAW: I move:

Page 4—
Line 36—Leave out 'second' and insert 'first'.
Line 38—Leave out 'second' and insert 'first'.

The current Act requires revision of the voters rolls to be completed by the first Thursday in April. This has caused some considerable problems for councils, which were identified in the report of the Local Government Election Review Working Party. That working party recommended that the date for the revision of the rolls be brought back by one month to the second Thursday in February and August respectively. That recommendation has been accepted by the Government and is contained in the amendment to the Bill. Today I received a letter which the Chief Executive Officer of the Corporation of the City of Adelaide forwarded to the Minister on 28 November, identifying that the corporation would continue to have problems in relation to the date for the closing of the rolls. The letter in part says:

I have been advised by the corporation officer responsible for compiling this council's voters rolls that the period of time envisaged is manifestly insufficient to complete the revision required. You will note that section 92 (6) of the present legislation allows the Electoral Commissioner a maximum of 14 days to supply a list of eligible persons. Any delay by the Commissioner severely reduces the working time available to the corporation for the revision. Difficulties are experienced under the present legislation.

The council recommended and the Opposition will be moving that the date be revised to remove 'second' in each instance and insert the word 'first', and this amendment has the effect of allowing four weeks for the revision of the rolls after the February and August closing dates. I know that in speaking in the second reading debate the Hon. Ian Gilfillan and, later, the Minister in summing up the debate, both referred to this correspondence from the corporation. The Minister, in particular, stated that, having contacted the Electoral Commissioner, the Electoral Commissioner would be prepared to make tapes available 24 hours after the close of rolls.

I have subsequently confirmed with the council that they already have access to that service and had access to that service at the last election and, nevertheless, found a difficulty in compiling the rolls in such a large council area. So, their difficulty was not just a matter of access to the hard copy alone. They confirmed the content of their letter and remain of the view that they would like it moved back merely by one week, which does not seem unreasonable to the Opposition.

It will not make any great difficulty for the Government or anybody else. It merely makes it easier for a large council like the Adelaide City Council and others. It certainly will not affect the operation of small councils, and we believe it is an entirely reasonable amendment which would show some good grace by the Parliament towards difficulties that have been identified by councils. It is only one week. It was proven in the last election that the short break unduly disrupted the work of several councils, including the Adelaide City Council. The Adelaide City Council remains of the view that the clause as proposed by the Government in this Bill would continue to pose difficulties. Therefore I move—and I hope the Democrats will support—an entirely reasonable amendment which allows one week extra for the councils to prepare their rolls.

The Hon. I. GILFILLAN: I do not know at what time the Hon. Diana Laidlaw spoke to the Chief Executive Officer of the council, but I rang him while the Minister was in my office and specifically asked him whether he had had the computer tapes. He said 'No'.

The Hon. Diana Laidlaw: He has access to them.

The Hon. I. GILFILLAN: He said 'No' to me on the telephone. If you are going to deny what he said, go ahead and deny it. It was on the strength of that and on the strength of the understanding that it would make a six day difference that I, in fact, have the same amendment in the rubbish tin. I do not have any enthusiasm for extending the time between the closing of the roll and the election. It is hard enough for people to get on and get their franchise, and I see no reason to do it if there are alternative ways of doing it.

The Minister was sensitive to the issue. In my second reading speech I indicated that I relied on this sensitivity. Where a council has difficulty—it may not only be the city council which is involved in this—they ought also to have access to these tapes. If after the next election this does not solve the problem, let us do something else.

It is a long enough period as it is, but I am conscious that, if it makes it really awkward for a council, we ought to do something about it. Unless I do not understand the communication of the English language on the telephone, the Chief Executive Officer, Michael Llewellyn Smith, said, yes, he would prefer the amendment but, because they have not had and have not used the tapes before, the six days extra would be significant and under those circumstances it would not be such a critical matter. It was on that basis that I withdrew my intention to move an amendment and I do not intend to support the Hon. Diana Laidlaw's amendment.

The Hon. BARBARA WIESE: I indicate that the Government will oppose the Hon. Ms Laidlaw's amendment, for exactly the same reasons as the Hon. Mr Gilfillan has indicated. I concur fully in what he has said, and we must be guided by the advice of the Chief Executive Officer of the Adelaide City Council. If that council is happy with the undertaking given by the Electoral Commissioner and is prepared to test that during the next election, I think that that is very reasonable and that we should stick to that. I have already indicated that if problems are still being experienced by the Adelaide City Council during this coming election period I would be prepared to look at the matter again, following the 1987 elections.

The Hon. DIANA LAIDLAW: Clearly, it is apparent that I do not have the numbers to support this amendment. This so-called concession from the Electoral Commission is no new concession, as that service was available at the last election. It is nothing new. It has been identified that problems would exist. I am just disappointed that where problems are identified we in this Parliament, when we have an opportunity to do so, do not seek to address those problems.

Amendment negatived; clause passed.
Clause 9—'Date of elections.'

The Hon. DIANA LAIDLAW: I move:

Page 5, line 15—Leave out the word 'and' and insert new paragraph as follows:

(ab) the proposal was referred to the commission at least three months before the first Thursday of March in a year in which periodical elections are to be held under subsection (1);.

This clause deals with suspension of periodical elections for councils subject to a proposal for amalgamation before the Local Government Advisory Commission. I mention as an aside that I was interested to note the Minister's comments in relation to the amendments that were moved by both the Hon. Murray Hill and the Hon. Ian Gilfillan in relation to voters' polls. The Minister said that those issues were

not dealt with by the Election Review Working Party and on that basis should be debated more widely before decisions are made. As the Minister argued that position, one would certainly question the reasons for clause 9 being in the Bill, because this matter of suspension of council elections certainly was not drawn to the attention of the working party, nor was it a matter considered by the working party or subject to any recommendation for action. Those statements are contained in the Minister's second reading explanation, so, as I say, if the Minister stands by earlier arguments in relation to the matter not being raised by the Election Review Working Party, one questions the basis of the inclusion of clause 9 in the Bill. Nevertheless, the Opposition understands, in part, the rationale for this clause. The Opposition has sympathy with the following comment made by the Minister in her second reading explanation:

> Honourable members will be aware of moves emanating from within local government to rationalise the boundaries of councils and presently there are a large number of proposals before the Local Government Advisory Commission. It is clear that the commission will not be in a position to deal with all of these matters before the May 1987 periodical election and it would be unreasonable to ask the councils affected to conduct an election in May 1987 and, if any of the proposals for amalgamation are accepted, to conduct a further election in the short term thereafter.

As I have said, the Opposition, in part, accepts that rationale and the inclusion of this initiative. However, we believe that a precautionary provision should be included. We believe that as clause 9 stands at present it could well encourage marauding councils to play games with the system, to frustrate the system by lodging a claim for a neighbouring council just before the nomination is opened in March. Therefore, the Opposition believes (and this has been pointed out to us by a number of councils with which we have been in contact since the Bill was introduced) that there should be a requirement that claims be lodged at least three months before the March opening of nominations. That would be a very firm demonstration of a council's commitment to its submission to the Local Government Advisory Commission. We believe that it would help to ensure that submissions were not deliberately put to the commission to deliberately frustrate the system. I move my amendment recognising the fact that suspension of a council election is a particularly serious matter.

The Hon. BARBARA WIESE: The reason for the inclusion of these provisions in the Bill is that they were issues that were raised with me by councils since the working party's report was released. These matters were raised during the period of consultation following the issuing of the working party's report and leading up to the drafting of this Bill. They were raised by councils which currently have proposals before the commission, as they were concerned about their own situation. It certainly seemed reasonable to me to include a provision for elections to be deferred in some circumstances.

The honourable member has referred to 'marauding' councils which might rush to put forward proposals before the commission in order to avoid having to face elections. I must say that I have much greater faith in councils in South Australia than does the honourable member, as I deeply believe that a provision like this will not lead councils to do anything of the sort. However, I can understand the point that the honourable member is trying to cover in respect of her amendment, certainly in relation to the situation that we currently face leading up to the 1987 council elections, where consideration will be given to deferral of various elections where amalgamation proposals are well in train. I envisage that consideration would be given to deferral of elections only in circumstances where the hearing is well down the track, anyway, and therefore it seems reasonable to me to include a three month provision. So, in the spirit of compromise and to demonstrate what a reasonable Minister I really am, I am prepared to agree to the amendment.

The Hon. DIANA LAIDLAW: I thank the Minister very much. Perhaps I should explain that 'marauding' was perhaps too strong a word to use in my comments earlier. I did not intend to exaggerate but was merely quoting expressions of concern that had been made to me. I certainly did not wish to reflect on councils. Nevertheless, I thank the Minister for accepting the amendment on behalf of the Government.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 5, after line 20—Insert new word and paragraph as follows:

and

(c) the councils to which the proposal relates consent to the suspension of periodical elections under this section,.

This amendment is related to the same issue of suspension of council elections in the case of amalgamation. Again, representations to the Opposition have suggested that in such—

The Hon. C.M. Hill: Is this consequential on the other one?

The Hon. DIANA LAIDLAW: No, it is not necessarily consequential, but it is in the same vein of a precautionary measure that acknowledges our overall support for the clause. The amendment seeks to provide that, when a proposal for suspension is recommended, consent to the suspension of periodical elections will be referred to the councils concerned. As I said, not only does this amendment relate to the earlier one, but also it is tied to the arguments that were presented relating to the proposed amendments by the Hon. Murray Hill and the Hon. Ian Gilfillan about the fundamental right of local councils and people at the local level to have a say in matters that concern them directly. We believe it is particularly important in this instance of local council elections, because that is their one avenue to have a direct say. It may be particularly important at a time when a council faces amalgamation decisions that local people have a say in whether or not the council election is held, particularly when a council may oppose that application before the Local Government Advisory Commission. We believe that it is a fundamental right for a council to have a say in elections and we strongly believe that, in instances where suspension is recommended, the consent of the council concerned should be sought.

The Hon. BARBARA WIESE: I oppose the amendment, because I think it defeats the very purpose of the provision which is being inserted in the Bill, to provide for the deferral of elections. With this provision I have tried to take this question of amalgamations outside the realm of local politics, if you like, by making it a provision for the Local Government Advisory Commission to recommend to me, as Minister, in particular circumstances where the commission believes that it would be desirable for elections to be deferred because consideration of an amalgamation is in progress.

It is my view that councils that wish to create an election issue out of the amalgamation question will be the ones that will oppose deferral of elections so that they can use the election as another forum for opposing the amalgamation that is being considered by the commission. That seems to me to be an undesirable situation because the issues are being considered by an impartial commission; the hearings are in progress and in some circumstances it may be desirable for the question of elections to be deferred until the issue of amalgamation has been decided. For that reason I oppose the amendment.

The Hon. I. GILFILLAN: My previous amendment, which was carried, probably would have a bearing on the relevance of the second amendment moved by the Hon. Ms Laidlaw. At the time I did not rise to say that I supported the inclusion of paragraphs *(a)* or *(b)*, but paragraph *(c)* relates to the question of a council being able to interrupt the procedure that would possibly follow as a result of my successful amendment. I therefore oppose the amendment. I have not yet been able to accurately superimpose the time frame. My successful amendment provided for a two month period. If the commission needed a three month lead time before it could properly delay an election, possibly in two months of that three months the councils could confer on whether or not they wished to have a referendum and then the referendum has to take place within six weeks. There may be some conflict with election dates. On the basis of that, I feel that it might be an unnecessary amendment and it would certainly complicate my earlier amendments.

The Hon. DIANA LAIDLAW: I express some disappointment. I do not think that the matter is confused; this amendment simply seeks to ensure that people at the local level are not denied opportunities to express their democratic right to have a say in local council elections. It is always disappointing to see these opportunities and privileges being denied.

Amendment negatived; clause as amended passed.

Clauses 10 to 12 passed.

Clause 13—'Method of voting at elections.'

The Hon. R.I. LUCAS: I thank the Minister for addressing a number of questions that I raised in the second reading debate. I raised one other matter to which I will refer briefly during this Committee stage. I expressed some concern from a personal level about subclause (3), which provides:

> If a series of numbers (starting from the number 1) appearing on a ballot-paper is non-consecutive by reason only of the omission of one or more numbers from the series or the repetition of a number (not being the number 1), the ballot-paper is not informal and the votes are valid up to the point at which the omission or repetition occurs.

That provision previously existed in the State Electoral Act for Legislative Council voting systems, and when we last reviewed the State Electoral Act for the Legislative Council some two or three years ago, we removed that provision.

During the second reading debate I expressed some concern about this matter, but I have subsequently had the benefit of some discussion with Parliamentary Counsel. I support the retention of subclause (3). In certain cases, a ballot-paper might have the figure 1 for one candidate, 2 for another candidate and then 3 for two candidates, so it would be 1, 2, 3 and 3. Under the previous legislation that vote would have been a formal vote for the No. 1 candidate and that would have been it; no preference would have been indicated for the second preferred candidate on that vote.

As Parliamentary Counsel explained to me (and I can now see what this amendment provides), it will allow for a further counting of preferences of that vote so that the vote about which I spoke would now be valid through to the first and second preference and then, because there are two third preferences, it would die at that point. In my view, that is a sensible provision. It allows for the further expression of preferences of a voter rather than just the first indicated preference. It would allow the counting of the second indicated preferences in the example that I have given. For that reason I indicate my support for subclause (3) in relation to the voting system which exists for local government, that is, an optional preferential voting system. My concern for a similar provision in State electoral legislation remains.

Clause passed.

Clause 14—'Issue of advance voting papers.'

The Hon. DIANA LAIDLAW: I move:

> Page 7, after line 39—Insert new paragraph as follows:
> *(ca)* by inserting in subsection (7) 'until after the conclusion of the election or poll for which the advance voting papers are issued' after 'public inspection';

My amendment seeks to ensure that the roll is not available for public inspection until after the conclusion of the election or poll for which the advance voting papers are issued. It has been put to the Opposition in terms of a forewarning that without this amendment the clause as it stands leaves the potential for an elector issued with advance voting papers open to abuse and harassment in the home. I understand that certainly in some electorates issues do make people excitable and feelings do run high. I feel it is important that, while in a voluntary voting system people should be lobbied, they certainly should not be left open to harassment. We believe that this amendment will ensure that that is not the case.

The Hon. BARBARA WIESE: The amendment is consistent with provisions in the State Electoral Act. It certainly seems reasonable to me, and I indicate that the Government agrees to it.

Amendment carried; clause as amended passed.

Clause 15—'Use of advance voting papers in proclaimed areas.'

The Hon. DIANA LAIDLAW: I move:

> Page 7, line 48—Leave out 'council' and insert 'district council'.

This amendment simply clarifies the matter. The Minister's second reading explanation makes it quite clear that she is referring to rural councils. However, the Bill itself talks only about councils. The amendment clarifies the Minister's intention in terms of district councils.

The Hon. BARBARA WIESE: I agree that this amendment clarifies the situation, and the Government agrees to it.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

> Page 8, line 40—After 'public inspection' insert 'until after the conclusion of the election or poll for which the advance voting papers are issued'.

The argument in relation to this amendment is the same as the argument that I presented with my amendment to clause 14.

The Hon. BARBARA WIESE: The Government agrees to the amendment.

Amendment carried.

The Hon. I. GILFILLAN: With the aim of being helpful, I point out that as the Minister has accepted an amendment to clause 15 it may be that there is a problem with the wording 'an area or ward'. I do not know whether wards ever exist in district councils.

The Hon. BARBARA WIESE: District councils do contain wards on some occasions. Therefore, the wording in subsequent parts of the Bill is still relevant.

Clause as amended passed.

Remaining clauses (16 to 27) and title passed.

Bill read a third time and passed.

MENTAL HEALTH ACT AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2512.)

The Hon. K.T. GRIFFIN: This matter was adjourned on motion earlier in the day so that I could look at several aspects which time had not permitted me to do before the debate came on. Those matters are essentially in clause 9

of the Bill relating to the restriction of testamentary capacity of a protected person. The Aged and Infirm Persons' Property Act has a provision which enables the Supreme Court to make an order with respect to a protected person's testamentary capacity. That Act is essentially related to appointing a manager where a protected person is incapable of acting in his or her own affairs. So it seems to me to be consistent that the Guardianship Board under the Mental Health Act also has power to deal with the making of any testamentary dispositions by a protected person after the date of any direction or order by the board. I am happy with that.

There are other aspects of the Bill to which I briefly draw attention. First, great play was made by the Minister in relation to the Medical Practitioners Act Amendment Bill about the way in which members of the Medical Tribunal are appointed, and particularly the person who will chair meetings of the Medical Tribunal. In that amendment it is the Senior Judge or the nominee of the Senior Judge (who may be another judge) or a magistrate appointed after consultation with the Chief Magistrate or a legal practitioner of at least seven years standing. It is quite clear in the Medical Practitioners Act Amendment Bill that the Government is quite content that the Senior Judge chairs the board or his nominee. In the Commercial Tribunal Act the Chairman of the Commercial Tribunal is appointed by the Governor after consultation with the Senior Judge.

It is curious to me in relation to the Guardianship Board and the Mental Health Review Tribunal that, although the Governor appoints the person to be Chairman or Assistant Chairman from the holders of judicial office under the Local and District Criminal Courts Act or a magistrate or a legal practitioner of at least seven years standing, there is no requirement for the Minister to consult with the Senior Judge or the Chief Magistrate. I will propose an amendment to bring that into line with the general principle which both the Attorney-General and the Minister of Health have been expressing on these sorts of questions.

In respect of the proposed new section 25, I draw the attention of the Minister to the power of the board to delegate to the Chairman any of its powers or functions under this Act. Those powers of delegation are very wide and they can include receiving a person into guardianship under section 26, the appointment of an administrator under section 28 and the powers and responsibilities under section 27, which relates to the exercise of powers for the custody and welfare of a protected person.

I have some concern about that delegation being exercised in favour of the Chairman to make those decisions when quite clearly the provisions of the Act, and now this Bill, are that the board itself ought to make those decisions. What was possibly intended was the delegation of powers such as the power to sign a summons or to do other matters which are in a sense procedural rather than of a *quasi*-judicial nature. While I do not have any amendment on it, I want to record my concern at the wide power of delegation which is expressed in that section.

With respect to the proposed section 25b, whilst the board is to 'afford any person who the board is satisfied has a proper interest in the matter an opportunity to appear before the board', can I make a point that there have been a number of complaints expressed to me over a period of time, several of which I have referred to the Minister, where there has been criticism of the lack of consultation with the person who has in fact made the application for a guardianship order. There has then been a concern expressed about the lack of information available during the course of the administration of the affairs of a protected person. I also make the point that there has been concern expressed about the appointment of Public Trustee as the person who acts for the protected person, but the principal Act, of course, provides that, unless there are special reasons, then the Public Trustee shall in fact be the person so appointed. The concern which has been expressed is the impersonal way in which the Public Trustee deals with that responsibility and also the lack of information made available by the Public Trustee to persons such as spouses, parents and children, who in most circumstances would have a legitimate reason for having information about the protected person's affairs. The other is the question of the costs which are incurred by the Public Trustee in carrying out that responsibility.

I ask the Minister some time in the future to give consideration to a greater flexibility in the board to appoint a person other than Public Trustee in circumstances where it is not unreasonable for a person such as a spouse to have the general responsibility of acting for the protected person under the overriding umbrella of the Guardianship Board.

The problem addressed to me has become more intense because of joint ownership of property. One particular case I have referred to the Minister has really put the joint tenant of a jointly owned home in a very difficult position where the other joint tenant has been placed under a protection order and there is a significant lack of flexibility being demonstrated in the way that matter is being handled.

Therefore, I make a plea for greater flexibility—no less accountability but a greater sensitivity to the family circumstances in which a protected person finds himself or herself prior to the protection order being made. Subject to those matters, I support the second reading.

The Hon. J.R. CORNWALL (Minister of Health): I do not have very much to say in reply and the hour is late. I make two points: the Mental Health Act has been very extensively reviewed and I anticipate that next year—whether it be in the autumn session or the budget session, I am not sure—I will introduce major amendments and the Act will be open again. So, some of the matters that have been raised by the Hon. Mr Griffin in the second reading debate can be addressed, at least as matters for debate, if not for substantial amendment, at that time.

The Hon. K.T. Griffin: Will you take into consideration what I have had to say?

The Hon. J.R. CORNWALL: Certainly. I give an undertaking that before a final draft of a Bill emerges into the Parliament, my officers will take into account what the Hon. Mr Griffin has said this evening.

The other point is with regard to the appointment of a deputy as well as a Chairman and the manner in which the Hon. Mr Griffin wishes to amend that. I think that is something we can discuss in Committee, but I would briefly make the point that the reason for this legislation being in here rapidly and in advance of the major amendments to the Mental Health Act, now based on almost a decade of experience in its operation, is that the workload is increasing at a rapid, almost exponential rate, and we have been advised that it is not strictly legal for the board to be sitting using the deputy, as has happened on some occasions recently. It is also very important that there be some ministerial power to depute responsibilities to the Chairman acting alone. The reason for that is that in practice we will now have virtually two boards and we will be able to handle the very large workload more expeditiously. Also, of course, when the consent to treatment legislation with respect to the intellectually disabled is proclaimed—and we hope to be able to do that in the first half of 1987—then there will

be a very substantial number of parents who will be applying for guardianship of their adult children. So, this is also in anticipation of the proclamation of the legislation that we put to this Parliament some time ago. That is all I wish to say at this stage. The question of the amendment Mr Griffin has on file can obviously be handled appropriately in Committee.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Establishment of board.'

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

Page 2—After line 13, insert new subsection as follows:

(3) An appointment may not be made to the office of Chairman or Assistant Chairman unless—

(a) in the case of the appointment of a person who holds judicial office under the Local and District Criminal Courts Act 1926—the Minister has consulted with the Senior Judge;

and

(b) in the case of the appointment of a magistrate—the Minister has consulted with the Chief Magistrate.

I have explained this during the second reading. It does not prejudice the appointment of a judge or magistrate to the position of Chairman or Assistant Chairman, but merely formalises what probably happens in practice now, but at least brings it closer in line with the Medical Practitioners Bill, but not on all fours with the Commercial Tribunal and a number of other bodies where a judge or magistrate is to be appointed to chair a particular board or committee.

The Hon. J.R. CORNWALL: With great respect to the Hon. Mr Griffin, I do not believe there are any real similarities between what is proposed in the Bill which he seeks to amend and what was proposed and passed in this Chamber earlier today. With regard to the Medical Practitioners Professional Conduct Tribunal, what we were proposing was to have a flexible system whereby the Chief Judge could appoint from the whole range of District Court judges or magistrates a suitable and available person to be the presiding officer—in other words, the chairperson—of any particular professional conduct tribunal for a particular proceeding. It gave us substantial flexibility.

With respect to the Mental Health Act Amendment Bill before us now, what is proposed is simply that the Assistant Chairman—who may be a District Court judge, a magistrate or a legal practitioner of not less than seven years standing—will be appointed to that position and will be able to convene a *bona fide* legal meeting of the Guardianship Board in the absence of the Chairman, or that the board can sit as two boards, with the Chairman chairing one and the Assistant Chairman chairing the other. So, when there is a heavy workload the two boards can sit simultaneously and with complete legality. The person nominated to be the assistant will be a permanent assistant. There will be many hundreds of applications and, indeed, when the consent legislation is proclaimed, literally in excess of 1 000 applications now come in within a few short months.

That is vastly different from the Medical Board referring relatively serious charges to a professional conduct tribunal for hearings that may last for days or weeks. In my humble submission—and I do not pretend it is a learned submission—as your average reasonable, intelligent lay person I would suggest there is no similarity. I say again that I think in a sense the amendment is nitpicking and, to a certain extent, unnecessarily cumbersome.

In practice it would be unlikely that the Minister of Health of the day would have more than a passing acquaintance—or, at best, a passing acquaintance—with the Senior Judge or the Chief Magistrate. If I were to be asked at this moment to name the Chief Judge and the Chief Magistrate, I would have to think for a moment, although I have no doubt I could do it. It is also quite inappropriate for me to go dashing off, treading over the back, as it were, of the Attorney-General to say, 'I'm going to consult with the Senior Judge: get out of my way'; he would be affronted—quite rightly so—just as if he were to give me a hip and shoulder on his way down to the Royal Adelaide Hospital to speak to the Administrator of the hospital. I think this amendment is cumbersome, inappropriate and quite unnecessary. I do not know that it does anything, and the Government cannot support it.

The Hon. K.T. GRIFFIN: I do not want to hold up proceedings, but I do not think it is nitpicking or unnecessary. If it is not carried, we will have a chance to look at it again on the next occasion when the major review comes up. I do draw the attention of both the Minister and the Attorney-General to the fact that, under the Commercial Tribunal Act, for example, there is a requirement that there be consultation with the Senior Judge before the Chairman of the Commercial Tribunal is appointed. I think there ought to be some consistency of approach.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: I know it is not consistent. I would prefer, if there is to be a judge, the nomination of the Senior Judge.

The Hon. C.J. Sumner: You'll have three or four different systems.

The Hon. K.T. GRIFFIN: All I am doing is trying to highlight a problem and draw attention to the fact that there needs to be some review of the whole area of appointment of judges and magistrates to different tribunals or boards.

The Hon. M.J. ELLIOTT: As I have had this amendment before me for about five minutes, as after reading it I do not think civilisation will collapse without it, and as an amending Bill on the same Act will be before us, apparently, relatively soon, I will not support the amendment—not because I think it is terrible, but I do not see it as being urgent.

The Hon. C.J. SUMNER: There are different procedures adopted with respect to the appointment of judicial officers to all these tribunals and, at some time, I agree that they probably need rationalising, but this is not a rationalisation. This amendment just adds yet another category of procedure, so we have nomination by the Senior Judge in one case, consultation if we pass this in another case, and the Senior Judge himself or any other judge being able to do it in another case. In the case of the Equal Opportunities Tribunal we have direct appointment by the Governor. I think the matters do need to be examined, but I do not think now is the appropriate time to do it. The Government is looking at the establishment of an administrative appeals procedure in the District Court, and I think when we do that it might be the appropriate time to try to rationalise this business.

The Hon. R.J. RITSON: The medical profession generally is not skilled in the knowledge of politics or parliamentary procedure, and many of my practising colleagues are not aware of the practice of proclamation as opposed to consent, so some confusion as to the operation or non-operation of the 1985 Act has arisen in the minds of many practising doctors.

In the past few weeks I had occasion to consult with the Guardianship Board, because I have a patient in a nursing home who in my view was unable to understand or consent to a procedure; she was not in guardianship at all and I therefore sought advice from the Guardianship Board. I realise that the 1985 Act is not in place, but I suspect that a considerable amount of educational material will have to

be sent to members of the medical profession upon the proclamation of the 1985 Act and the commencement of the system. That will be necessary because the point of contact with the new system will often involve a situation where a caring relative will take an adult patient lacking mental capacity to the doctor, and I envisage that if the doctor understands the legislation he will then indicate to the person concerned that guardianship approval for this procedure is required. Moreover, the doctor could ask whether the person realises that application can be made to the board to receive a continuing grant of power to exercise the consent in future.

So, to some extent it will be those in the medical profession who will be involved in educating the caring relatives of those patients in these circumstances, and therefore those doctors will need education. I would suggest that a booklet like the one that was prepared and circulated to all medical practitioners on the question of informed consent be provided. Therefore, I ask the Minister to take on board this suggestion and to give some indication whether he sees the need for that kind of instruction and helpful education of the profession in this case.

The Hon. J.R. CORNWALL: Yes, I certainly do see the need. Based on my experience I think that many medical professionals are not conversant with the work of the Guardianship Board, let alone the various procedures that will be required when the legislation referred to is proclaimed. The reason for wanting to get this legislation through in the current session of Parliament is not only to allow the board to handle its already burgeoning workload but also so that we can have an orderly and planned process in operation through the first six months of 1987, including an extensive education campaign for parents, and for members of the medical profession and all other relevant professions, so that at the time of proclamation, which I anticipate will be on 1 July, everyone will be able to have acquired material setting out their rights, duties and obligations. It is certainly my intention to ask Dr Aileen Connon, one of our senior medical officers, to handle this matter in the same sensible and sensitive way, as was the case with the other part of the consent legislation, as the Hon. Dr Ritson points out. So, the short answer is 'Yes, an extensive education campaign will be undertaken.'

Amendment negatived; clause passed.

Clauses 5 to 9 passed.

New clause 9a—'Amendment of section 29—Establishment of the tribunal.'

The ACTING CHAIRPERSON (Hon. Carolyn Pickles): Does the Hon. Mr Griffin wish to proceed with this amendment?

The Hon. K.T. GRIFFIN: No, there is no point in proceeding with it.

Remaining clauses (10 and 11) and title passed.

Bill read a third time and passed.

TOBACCO PRODUCTS (LICENSING) BILL

Adjourned debate on second reading.

(Continued from 26 November. Page 2347.)

The Hon. K.T. GRIFFIN: The Hon. Legh Davis will take over all responsibility for this Bill, but in order to facilitate the business of the Council I am prepared to make my contribution to the debate on this Bill now. The difficulty with this Bill is the emphasis placed on a consumption licence for people who seek to buy their cigarettes from a person who is not paying cigarette franchise fees under the Bill. It is the concept of a consumption licence that has provoked the most debate on this issue. The Opposition has no quarrel with the Government if it prefers to impose a franchise fee on the sale of cigarettes, but it does have considerable difficulty in accepting that a consumption licence on individuals in the community should be the way to go in an endeavour to overcome what the Government perceives to be constitutional difficulties in taking on one person importing cigarettes from Queensland and selling them here, apparently thumbing his nose at the Tobacco Products (Business Franchise) Act.

The difficulty with this Bill is that it introduces an artificiality to the whole concept of business franchise fees, which is as objectional as the Premier's own statement that the arrangements which might be used to get around the present Act are artificial. So, in relation to what is criticised as being an artificial scheme apparently designed to get around the present Act, one may equally criticise the Government's proposal in this Bill as being an artificial device. It is interesting that for the first time the Government has considered a preamble as being an appropriate way to deal with the issues raised by this Bill. It is novel, and although it has been proposed by former Mr Justice Andrew Wells in papers which he wrote to the President of the last Parliament as a useful means for identifying the object of a Bill, to my knowledge it has not been adopted as a uniform practice throughout all legislation being introduced into State Parliament.

It would be interesting to see whether the procedure followed in this Bill and the scheme adopted by this Bill is followed in other legislation in the future, or whether it is in this Bill merely to establish a legislative base to overcome potential constitutional difficulties. It is extraordinary legislation in the sense that, although the Government has had the Business Franchise Act in operation for some three years and, through the Premier, it has been protesting that it will take tough action against people who seek to avoid the obligations under the Act to pay business franchise fees, there really has been no tough action as there has been in other States, particularly Western Australia and Victoria. Whilst those States are not free of their own difficulties in relation to people who seek to develop schemes to avoid taxation obligations, they are relatively less encumbered by constitutional challenges and schemes than appears to be the case in South Australia.

In fact, I am told that in Western Australia legislation is being debated in that Parliament which does not introduce a consumption licence but which seeks to address the issue of avoidance of duty by apparent artificial schemes with other proposals. Of course, the ultimate remedy to this is an amendment to the Constitution which picks up the recommendations of the Australian Constitutional Convention Fiscal Powers Subcommittee. A recommendation was passed with a very substantial majority at the Australian Constitutional Convention in July last year but, regrettably, it was not supported by the Federal Labor Government, although it was supported by the Liberal Party Opposition, the Australian Democrats, local government delegates and most of the State delegates to that convention. It involved an amendment to the Australian Constitution to allow for greater revenue sharing schemes between States and the Commonwealth. If that were passed as an amendment to the Federal Constitution—

The Hon. C.J. Sumner: What about the interchange of powers proposal?

The Hon. K.T. GRIFFIN: The interchange of powers proposal was not such a relevant consideration as the amendments to section 90 in particular, which dealt with

duties of customs and excise and were seen by all parties to be an effective remedy to the difficulties which are constantly being faced by the States in introducing legislation.

The Hon. C.J. Sumner: You support giving the States excise powers?

The Hon. K.T. GRIFFIN: You know that we supported at the Constitutional Convention the modification of section 90 to enable the States, in imposing this sort of business franchise fee, to escape the constitutional problems which are created by the constitutional provision (section 90) relating to duties of customs and excise. I do not say that one should set up customs barriers at the border; in fact, I do not believe that should occur and I would vigorously oppose such a move. I oppose the State's imposing higher levels of taxes and charges but, in order to avoid the constitutional problems which currently abound in this area of franchise fees, there is a reasonable proposal adopted by the majority of the Constitutional Convention which relates to an amendment to section 90 and the Attorney-General supported that proposal also, so that we are of one mind on the issue, in order to avoid the schemes that are presently being developed to allow the States sufficient revenue to operate, but not to do so without some fear of constitutional challenge.

For the sake of the Federation, we cannot have the States erecting customs check points at borders. We cannot have the States seeking to impose real burdens on interstate trade and commerce. I certainly do not support the establishment of customs check points at State borders; nor do I support impediments to interstate trade and commerce. Any amendment to section 90 must ensure that section 92 is not construed to be a protectionist provision rather than a free trade provision in the Federal Constitution. There are mechanisms dealing with this issue and they have not been addressed by the Premier. As I said, the Premier has made loud and bold statements, but he is doing nothing other than to introduce this Bill at fairly short notice in the last days of this part of the session prior to Christmas.

I do not believe that it is reasonable to expect that any person should accept the provisions in the Bill relating to a consumption licence. It is quite a ludicrous proposition and we oppose it. It is quite extraordinary that, if one person puts the heat on the Government, so the Government puts a consumption licence on consumers. The Premier admitted that it is designed to reach one person who is flouting the taxation arrangement in this State and that suggests that the tail is actually wagging the dog. We oppose the Bill and the artificial mechanisms by which the Government seeks to overcome any potential constitutional challenge and to avoid taking on the one person who appears to be getting around the administration of the Act and the obligation to pay franchise fees.

I draw the attention of the Government to another related matter, namely, a pamphlet circulating from the Smoko Club in Brisbane. That pamphlet asserts that it has the cheapest cigarettes in Australia and it advertises that smokers can save themselves hundreds of dollars each year by joining other satisfied smokers nationwide in paying less for their smokes. In consequence of this brochure a consumer may send the order form to the Smoko Club in Brisbane, accompanied by a cheque, money order, or a credit card number for Bankcard, Mastercard or Visa and acquire cigarettes free of State duty. The endorsement on the price list states:

> Please note: our legal advice is that the purchase in Queensland of cigarettes for your own use, and the dispatch of those to you in your State is perfectly legal under section 92 of the Constitution. Resale of these cigarettes, without payment of State taxes, may constitute an offence under State laws.

Quite clearly, the Smoko Club is established in Queensland, the order is placed in Queensland by post and the cigarettes are then delivered by Ansett Freight Express to the door of the consumer. Not only does the consumer avoid paying the cigarette tax but also he avoids financial institutions duty, because there is no such duty in Queensland. This is yet another scheme to avoid the payment of duty in this or other States which have a cigarette business franchise fee. I wonder whether a consumer who sends this order form away and receives cigarettes in South Australia is also to be required to have a consumption licence.

It seems to me that it would be clearly in breach of the Constitution if that was a requirement. I think it is quite outrageous to propose a consumption licence for a person ordering and receiving cigarettes in that context. I guess the difficulties with consumption licences are not only that individuals are required to purchase them but that they must be subject to some sort of investigation if they are smoking and they do not have some proof that they have purchased from a registered retailer in South Australia. It conjures up all sorts of possibilities for policing, inspection and identification of where cigarettes have been purchased and evidence as to where those cigarettes actually originated.

I understand that there is to be no endorsement on cigarette packets from Queensland or this State to indicate where the State of origin may have been. So there are many problems with the scheme. I place on record my concern about the way the Government is going. Even though it may be a suitable legal framework upon which to base a constitutional challenge, it nevertheless seems to me to be quite artificial. In practical realistic terms it is unreasonable for ordinary citizens to be faced with that burden and all the consequences of that burden with a consumption licence.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: I just said that Western Australia has legislation going through at the moment, as I understand it, to deal with the potential problems with avoidance by interstate traders—

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: They are adopting some mechanism. The information I have at the moment is that those States that are addressing the active policing of their legislation are at least deterring the majority of those who would seek to avoid the business franchise fee requirements in the various States. The 1983 Victorian report makes specific reference to the additional policing strategy which at least assisted in minimising the extent of avoidance of the franchise fee in Victoria. So there are those mechanisms. I think the scheme proposed by the Government is artificial and unreasonable. For that reason I cannot support the Bill.

The Hon. M.J. ELLIOTT: My contribution will be relatively brief. Certainly what is proposed in the Bill appears to be an extremely silly idea. However, I have also taken note of a comment made by the Attorney-General: that is, where is there a better idea for tackling this problem? I was interested to hear the Hon. Mr Griffin say that policing strategies could be used. I wonder whether he or one of his colleagues could be more specific later on. What policing strategies could have been adopted by the State against Stokes? I do not know what those policing strategies might be. I would be interested to hear what they could comprise.

While researching this problem in relation to tobacco I looked up the original debates on the Business Franchise Tobacco Bill back in 1974. A couple of contributions at

that time warned the State that this might happen. In fact, I refer to the Hon. R.C. DeGaris's contribution as follows:

I refer the Council to a public inquiry in New York City recently where organised crime had moved into the cigarette business and the illicit dealing in cigarettes became such a big trade that it was impossible to control the situation. This occurred when local government was given specific taxing powers in New York City. That will occur here unless the States all realise that in consumer taxation they have a new field of taxation; it is a means by which they can untie themselves from the demands of the Commonwealth but, unless they can see some uniformity within the States, the disease (one may call it) of border-hopping to make a fortune by evading taxes must be stamped out.

It will be essential for the States to talk together and reach some uniformity: otherwise, these things will happen. These anomalies will create a contempt for the rule of law and vast problems for law enforcement; they will become so large that they will have to be ignored, as is happening in New York City. Tax evasion can then become a way of life, and tax collection becomes a bureaucratic joke.

That is about the position we might be at now to some extent. The speech continues:

So, whilst this opening field can mean a magnificent lift to the abilities of the States to get back to their originally intended position in the Constitution, unless the States are prepared to act in concert, the ills could well be their Achilles heel in this situation.

Twelve years on, I think that has proven to be almost spot on. The Hon. R.A. Geddes also contributed to that debate, following an interjection:

The Hon. R.C. DeGaris: I have worked it out that one truckload of cigarettes would be worth $7 500 in tax.

The Hon. R.A. GEDDES: That is a real problem. A semi-trailer could come across the border and the operator could sell his load, pay the fine, and still be well in pocket, if he wished to do that. I see nothing in the Bill about exemptions or how the Government intends to police the legislation. It should look at this and make sure that the avenue of easy access to black market cigarettes does not become prevalent. Otherwise, it will make a mockery of the Act.

Certainly that is the position we are in now. We are getting a real test of the licensing of tobacco.

I am clearly of the opinion that both sections 90 and 92 of the Constitution are causing problems for the States that were never intended. We see that in the beverage container legislation, and we see it here. There is a real need for constitutional change. I think there is a need for the States to act in concert on this matter and to address the issue as soon as possible. I think the States are being severely crippled. As I said before, I will be interested to hear the Opposition's alternative proposal.

We are entering the Christmas period and I imagine that tobacco sales will peak. Parliament will not sit for two months after this week. The combined efforts of the Smoko Club and Mr Stokes could effectively destroy one avenue of revenue raising. I do not know how many times I have seen the Opposition jump up and down wanting money spent on various things (and I have done that myself at various times). Effectively, we would be denying the State millions of dollars in revenue—

The Hon. C.J. Sumner interjecting:

The Hon. M.J. ELLIOTT: That is right, the State Theatre Company. Education spending has been cut back severely of late along with many other important areas, including women's shelters. Many areas need money. Here we have probably tens of millions of dollars at threat right now, and the State Government will have to look for a cut somewhere. It is desperately important that the State Opposition, which says that it opposes the Bill, comes up with a better idea. If it thinks it has a better idea, I would like to hear it. If there is a better idea, I will support it in a flash. I have put two questions. What is the alternative? I have already heard a vague assertion about policing strategies. What policing strategies can be used against Stokes? If there are strategies that can be used, I would like to know why they have not been used already. What are those strategies? If they exist, the Government has fallen down on its job. What are the other things that can be done? I will vote in support of an alternative to this rather silly idea at the moment. The State will lose—

The Hon. M.B. Cameron interjecting:

The Hon. M.J. ELLIOTT: The honourable member's job is simply to oppose.

The Hon. M.B. Cameron: We do not support silly ideas.

The Hon. M.J. ELLIOTT: It must be done because the State faces the loss of large amounts of money. Individual licences are demanded in a number of areas, and are an absolute nuisance. I can remember the days when, as a young lad, I could go down to Port MacDonnell and fish around with my arms under rocks and grab a crayfish. We would go out with our pots and catch crayfish. They then brought in the concept of having to have a licence for it, and there was absolute outrage in the community.

An honourable member: That's a slightly different kettle of fish.

The Hon. M.J. ELLIOTT: It is not a different kettle of fish. There were indeed good reasons. In that case, it was an environmental reason. In this case it is simply Government revenue, and if members opposite squeal for more money for education or for various arts things, they will have to justify why the State should lose so much revenue. With those relatively few words, I support the second reading.

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

WRONGS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 November. Page 2411.)

The Hon. K.T. GRIFFIN: The SGIC report came down in December 1985, and the Government has had the whole of this year to consider it. Yet five days ago—namely, four sitting days before the end of what is meant to be this part of the sitting before Christmas—we have rushed into the Parliament a Bill to amend the Wrongs Act quite substantially to effect the interests of those who may be injured in motor vehicle accidents. I find it quite extraordinary that five ordinary days after the Bill was introduced—with no sitting days intervening—we are required to debate this Bill.

If the Government had the SGIC recommendations before it in December last year, just after the State election, there is no reason at all why we could not have had some amendments before us and some indication of the Government's attitude to the recommendations of that report by the commencement of this session in July or August of this year, rather than rushing them in and now expecting them to be debated and passed before Christmas. It may be that the Government wants to avoid any substantive debate or even controversy when people find out what is in this Bill.

I attended a function during the dinner break where there were a number of paraplegic and quadriplegic sports people, and a representative of the paraplegics and quadriplegics association, and when they asked me what I was doing tonight I said, 'We are talking about the Wrongs Act and what will happen to people who are injured in motor vehicle accidents.' They said, 'Well, we saw what SGIC wanted to do. We have not been consulted about the Government Bill and we have some reservations about some aspects of it,'

because they are people who have experienced the consequences of motor vehicle accidents and know what pain, suffering and rehabilitation are all about. Yet the Government rushes in this legislation and hopes to push it through—

The Hon. C.J. Sumner: You don't have to support it.

The Hon. K.T. GRIFFIN: We are going to support some aspects of it: don't worry about that.

The Hon. C.J. Sumner: Then stop complaining about it.

The Hon. K.T. GRIFFIN: We are complaining because it was introduced last Thursday, four sitting days before the end of the sitting prior to Christmas, and we did not know before this Bill was introduced what the Government was proposing to do. The Government has to wear the responsibility for this Bill, Madam President, and has to wear the consequences of it.

The Hon. C.J. Sumner: Are you going to move for an adjournment?

The Hon. K.T. GRIFFIN: I am not going to move for it to be adjourned. The Government has to cop the flak for it and cop the responsibility for it, because it has introduced it; this is what the Government wants. I will draw attention to the—

The Hon. C.J. Sumner: You don't want it, I suppose?

The Hon. K.T. GRIFFIN: There are some parts I do not want, but I—

The Hon. C.J. Sumner: You're trying to have it both ways.

The Hon. K.T. GRIFFIN: No. The Government wants it, the Government gets it and the Government cops it. I will highlight what I see are the problems of this Bill, and if the Government wants to do something about it it can but, if it does not, it has to accept the responsibility for it as it is implemented. I know that the costs of awards in courts are placing a heavy burden upon the SGIC—which is now the sole insurer for compulsory third party bodily injury claims—and I know that it is a constant issue as to by how much premiums ought to increase one year over a preceding year. I know there is a constant debate whether certain categories of drivers or vehicles ought to carry a higher level of responsibility for the accidents which occur, the injuries which are sustained, and the damages which are awarded.

The SGIC addressed the issue and came up with a report. There are some aspects of that report with which I agree, and there are some with which I do not agree. The Bill contains some proposals with which I agree and some about which I have serious reservations. Other areas have not been addressed by the Government but are recommended by the SGIC, and we have no idea what the Government proposes to do about them, if anything. I hope that during the reply on this Bill the Government will consider letting us know and letting the public know what its attitude is to other areas of the SGIC report.

I must commend the SGIC for its report, which represented a great deal of work, and a responsible attitude towards trying to solve the problems of the increasing costs of third party insurance, but it also put the best possible position so far as the third party fund is concerned, rather than considering many aspects of equity and justice.

The Bill seeks to reduce a number of areas of damages which might be awarded in a damages claim in the courts arising out of injuries sustained in a motor vehicle accident. I suppose the most controversial would be damages for non economic loss. Members will know that there are various heads of damages which the courts consider and award, depending on the circumstances of an accident and the consequences of that accident to a victim, but the area of non economic loss is the one which is probably to make the most savings—$43 million in a full year, according to the SGIC report—if the maximum which has been awarded up to the present time, $180 000, is reduced to one third, or $60 000, as a maximum which may be awarded under that head of damage to persons suffering injury as a result of a motor vehicle accident. Non economic loss is identified in the Bill as being loss arising from pain and suffering; loss of amenities of life, loss of expectation of life, and disfigurement.

When one considers that a person who was quite fit, well and able-bodied may end up in a wheelchair for his or her life, it is very difficult to accept that a mere $60 000 for pain, suffering, loss of amenities of life, and loss of expectation of life might be an adequate monetary compensation. And it is money; it is nothing more than an attempt to place some monetary value on pain and suffering, loss of amenities of life and loss of expectation of life. Money, I suppose, will never compensate for that sort of loss.

Consider also gross disfigurement of a young person who, notwithstanding the substantial miracles that can be wrought by plastic surgery, may nevertheless have a most disturbing disfigurement to live with for the rest of his or her life. The sum of $60 000 is not a large amount of money which may prove to be compensation for that sort of disfigurement. For those who are injured as children, who go through life as persons that have suffered a loss of mental capacity as a result of an accident and who may no longer be able to experience all the joys of life which many of us take for granted some $60 000 is hardly adequate recompense for that sort of loss. So, I make the point that I have some very grave reservations about the $60 000 figure in lieu of the $180 000.

The Hon. C.J. Sumner: It was in the report; you have known about it for 12 months. You want it both ways.

The Hon. K.T. GRIFFIN: We do not want it both ways. The Government had the report; it was the Government's responsibility to identify what it was going to do—and five days ago, for the first time, it indicated what it was going to do. That is hardly a reasonable time in which to make any considered judgment as to whether it is good or bad. I am putting on the record a grave reservation about the $60 000 figure. The Law Society was not even consulted about the matter.

The Hon. C.J. Sumner: The Law Society had the report.

The Hon. K.T. GRIFFIN: They had the report, but they did not know what the Government was going to do.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: Of course it has, but no-one has known what you were going to do.

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: You have not put your cards on the table, and that is the whole issue.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: You rush it through the Parliament and hope that you will avoid controversy.

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order! There is too much audible interjection.

The Hon. K.T. GRIFFIN: The Law Society has expressed its concern to me. It has had no time to consider this Bill and, although the report has been around for nearly 12 months, no-one has been told what the Government's attitude is to the report. Every time that the question is raised the Premier says that the matter is being considered. It is unreasonable to expect a reaction to a Government Bill in such haste. However, we intend to give the Government

our reaction to it, and, because time is inadequate, we will put that reaction on the record.

[*Midnight*]

The other concern about the $60 000 maximum for non-economic loss is the circumstance where, for example, innocent people—people who are just mere bystanders—may be severely injured as a result of a motor vehicle accident. It could involve innocent people such as the person who was involved in an accident that was reported in the newspapers back in the middle of this year, when a semitrailer ploughed through the windows of some shops and pinned an elderly man in a barber's chair. The press report indicated that the man was likely to lose his leg. As he was an elderly man, he may not have had such a reduced expectation of life; nor may he have such a long period during which he would experience pain and suffering and the loss of amenities of life. But, it could as easily have happened to a young child in a barber's chair as to an older man in that chair. That innocent person will suffer as a result of that accident for the rest of his or her life.

There may be the young cyclist who is knocked of his or her bicycle by a car, a victim of a hit run accident, a drunk driver, or persons running red lights, where innocent victims seriously injured as a result of such accidents have their non-economic loss reduced to $60 000 or some proportion of that according to a graduated scale. I merely put on the record the concern about that sort of limitation and about the way in which non-economic loss is treated in this Bill.

The Hon. C.J. Sumner: Well, change it.

The Hon. K.T. GRIFFIN: Madam President, the Government is pushing it through the Parliament. It has put it on the table.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: I am happy to debate it.

The Hon. C.J. Sumner: It's been there since 8 November.

Members interjecting:

The Hon. K.T. GRIFFIN: I will talk to you about those on the record later.

The Hon. C.J. Sumner: You can oppose it. Who is pushing it through?

The Hon. K.T. GRIFFIN: Madam President, we will not oppose the second reading of this Bill.

The Hon. C.J. Sumner: You made the decision to go ahead with this.

The Hon. K.T. GRIFFIN: You made the decision. Madam President, I was told that the Government wanted to get this through, so I am endeavouring to facilitate—

The Hon. C.J. Sumner: Like the rest that we want to get through.

The Hon. K.T. GRIFFIN: We are endeavouring to facilitate the consideration of these Bills by the Government.

The Hon. C.J. Sumner: You can't have it both ways.

The Hon. K.T. GRIFFIN: Of course we can have it both ways, but we are not seeking to have it both ways. What we are seeking to do is put a view on the record. The Minister has to cop the responsibility for it. Quite obviously the Attorney-General is pretty touchy about this sort of issue.

The Bill seeks in clause 3 to set out a scheme under new section 35a which seeks to identify those areas of damages which are to be limited or where the court is not to take certain matters into consideration. No damages are to be awarded under paragraph *(a)* of subsection (1) for non-economic loss unless the injured person's ability to lead a normal life was significantly impaired by the injury for a period of at least seven days or the injured person had reasonably incurred medical expenses of at least the prescribed minimum, which I understand to be $1 000. We do not disagree with that. We have had a letter from a lawyer—and I imagine that the Attorney has had it—circulated late this afternoon raising some criticism of that paragraph in the Bill.

In the letter the lawyer suggests that in relation to what is a normal life and what is a significant impairment, there will be considerable litigation. He suggests also that there may well be an attempt to run up medical expenses, which might nevertheless be reasonable: some may attempt to run them up to something like $1 000 in order to meet the criterion set out in this paragraph. That lawyer states:

> I believe the provisions in question ignore the fact that if a person's injuries are minor or trivial the courts reflect this by making an appropriate minimal award of damages . . . The proposed changes I have referred to may well consolidate and exacerbate inequities in the present system, seriously prejudice classes of litigants, and most of all increase the costs incurred by the SGIC.

That response has come rather hurriedly from a legal practitioner.

The Hon. R.I. Lucas: They're only just becoming aware of it.

The Hon. K.T. GRIFFIN: Yes, they are only just becoming aware of it. The second area relates to non-economic loss being limited to $60 000 or a graduated proportion of that. I have dealt with this area in some detail. Paragraph *(c)* deals with nervous shock and limits awards for mental or nervous shock, except to a parent, spouse or child of a person killed, injured or endangered in the accident, or to the person who has actually been injured in the accident. We have no difficulty with limiting nervous shock as specified in the Bill.

Paragraph *(d)* provides that there will be no award for loss of earning capacity in respect of the first week of the incapacity. The SGIC makes the point that the small claims are a very substantial burden on the system and that it is not unreasonable to place some limit on those smaller claims to enable them to be worked out of the system as quickly as possible. It is a fact that a lot of people are covered for sick leave, and they may well take out some sick leave to overcome a slight injury in a motor vehicle accident, and to that extent I have no difficulty with paragraph *(d)*.

Paragraph *(e)* of the clause provides for the discount rate or the actuarial multiplier. In fact, that was fixed by the High Court at 3 per cent. Generally, that is recognised as being much too low. The suggestion has been made that even 5 per cent is too low on current interest rates and that it may be more appropriate to have a figure of about 6 per cent, which is the figure that was recommended by the SGIC.

The Opposition is fairly relaxed about that, but it supports the proposal that the discount rate ought to be very much higher than it is at the present time. In fact, when the High Court made that decision, legislation was in the course of being prepared by me prior to the 1982 State election to overcome the High Court decision. Regrettably, the election intervened.

Paragraph *(f)* deals with the costs of investing or managing an amount awarded. In fact, the courts have proposed a head of damage which takes into consideration the costs of a professional investment manager in an amount awarded for damages. The elimination of that proposal as contained in paragraph *(f)* is supported by the Opposition. It seems reasonable to exclude that factor from amounts awarded on the basis that there may well be a higher return from professional investment but, in any event, it is not an essential

ingredient of any investment procedures adopted by the person injured as a result of a motor vehicle accident.

Paragraph *(g)* deals with gratuitous services and provides that no damages are to be awarded for those gratuitous services except those provided by a parent, spouse or child of an injured person or to allow for the reimbursement of certain expenses other than reasonable out-of-pocket expenses voluntarily incurred by a person rendering gratuitous services to an injured person.

Paragraph *(h)* qualifies that in relation to a parent, spouse or child to four times State average weekly earnings. Subsection (2) of this proposed section attempts to give further flexibility to the courts for a person in the relationship of parent, spouse or child who provides gratuitous services which otherwise could reasonably have been incurred and thus have been the subject of an award by the court.

This area is of concern, and I have an amendment which I will be circulating in due course and which seeks to remove the limit in relation to children, as victims of road accidents, while they are minors. Thereafter, the provisions of the Bill come into play and impose restrictions because the burdens on parents, particularly on mothers, caring for children who are seriously injured as a result of a motor vehicle accident places considerable burdens on the family as well as the provider of the services. It seems to me to be appropriate that there be some reasonable recompense through the child for the gratuitous services provided by that parent.

Paragraph *(i)* provides that, if a person is not wearing a seat belt, then there is to be a minimum reduction of 15 per cent in the award for contributory negligence and that the court may even reduce that by a larger amount if it thinks that the larger amount is just and equitable, having regard to the extent to which the proper use of a seat belt would have reduced or lessened the severity of the injury.

I think that the compulsory wearing of seat belts has now been so well accepted by the community and is so well established that, if serious injuries do occur if a seat belt is not being worn, it is appropriate to provide for the automatic reduction in an award for contributory negligence, unless, of course, a person is not obliged to wear one by virtue of the provisions of the Road Traffic Act.

The only point I make in relation to this paragraph is that under the Road Traffic Act provisions which are to come into effect from 1 January and which were announced by the Minister of Transport (Hon. G.F. Keneally) only yesterday a driver is to have responsibility for a child not wearing a seat belt where that child is under the age of 16 years, but thereafter the 16 to 18 year old carries full responsibility and the driver does not share that liability.

The question has been raised with me whether it would be more appropriate to provide for a 16 to 18 year old not wearing a seat belt also to have an award reduced by 15 per cent for contributory negligence. I do not put that as a considered view, but raise it for consideration and comments by the Attorney-General.

Paragraph *(j)* deals with contributory negligence where a person accepts a ride with a driver who has been consuming alcohol or a drug and, in consequence of that consumption of alcohol or a drug, the injured person was aware or should have been aware of the impairment.

In those circumstances it is to be presumed that the injured person was negligent in failing to take sufficient care for his or her own safety; and damages are to be reduced to such extent as may be just and equitable having regard to that negligence. There are two aspects of this which I think are important. One is that the decision has to be made that, first, the driver was so much under the influence of alcohol or a drug as to have judgment impaired and that the injured person was aware or ought to have been aware of the impairment; and, secondly, under new subsection (3) a person is not to be regarded as a voluntary passenger if that person could not reasonably be expected to have declined to become a passenger in the vehicle. So there are some safeguards.

I think there is a need for a higher level of education of younger people particularly in relation to not accepting a lift with someone who is known to have been drinking alcohol or consuming a drug such as marijuana, and parents ought to have a greater level of responsibility towards their children to the extent of even being prepared to call to collect them from some location in the early hours of the morning if that is the only way that the child can return home. We also accept that, where a presumption of negligence arises under paragraph *(j)*, the defence of *volenti non fit injuria* is not available against the injured person. In essence, that defence means that there can be no award if the injured person is deemed to have voluntarily accepted the risk and the question of contributory negligence is not involved in the determination of liability.

In proposed subsection (5), which is a definition subsection, there is reference to the court, including an authority with judicial or *quasi*-judicial powers. That is not relevant in South Australia. It can only apply to an interstate tribunal. However, it may be there in anticipation of the Government making other changes in this area at some time in the future. I would like to have the implications of that definition expanded during the Committee stage. The definition of 'medical expenses' includes the fees of medical practitioners and other professional medical advisers and therapists. There is no reference to persons such as chiropractors, who are a legitimate source of treatment of some injuries sustained in accidents.

The next matter drawn to my attention is under proposed subsection (7), which seeks to provide a mechanism to ensure that, if an award is made in another State arising out of a motor vehicle accident in this State, SGIC or the Crown is able to recover from the person to whom the damages were awarded any amount in excess of the damages that would have been awarded in a South Australian court had the damages been assessed by such a court in accordance with this section.

Some questions have been raised by people who have had a quick look at it to suggest that it may not be enforceable constitutionally and suggesting that it is a device that may not be effective. I can see why it is there, but I would like the Attorney to give further consideration to new subsection (7) and indicate in more detail the way in which it is envisaged that it will work. I presume from the way that it is drafted that the indemnity to the driver remains regardless of where the action is taken, and I also presume that if the accident occurred outside South Australia the award of damages may be higher than what may have been awarded in this State. So, it is an area of discussion. I can understand why it is there, but those who have had time to comment on it express the reservation about whether it is going to work.

Clause 4 deals with the date when the Bill comes into operation. It is expressed not to effect a cause of action that arose before the commencement of the Act, and that is an area where I believe it is an appropriate date when the Bill comes into operation. It should not affect any cause of action which arises prior to this legislation coming into operation. They are the matters that are of concern and also those which we support. During the Committee consideration of the Bill those matters will be canvassed in more detail. I hope that the Attorney will give some consideration

to the matters which I raise in this context. For that purpose I support the second reading.

The Hon. J.C. BURDETT: I support the second reading of the Bill. According to the Attorney's second reading explanation the Bill is aimed at reducing the pressure on third party premiums. He says that the Government is aware of the community's concern at the escalating premiums for third party compulsory insurance. He referred to the loss of $89.2 million for the 1985-86 year. The inquiry which has been referred to—the SGIC inquiry—was conducted by SGIC itself, probably because it got sick of waiting for the Government to set up an inquiry.

Madam President, I agree in general terms with the remedies proposed by the Bill, subject to the various matters raised by the Hon. Mr Griffin. These remedies will help to reduce the astronomic loss but, as the principle of the Bill is said to be to reduce the loss, I will refer to some other steps which could and should be taken to reduce it.

When I spoke in the Address in Reply debate at the beginning of the session I criticised the management of SGIC of claims in regard to workers compensation. The same applies to road traffic claims: SGIC is dilatory in settling claims and handling them generally and, therefore, the ultimate amount of its own administrative costs, legal costs and damages is usually greater than it would otherwise be. Even quite considerable claims are handled by base grade clerks with little training or expertise.

Moreoever, there is quite a quick turnover in these clerks, so that they are not there for long enough to obtain the kind of skills and experience that they ought to have. When matters do go to court the SGIC solicitors are often inadequately instructed. Frequently people in SGIC middle management are not aware of quite major claims which are going on. In my view those matters probably put more pressure on third party premiums than do the matters referred to in the Bill.

The Government should conduct a study into the claims procedures of the SGIC. I referred in my Address in Reply speech to workers compensation claims where there is competition with private insurance companies. That competition does not occur in regard to third party compulsory insurance, because that is solely with the SGIC. However, generally speaking it is true to say that workers compensation claims were settled much more expeditiously and efficiently by private insurance companies than by the SGIC.

I will support the second reading, because it goes some way towards reducing the strain on compulsory third party premiums, but I ask the Minister whether he will institute an inquiry into claims management procedures and the management of claims generally by the SGIC. I support the second reading.

The Hon. R.I. LUCAS: I wish to refer to one aspect of the Bill in relation to contributory negligence under new section 35a (1) *(j)*. The Hon. Mr Griffin referred to new section 35a (4). I understood from what the Attorney told us on a previous occasion that Latin phrases, such as *volenti non fit injuria* under new section 35a (4), would not be used in Government legislation and that plain English—

The Hon. C.J. Sumner: What was it?

The Hon. R.I. LUCAS: I do not know what it is. I raise two questions. First, most of us are not lawyers and struggled through Latin, if we approached it at all, in our school years.

The Hon. R.J. Ritson: This is not real Latin, though.

The Hon. R.I. LUCAS: I do not know what it is, but I thought it was not to be used. Secondly, if the Government uses this language in second reading explanations, will the Attorney-General and his officers provide an explanation for the non-legal members of Parliament, the substantive majority, to explain exactly what is meant by the Latin phrases. However, that is not the major issue, although I hope that the Attorney will take up my suggestion in future.

I want to indicate my concern about the way in which paragraph *(j)* has been drafted. It relates to a driver's ability to drive the motor vehicle being impaired as a consequence of consumption of alcohol. What is the definition of 'impaired'? I thought that originally we were referring to the legal limit of .08 per cent. I guess that most of us know when people reach that level of consumption of alcohol and, if we get into a car as a passenger with someone who is clearly intoxicated, that is fair enough. I can accept that that is contributory negligence. But there is no indication in the drafting or the explanation as to what level we are talking about.

When we say 'was impaired' it could well be that persons who had blood alcohol levels of only .02 per cent or .03 per cent, for example, might well be deemed by the courts to have impaired driving as a consequence of the consumption of alcohol that gave a blood alcohol reading of only .02 or .03 per cent. Many of us have hopped into a car with someone who has been drinking and whom we have judged to have had a few, but we have felt that they were not beyond the pale—.08 or worse—or so bad that we would not hop into a car with them. One may go to a party with someone who drinks and has a blood alcohol reading of .02 per cent, .03 per cent or .04 per cent. I do not believe that any member in this Chamber could say that they have not hopped into a car driven by someone with a blood alcohol reading of .02 per cent or .04 per cent. That person may not be intoxicated in accordance with our common understanding of intoxication to which the Attorney-General referred in the second reading explanation. I take intoxication to mean .08 per cent, and one does not hop into a car with that person.

That is not the way that the Bill is drafted. It refers to a driver's ability to drive a motor vehicle while being impaired. No level is given on that impairment at all. I seek a response from the Attorney-General in relation to how he sees this provision in relation to alcohol being interpreted by the courts, because it places a great onus on all of us who, whether it be after a drink in the bar at Parliament House after a late night session or at a private party, have to decide whether we hop into a car with someone who has consumed a certain amount of alcohol while in the past we have decided that they were capable of driving safely to wherever we might want to go. I seek a response from the Attorney-General on that question.

The next question is more complicated as it refers to the driver's ability to drive a motor vehicle whilst being impaired in consequence of the consumption of a drug and the injured person was aware or ought to have been aware of the impairment. I raised the question about .08 per cent, and the fact that there is a blood alcohol test for alcohol, which I guess introduces some degree of objectivity into the judgment. In relation to the consumption of drugs, I refer to marijuana and the level of THC that might be in the body. Medical evidence indicates that THC remains in the body for between 30 and 40 days after the consumption of marijuana. So, someone may well have consumed marijuana up to 30 or 40 days previously and still have levels of THC (the active ingredient of marijuana) within the body.

One may go to a party and someone in the next room may be smoking marijuana unknown to you, or even in the same room marijuana could be consumed by someone in

the crowd. One can tell from the distinctive aroma of marijuana—

The Hon. C.J. Sumner: You know more about it than I do.

The Hon. R.I. LUCAS: You obviously haven't been to a rock concert. Someone else may be smoking cigarettes, so you know that marijuana and cigarettes are being smoked in the room, but you do not really take any notice of who is smoking marijuana. One could then accept a ride home with someone who, as it turned out, had consumed marijuana that evening. Bearing in mind the way that this is drafted, it would appear that there is a good probability that a judge would say that you ought to have been aware of the fact that the person with whom you have accepted a ride home that evening had consumed a drug—marijuana—on the premises or at the party that you were attending.

I see that as being a problem for those who as a passenger accept a lift home from a party or from wherever they happen to be, in relation to certain people having consumed drugs. Whilst with some people it is clear that near the .08 level of consumption they are quite affected by alcohol, it might not be quite so apparent that someone has consumed a small amount of marijuana. A person might naturally look dopey, and it might not be apparent to a prospective passenger that a person who is to drive has consumed marijuana recently.

The Hon. R.J. Ritson interjecting:

The Hon. R.I. LUCAS: The Hon. Dr Ritson raises the question of other drugs. I have just referred to marijuana, but a whole range of other drugs are covered under paragraph *(j)* which, on the interpretation of present drafting, indicates that perhaps the passenger ought to have been aware of the situation, it thus being presumed that the passenger was negligent; there is the presumption that the passenger was negligent because that person ought to have been aware of possible impairment, whatever the degree of impairment might be. The Attorney and I and others have had discussions about reverse onuses and onus of proof in other legislation, and I wonder whether there is an alternative way of trying to achieve what the Government, the Attorney and the SGIC are trying to achieve rather than what appears to me, at least on the surface, unless I am persuaded by an argument put forward by the Attorney-General, to be a fairly tough and possibly unreasonable proposition, as is instanced in paragraph *(j)*. So, with those few words, and on that aspect of the Wrongs Act, I indicate my general support of the Bill.

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

MOTOR VEHICLES ACT AMENDMENT BILL (No. 4)

Adjourned debate on second reading.

(Continued from 27 November. Page 2412.)

The Hon. K.T. GRIFFIN: The Opposition supports the second reading. The Bill does a number of things; it limits the scope of any insurance cover to an injury arising out of the use of a motor vehicle, in consequence of the driving or parking of the vehicle or the vehicle running out of control, and, by so limiting it, it excludes injuries sustained while loading or unloading a vehicle, when slipping from the top of an oil tanker or from jumping from the tray of a truck onto the ground.

The Bill also makes it easier for the SGIC to seek recovery of insurance money paid in cases involving the illegal use of a motor vehicle, so that no longer must there first be a conviction for illegal use of the motor vehicle before recovery can occur. It will be only necessary to take a civil action and on the balance of probabilities that the vehicle was being used illegally.

The Bill also gives the SGIC an opportunity to recover damages and costs paid out where the driver was so much under the influence of alcohol or drugs as to be incapable of exercising effective control over a motor vehicle or—and this is important—where the driver has a concentration of .15 grams or more of alcohol in 100 millilitres of blood. The Bill provides that where a driver is more than 25 per cent liable for an accident an excess of up to $200 is required on payments made by the SGIC on behalf of the driver.

There is a requirement for compulsory exchange of medical reports and for the plaintiff to advise the insurer of any visits to medical practitioners relating to the injuries sustained in the accident. The Bill provides for a breach of the policy of insurance where a person drives a vehicle or allows another to drive while there is more than .15 grams of alcohol in 100 millilitres of blood. That all facilitates recovery by SGIC.

It has been pointed out to me that there is a glaring inconsistency between the definition of 'motor accident' in the Wrongs Act Amendment Bill and the amendment proposed by this Bill to the Motor Vehicles Act. The suggestion is that this could result in financial harm to many people. The example is put where there is a cartage contractor who owns a truck and whilst in the course of unloading that truck, through the negligence of the contractor, someone is injured when, say, a load falls from that truck. The driver is liable to the plaintiff (that is, the person who is injured), but the driver is no longer able to recover indemnity from SGIC because, although the plaintiff's injury was caused by or arose out of the use of the truck by the driver, it was not a consequence of the driving or parking of it or of the vehicle running out of control. So, in those circumstances, there seems to be on the one hand a reduction in the indemnity given by SGIC but, on the other hand, a continuing liability for the person who previously was insured. I think that that inconsistency between the two provisions ought to be examined before these Bills pass.

The point was also made to me in that same context that, if these Bills are passed, damages to, say, employees are reduced in addition; if there is a person who is the employer of the plaintiff in the illustration which I have given, then the employer could claim indemnity from the employer's liability insurer, but the employee's damages would be less than if he or she received the same injury as the employer whilst the employer was pushing a hand truck around the depot carelessly and caused the injury.

I think that is an issue which ought to be addressed before the Bills go through. I have no difficulties with the question of the intoxicated driver—both the excess and the greater ease with which SGIC can recover. With respect to clause 6, which deals with a new section 127, requiring compulsory exchange of medical reports, again there is no difficulty with that. I have been a long time advocate of exchange of medical reports at the earliest opportunity in order to encourage settlement of actions for damages.

I would suggest that there is one difficulty with new section 127 (2) *(b)*, which says that a claimant shall, within 21 days of consulting a medical practitioner in relation to the injury to which the claim relates, or such longer period as may be reasonable, inform the insurer by notice in writing of the name of that medical practitioner and the day on which the consultation occurred. I suggest massive paperwork will be involved in that. It may be that there is a great

deal of non-compliance with this clause because of inadvertence, and that it really ought to be rethought rather than pushing on with it.

It may be that a person injured in a motor vehicle accident needs to go to a doctor a couple of times a week for some form of treatment, all arising out of the injury sustained in the motor vehicle accident, and that doctor may be a GP rather than a specialist. One can understand when a person injured in a motor vehicle accident goes to a specialist that there may need to be some notification of the attendance at that specialist's rooms for an examination or treatment. But it seems to me to be ludicrous to provide that, whenever a victim goes to a general practitioner for something which might be related to the injury sustained in the motor vehicle accident, the person injured has to then give written notification to SGIC of the name of that medical practitioner and the day on which the consultation occurred.

There is not even a provision in this proposed paragraph for the requirement to be waived. I would suggest that a provision for some regular identification to SGIC, on a half-yearly basis perhaps, of general practitioners seen by the injured person, or some other mechanism to avoid all this potentially massive paperwork, could be included in the Bill. One of the consequences of this is that SGIC may end up paying more rather than less because o the additional paperwork involved and possibly the additional staff required to process it.

There is one other matter which I think needs attention and which I do not think anyone has really addressed effectively, and that is that under Medicare there is no reimbursement of medical expenses or hospital expenses incurred as a result of a motor vehicle accident which is the subject of a claim. That is thrown back onto the compulsory third party bodily injury insurance cover but, as a result of that and because liability is not acknowledged at an early date in many instances, the insurer is paying up to three times the normal cost of hospital treatment.

It seems to me that that issue needs to be addressed. If there is a motor vehicle accident, the person who is injured, having paid a Medicare levy, ought to be entitled to receive treatment as any other citizen receives treatment, regardless of how that injury occurred and the need for treatment arose. I think that that would go a long way towards reducing some of the costs and placing some greater balance in the system in respect of the charging of hospital and medical treatment.

The other area which has been drawn to my attention and which the Attorney-General may care to consider is the overlap between compulsory third party insurance and workers compensation. It has been put to me that the circumstances are such that, where a worker drives his or her employer's car on his or her way home from work and, through his or her own fault injures himself or herself, then the employer is obliged under workers compensation to pay compensation in accordance with the provisions contained in the workers compensation legislation. The employer has an employer's liability policy which covers the employer against that employee's claim, but as the owner of the motor vehicle the employer is entitled also to indemnity from the compulsory third party insurer, because the liability to the employee arose out of the use of a vehicle. I think that that creates a problem which has not been adequately addressed. Those remarks place on record some of my concerns about various aspects of the Bill, but generally we support the second reading.

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

COUNTRY FIRES ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.

(Continued from 27 November. Page 2448.)

The Hon. J.C. IRWIN: The Opposition supports this Bill, which provides compensation for volunteer fire fighters and their dependants for death or injury arising in the course of their volunteer activities. Volunteers and persons closely associated with the Country Fire Services have challenged the inadequate protection that exists and, in particular, the untenable circumstances of the dependants of a volunteer not being covered in the event of death or injury arising in the course of fighting a fire.

I acknowledge that proposals were contained in the Workers Rehabilitation and Compensation Bill to reform compensation for volunteer fire fighters and their dependants. Because that Bill has not been passed, obviously something had to be done before the commencement of this summer fire season. This Parliament already has taken action on an issue that was being delayed because of the Workers Rehabilitation and Compensation Bill's slow progress through Parliament. I refer to the self-insurance cover for local government. I acknowledge also the part played by the member for Flinders (Mr Blacker) in bringing to the attention of the Government the need to have a proper compensation scheme for volunteer fire fighters before awaiting the passage of the workers compensation legislation through the two Houses. I take objection to this statement by the Minister in his second reading explanation:

> Unfortunately, those proposals did not receive the support of the Opposition at the time—

that refers to the proposal for reforms in the volunteer area which is included in the proposed workers compensation legislation—

> and the proposals have temporarily stalled in another place.

I think that that is a rather strange statement, because really it is the House of Assembly referring to the Council and the second reading explanation which the Minister presented here, but he further stated:

> As a consequence, the reform of compensation provisions relating to volunteers has been unacceptably delayed.

There is nothing to be gained here and now by going over the many unacceptable proposals contained in the workers compensation legislation and the obvious reasons why that legislation has stalled. It obviously will not pass this Council just because it contains some good provisions, including provisions for volunteer compensation. The bad first workers compensation legislation was a product of the Government and not the Opposition. We should note that the Workers Compensation Act 1971 will continue to apply to volunteers generally until that legislation has been replaced.

The Opposition can accept that under proposals included in this Bill volunteers who are employed will be compensated by reference to their actual earnings. The self-employed or unemployed volunteers will be compensated by reference to notional employment in the field in which they are skilled or able to be employed. There will inevitably be problems in calculating that compensation. In many cases it will be just a matter of using a person's trade, but I point out to the Council that in many rural jobs it is not easy to point to a person's trade; neither will it be easy to work out compensation for volunteers who are retired or semiretired. I guess that the courts will be asked to decide many of these problem cases.

I dwell on that for a moment because we hope that this process will not hold up compensation for any great length of time, unlike the Ash Wednesday compensation which, in many cases, is still being held up in relation to amounts

to be paid not being reconciled; and those Ash Wednesday fires occurred nearly three years ago. The Opposition is a very strong supporter of the volunteer system, especially for fire fighting. We are happy to help this Bill through as quickly as possible so that arrangements can be completed for the 1986-87 summer season. We support the Bill.

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

VOLUNTEER FIRE FIGHTERS FUND ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 27 November. Page 2448.)

The Hon. J.C. IRWIN: The Opposition supports this Bill, which is complementary to the Country Fires Act Amendment Bill which we have just passed.

The Hon. R.I. LUCAS: I rise to support the second reading of the Bill. It is very disappointing that the Australian Democrats have not indicated their support for the Bill and their concern for the volunteer fire fighters of South Australia, and have left the Chamber.

The Hon. C.J. Sumner: Why haven't they?

The Hon. R.I. LUCAS: The Democrats have walked out on the Parliament.

The Hon. C.J. Sumner: They are not attending to their parliamentary duties.

The Hon. R.I. LUCAS: That is correct.

The Hon. C.M. Hill: They have disappeared into the night.

The Hon. R.I. LUCAS: True. The Labor Party and Liberal Party members have stayed here until the early hours of the morning legislating on behalf of the volunteer fire fighters of South Australia. I indicate my support and certainly my disappointment that the Australian Democrats have not done the duty for which they are paid as members of Parliament. They are paid quite handsome salaries to consider legislation in this House of Review.

The Hon. PETER DUNN: Being an old volunteer fire fighter, it would be remiss of me not to make a couple of comments on this Bill. First, I believe that the volunteer fire fighters fund has done a good job in the past. It has given those people who have offered their services some security if and when they had an accident. As members would be aware, fire fighting has a high risk attached to it at any time. Sometimes the risks are not just at the face of the fire but also when travelling to and from a fire. Many accidents have occurred in the transportation of personnel to and from a fire.

I think that the compensation that we had in the past gave fire fighters some element of security and a feeling that they were wanted. However, to be eligible for compensation I understand that one had to be a member of a fire fighting brigade. I hope that the disappearance of this fund will not in any way reduce the number of volunteers joining fire brigades. Volunteer fire fighters are an essential part of our community life. When we get those very bad fire risk days and the bad fires there is no way that a paid force could provide the personnel to cover the fire fighting required. So the volunteer force, particularly in this State, is very important.

I hope that the Government in all its endeavours and in the changes it is making is quite sure that the volunteers are well and truly covered. That is necessary, as I have pointed out, because of the fact that fire fighting at any time is a high risk business. Professional fire fighters are well covered so I see no reason why volunteers should not be similarly covered. I support the Bill.

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

CORRECTIONAL SERVICES ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 27 November. Page 2413.)

The Hon. DIANA LAIDLAW: At the outset, I indicate that I am disappointed to be speaking at this hour, because I am rather tired after a long day. However, I am happy to speak to the Bill and indicate that the Opposition supports the second reading in principle, but it does so with some caution. The Bill aims to permit the release of selected prisoners into a community correctional program which will require such persons to be detained in their own homes. The Bill is modelled on a pilot program operating in Queensland. I understand that the program is confined at this stage to south-eastern Queensland but that it is expected to operate Statewide by mid 1987.

The Hon. R.I. Lucas: Are we following Queensland?

The Hon. DIANA LAIDLAW: Yes, we certainly appear to be doing so, and also the Northern Territory. A similar program operates out of Alice Springs, in the Northern Territory.

The Hon. R.I. Lucas: Joh Bjelke-Petersen—

The Hon. DIANA LAIDLAW: Yes, and that was not acknowledged in the Minister's second reading explanation, but it happens to be a fact.

The Hon. R.I. Lucas interjecting:

The Hon. DIANA LAIDLAW: The Labor Party is most unpredictable.

The Hon. R.I. Lucas: He's almost a Liberal, the way he is going—

The Hon. DIANA LAIDLAW: If the honourable member interjects too much we will be here for a long time. The program also operates in some States of the USA. In all these instances the program was introduced as a radical attempt to alleviate overcrowding in their respective gaols, and it is being introduced in South Australia for the same reason. I seek leave to have inserted into *Hansard* without my reading it a table of a statistical nature outlining South Australian prison population in June 1984 and June 1985.

Leave granted.

SOUTH AUSTRALIAN PRISON POPULATION

	June 1984	June 1985
Adelaide Gaol	236	315
Yatala Labour Prison	112	133
Northfield Security Hospital	17	24
Northfield Prison Complex	31	70
Cadell Training Centre	49	97
Port Augusta Gaol	62	78
Port Lincoln Gaol	34	37
Mount Gambier Gaol	23	29
Total	564	783

The Hon. DIANA LAIDLAW: This table highlights the dramatic increase in the South Australian prison population by institutions between the months of June 1984 and June 1985: the increase is from 564 to 783. I have not been able to obtain a breakdown for June 1986 by institutions, but at

the end of November there were 818 prisoners in our institutions and an additional 20 to 30 in the City Watchhouse.

There are a number of reasons for the overcrowding, one being the increase in the number of persons who have been remanded in custody by the courts, and the other principal reason being the increase in the length of sentences required by the courts. These facts reflect the increase in the incidence of crime in our community and the fact that the community is demanding that the penalties handed down by the courts be more severe.

There is also a further reason, which relates to the increase in the number of people being sent to our prisons for the non-payment of fines. It is worth noting the dramatic increase in this area. In June this year, of the 340 prisoners sentenced, 205 were sentenced for the non-payment of fines.

In July 1986, of the 265 prisoners sentenced, 216 were sentenced for non-payment of fines; and in August 1986, of the 243 prisoners sentenced, 121 were sentenced for non-payment of fines. In the previous year the monthly average for non-payment of fines was just 108 persons.

The Bill is a response to overcrowding. It is in line with Liberal Party policy to a large degree. Both our correctional services policy and our policy on parole alluded to the need for measures such as this, although not specifically in these terms, and that is why we support this Bill in principle, with some caution. I do not intend to quote from our policy, principally due to the lateness of the hour, but for those who are interested I point out that the policy was outlined by the member for Hanson in the other place last week.

Notwithstanding that policy, I admit that, when I first read about this program in the *Advertiser*, it appeared to have all the ingredients for disaster. I must admit that, despite my initial reactions, I had been somewhat assured about this Bill both by the Minister's second reading explanation and also by the debate in Committee in the other place. It is important to note in relation to this Bill that eligibility for home detention will be confined to persons who have been sentenced to serve more than one month but less than 12 months, who have served at least one third of their sentence less any remissions that have been earnt, and whose offence does not include a crime of violence. People sentenced to those crimes would be excluded automatically.

The program is to be managed under very tight criteria, and that is absolutely essential for its success. It is important that those strict criteria be maintained right from the start and on a continuing basis. I was also pleased to read that the detainees will be able to engage in appropriate employment as deemed fit by the permanent head of the department and also to participate in appropriate programs of benefit, such as drug rehabilitation, education and family counselling services. Those three areas have been nominated in the Minister's second reading explanation, but in view of the fact that I highlighted earlier in respect to non-payment of fines, it would be heartening to see financial counselling added to those programs that are seen to be of benefit. I do not know whether the non-payment of fines attracts a sentence of less than one month; perhaps it has been excluded on that ground. Certainly, financial counselling would seem to be an important program.

It would seem that the key to the success of this program will be the very careful screening of prisoners and the commitment and calibre of the surveillance officers. I understand that initially the program will be confined to the metropolitan area and that 80 prisoners as a maximum this financial year may be the beneficiaries of the scheme. Some of the costs involved will include employment of 10 surveillance officers. The success that has been reported to date in Queensland is worth noting in passing.

Of the 148 prisoners that have been involved in the pilot scheme in south-east Queensland, five have committed minor breaches of conditions and had to be returned to prison, but not one had been detained, arrested or charged with any other offence. That part proves that the program, if handled with care and caution, can work well for the benefit of prisoners and in a social sense for our community and can make sound economic sense. It is said that the cost of such a home detention program would be about one-fifth of that of maintaining a prisoner in gaol, which is about $100 a day on average.

The Opposition intends to move an amendment to insert a sunset clause. This is a radical scheme and, notwithstanding the fact that it appears to have worked well elsewhere, there is community concern about its adoption. It is certainly vital that it be handled with care and caution and that there be a strict evaluation of the program. We believe that a sunset clause of one year would ensure that the public was reassured about the benefits of the scheme both in the social and economic sense. It is very important that the community is not put at any risk by the scheme. In conclusion, the Opposition supports the second reading but do so with some caution.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Insertion of new Division VIA in Part IV.'

The Hon. DIANA LAIDLAW:

Page 4, after line 22—Insert new section as follows:

37e. (1) This Division expires one year after the commencement of the Correctional Services Act Amendment Act, 1986.

(2) Notwithstanding subsection (1), this Division shall continue to have effect in relation to any prisoner who is, immediately before the expiry of the Division, serving a period of home detention.

As indicated during the second reading debate, the Opposition believes that it is important that a sunset clause be inserted in this Bill so that a strict evaluation is made of the scheme and so that it is seen after a set period to be of benefit. The Minister has given assurances in the other place that if anything goes wrong at any time the scheme will be quickly terminated. The community requires more than those off the cuff assurances in this matter. The sunset clause moved by the Opposition will ensure that the matter is strictly evaluated and carefully organised while in operation until the time of the sunset clause.

The Hon. C.J. SUMNER: The Government opposes the amendment. It is not necessary; in fact, it is not really appropriate to have a sunset clause in legislation of this kind. As the honourable member has said, similar legislation has operated, apparently satisfactorily, in Queensland and the Northern Territory. The Government will obviously continue to review the legislation as time goes by and, if amendments are necessary, no doubt they can be considered when we see how the legislation works. But, it seems to the Government that there really is no cause for a sunset clause.

Amendment negatived; clause passed.

Remaining clauses (4 and 5) and titled passed.

Bill read a third time and passed.

MOTOR VEHICLES ACT AMENDMENT BILL (No. 3)

Adjourned debate on second reading.

(Continued from 26 November. Page 2346.)

The Hon. PETER DUNN: The Opposition supports the Bill, which has three distinct parts. The first involves fixing up a problem that has occurred with the manipulation of the registration of vehicles; the second part deals with graduated licences; and the third with amendments that are consequential to the licensing of interstate hauliers. Manipulation of registration has gone on for some time: it happens when people register their vehicles for six months and then, due to the method we have at the moment whereby registration discs have on them a number denoting the month of registration, if registration is to be renewed early in the month and a person cancels it at that point, that person can reregister just under one month later, and still obtain six months registration—which in fact means that seven months registration has been obtained while payment has been made only for six months.

The Hon. T.G. Roberts: They don't do that on the West Coast.

The Hon. PETER DUNN: No, they are not as devious as that. The effect of this is that those vehicles or trucks, while being used for those three weeks or more without registration, are not covered by third party insurance—and that is a very serious problem. It continues to occur time after time, so we receive 13 months registration while only paying for 12 months. The amendments will correct that and I agree that it should be corrected because it is quite unfair and silly, because they do not carry third party registration when that happens.

The graduated driver's licence is a change in the method by which persons will be able to have licences to drive vehicles of different weights or categories—for instance, articulated vehicles and vehicles towing trailers. This agreement has been introduced after the National Road and Freight Industry Inquiry. I refer to the comments made about that conference which state the following:

> The essential element of the scheme is the requirement that, before a person can be tested to drive a truck exceeding 14.8 tonnes gross vehicle mass limit, the person must be at least 19 years of age and have at least three years driving experience driving a rigid vehicle with a gross vehicle mass limit of greater than 4.5 tonnes but less than 14.8 tonnes.

The problem that arises here is that a person has to wait for three years. I believe that there could be a slight alteration to this so that, should a driver wish to get a licence to drive a vehicle in excess of 14.8 tonnes, perhaps under the guidance, care and tuition of somebody with qualifications, those persons could do so in less than three years. They may have to drive under that care and observation for 20, 30 or 40 hours or whatever the case might be—that could be determined—but I can see that in this case people are restricted from the age of 16 years. There are cases where people between 16 and 19 years of age may wish to drive those vehicles. I cite the case of sons of farmers who drive vehicles between properties that come under this category—in excess of 14.8 tonnes gross weight. There is in the legislation, I understand, provision to allow these people to do that, but perhaps there may even be younger people who wish to get into the transport industry to drive trucks interstate and I cannot see any reason why, under the tuition of an older and more experienced driver, they could not do that. There are plenty of examples of that type of situation. One cannot fly an aeroplane at a higher category unless a certain amount of tuition and observation under a more senior pilot has been completed, and I think that is only fair and reasonable.

Driving some of those rather large trucks is as taxing as piloting some of the more sophisticated aeroplanes. We saw this weekend a rather nasty accident in the Adelaide Hills caused by a large truck. No doubt, there needs to be upgrading and I applaud the Bill because it does upgrade, but I think the system could possibly be slightly modified. However, we will not do that tonight, but the Minister might wish to comment on that.

There is also an alteration to the licences for people driving omnibuses. They, too, will have to wait for some period before getting a licence if they wish to drive a bus carrying in excess of 30 passengers. I presume that would apply to people driving STA buses, so what it means is that no-one under the age of 19 could possibly drive one. There may be occasions when that could arise.

As I have mentioned, there is the effect on people who are grape growers whose sons, perhaps, drive vehicles during the harvest period probably only from property to property, not to the market place, and they need to get special dispensation to do that. I hope that the Minister can assure us that under those conditions they can get a temporary licence to work for that short period. I have one other comment to make. There have arisen in the last few years a number of changes to motor vehicles Acts, and they have very rarely been given the publicity they should have. I cite a case that occurred to me recently. A person who has a part-time transport business had a rather smaller truck which he used to take to town and, during the period of wool carting, he used to put a trailer on the back of it. That was quite legal until December last year, when it was decided to stop that, so that he could not tow another trailer behind an articulated vehicle.

However, there was no publicity or very little publicity given to it. It might have been put in the *Government Gazette*, but very few people read it. He came to town with the first load of wool for the season and, having been weighed twice on weighbridges and nothing said, he did not know anything was wrong until approaching Lochiel. He was pulled over by the Highways Department and told that he was breaking the law. He was not aware of it. He was within all the other limits of length, height, width and weight, but he was towing another trailer behind an articulated vehicle.

I made some representations to the Minister about it, and subsequently that part of the Act has been repealed, so now it is quite legal for him to tow that small trailer behind his articulated vehicle. However, in the meantime, because he thought it would be of no economic value to him to retain the rig that he had, he has purchased a new vehicle which has cost him close to $20 000. He assures me that he would not have done that if he had been aware that there might be a change in the regulations.

In the first instance, I think that a good advertisement would have made it quite clear to him and to many other transport operators that there are changes to the Act, and many of them. A large percentage of the population is involved in transport, and I believe it is important that the Government make it quite clear in the local country papers and in the city papers that there are changes to those Acts. Some of those people do not have access to organisations which distribute the changes in Acts that we make in this Council, so I urge the Government to spend a little time and effort in advertising changes to the legislation.

The Hon. T.G. Roberts interjecting:

The Hon. PETER DUNN: I hope that you have more success with them than I did. The last part of the Bill deals with the registration of interstate vehicles. It really brings registration into conformity with other States and the wishes of the Federal bodies that handle transport. I believe that it is fairly important. At the moment these vehicles on the interstate trade obtain their registration at a concessional rate. However, that is to be withdrawn and they will have

to pay normal registration within the State and I think that is fair and reasonable. There has been some animosity between those people working interstate and those who have worked intrastate, because the interstate carriers have come from the Eastern States as far as my area carrying wheat during the harvest period, but they were paying minimal registration fees (in the $10 or $15 range), whereas some of the others are paying in excess of $1 000.

I think that this is a good proposal and it will force them to pay fair rates, because as members know, trucks cause some considerable damage to our roads, particularly on Eyre Peninsula, where most of the roads are dirt roads. I believe that, if we raise our registration fee slightly, some of those roads could be repaired. Each year we seem to be getting further away from the concept of sealed roads in my area. They really are a luxury.

Those are the three main points in the Bill. I have made a couple of points and I hope that the Minister will take note of them. When the Bill passes, perhaps he can take note particularly of my comments in relation to advertising, because I think that aspect is important when significant changes are made (as is the case here) to a Bill. I support the second reading of the Bill.

The Hon. C.J. SUMNER (Attorney-General): I will draw the attention of the Minister to the comments made by the honourable member and I will ask him to take those matters up with the honourable member.

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

SUMMARY OFFENCES ACT AMENDMENT BILL (No. 2)

Returned from the House of Assembly with the following amendment:

Page 1, after line 13—Insert new clause as follows:

Amendment of s. 17—Being on premises for an unlawful purpose.

1a. Section 17 of the principal Act is amended by striking out subsection (4) and substituting the following subsection:

(4) In this section—'premises' means—

(a) any land;

(b) any building or structure;

or

(c) any aircraft, vehicle, ship or boat.

Consideration in Committee.

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

That the House of Assembly's amendment be agreed to.

This amendment brings the definition of 'premises' in section 17 of the Summary Offences Act into line with the definition of 'premises' in section 17a. We clarified the definition of 'premises' with respect to section 17a when the Bill was before the Council on a previous occasion. This amendment makes that same change to section 17, which deals with being on premises for an unlawful purpose or without lawful excuse, and which is a section that has been in the Act for many years. The only change is that the definition of 'premises' is now altered to be consistent with the definition in section 17a.

Motion carried.

EVIDENCE ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

SUMMARY OFFENCES ACT AMENDMENT BILL (No. 3)

Returned from the House of Assembly without amendment.

OMBUDSMAN ACT AMENDMENT BILL

Returned from the House of Assembly with the following amendments:

No. 1. Schedule, page 4, new subsection (4) of section 10—

In paragraph *(g)* after 'or of the Commonwealth' insert 'or becomes a member of a Legislative Assembly of a Territory of the Commonwealth'.

No. 2. Schedule, page 4, new subsection (4) of section 10—

Leave out paragraph *(h)* and insert new paragraph as follows:

(h) becomes, in the opinion of the Governor, mentally or physically incapable of carrying out satisfactorily the duties of office.

Consideration in Committee.

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

That the House of Assembly's amendments be agreed to.

These are minor amendments originally suggested by the Hon. Mr Griffin, and Parliamentary Counsel has now inserted them in the Bill. Amendment No. 1 provides that the Ombudsman cannot be a member of the Commonwealth or State Parliaments, and this amendment makes it clear that this officer cannot be a member of a Legislative Assembly of a Territory of the Commonwealth, either. Amendment No. 2 refers to the disqualification from holding the office of Ombudsman or the provision for the removal of an Ombudsman on the basis of mental or physical incapacity and merely updates the language in that respect.

The Hon. M.B. CAMERON: The Opposition supports these amendments.

Motion carried.

SECOND-HAND MOTOR VEHICLES ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

CITY OF ADELAIDE DEVELOPMENT CONTROL ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

In view of the lateness of the hour I seek leave to have the second reading explanation of the Bill inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

It seeks to clarify the operational arrangements for appeals to the City of Adelaide Planning Appeal Tribunal established under the City of Adelaide Development Control Act. In April 1985, Parliament passed amendments to the Act which, amongst other things, created two additional appeal rights against decisions under the Act (see sections 4a and 39e). Prior to the amendments, the Act provided for appeals only against decisions on development applications. The amendments made in 1985 introduced provi-

sions enabling the Adelaide City Council and/or the City of Adelaide Planning Commission to declare an existing use to be abandoned after the activity has ceased for at least 6 months (see section 4a). The amendments also introduced a provision allowing the Council to require the removal of outdoor advertisements it considered unsightly (see section 39e). In both cases, the amendments also create a right of appeal for the owner or occupier of the land against such decisions.

Sections 32 to 39 of the Act prescribe procedures relating to appeals to the Tribunal, and govern matters such as the conduct of hearings, the power to award costs, procedures relating to witnesses, and so on. While it is clear that these operational provisions apply in appeals relating to development applications, it is not explicit in the Act that the same operational provisions apply in the two new types of appeal introduced in 1985. This Bill therefore seeks to ensure that all appeals to the Tribunal are subject to the same operational provisions by amending the appeal clauses to refer to all appeals under the Act.

Clause 1 is formal.

Clause 2 amends section 30 of the principal Act. Section 30 provides for the commencement of appeals under section 28. The proposed change will extend its operation to appeals under sections 4a and 39e.

Clause 3 amends section 32 of the principal Act. Paragraphs *(a)* and *(b)* transfer the requirement that the Tribunal have regard to certain specified provisions of the Act when considering an appeal to a new subsection (1a). This enables the operation of existing subsection (1) to be confined to appeals under section 28. Provisions similar to subsection (1) are already included in sections 4a and 39e. New subsection (1a) is in the same form as section 54 (2) of the Planning Act, 1982. Paragraph *(c)* makes an amendment that makes it clear that subsection (2) of section 32 will apply to all appeals under the Act.

The Hon. M.B. CAMERON secured the adjournment of the debate.

RADIATION PROTECTION AND CONTROL ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

INDUSTRIAL CODE AMENDMENT BILL

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

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

That this Bill be now read a second time.

In view of the lateness of the hour I seek leave to have the explanation of the Bill inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

The present prohibition on the baking of bread in the metropolitan area of Adelaide on weekends was brought into the Industrial Code from the Bakehouses Registration Act 1945-1947.

Since that time with the exception of minor administrative changes the only real variation occurred in 1970 with the adoption of the greater metropolitan area which extended the prohibited area so that it now pertains from virtually Gawler to Willunga in the North and South and the foothills of Adelaide to the sea in the East and West.

In 1974 a Bread Industry Inquiry Committee reported into the bread industry generally and in 1983 an Interdepartmental Working Party addressed the possible constitution of the Bread Industry Authority which among other matters would be responsible for the administration of the weekend baking hours in the metropolitan and/or country areas. The recommendations of those two enquiries were not translated into legislation with the result that the status quo has remained.

The effect of the prohibition pertaining is that whilst baking is prohibited on weekends in the metropolitan area no such prohibition applies in the remainder of the State and a continuing and growing supply of bread to the metropolitan area on weekends by near country bakeries is intruding into the metropolitan bakers market with the result that some bakeries, particularly the smaller or family bakery, are knowingly baking bread illegally on weekends to sustain or maintain their business. In recent years, enforcement of the legislation by Inspectors has become extremely difficult; the major reasons being that some establishments are locked and do not allow access to premises for inspection purposes, thus avoiding detection of breaches and subsequent prosecution. In two instances, 15 Inspectors were rostered on call-out to detect breaches of baking illegally in two separate establishments. There are other similar instances which involve the Department in increased costs through rostering of Inspectors on overtime as illegal baking is carried out outside of normal hours.

A public demand for the fresh product is demonstrated by the growth and wide supply of country baked bread available throughout the metropolitan area on weekends.

It is also widely accepted that even if not for general public consumption bread, and rolls in particular are baked on weekends for use in hospitality establishments to enable the provision of a fresh product for consumption with meals. Aside from the local population the ever increasing number of tourists to this State find the prohibition or unavailability of fresh bread on weekends at least quaint.

There appears to be little public support for the continuance of the legislative restriction on baking hours. That fact is evidenced by petitions signed by in excess of 14 000 persons within a three to four week period requesting the repeal of the current restrictions which I tabled recently in this House. It is obvious that the public generally requires access to the market at anytime.

Submissions from industry sources predict adverse effects on employment within the industry should the present restrictions be removed due to the speeded up process of automation and rationalisation within the industry to maintain profitability and market share. Such an argument implies that the removal of restrictions will be the base cause of such activity. That simple argument is untenable in the long term as the industry acknowledges that restructuring of the industry will occur in the future regardless of legislative control of hours. It is likely that such restructuring will occur over the next five to ten years. Removal of legislative restriction will at most therefore be a catalyst in earlier industry change.

Available published data from the Australian Bureau of Statistics pertaining to the bread industry nationally does not support the view that employment or indeed the industry is assisted or maintained by the present South Australian restriction.

First, between 1974-5 and 1984-5, employment declined in the bread baking industry proportionately greater in South

Australia (17.1 per cent) than the national decline (9.6 per cent).

Secondly, the number of baking establishments in South Australia declined from 65 to 55 (15.4 per cent) during the same period compared to a national increase from 849 to 886 (4.3 per cent).

Thirdly, a greater number of persons are serviced by each baking establishment in South Australia than in Australia. Although the same trend was evidenced throughout Australia it is significant to note that the percentage increase in the number of persons served per establishment during the period 1974-5 to 1984-5 has increased by a greater magnitude in South Australia than in Australia (26.2 per cent in South Australia as opposed to 7.3 per cent nationally).

Fourthly, on a national basis there were 247 establishments employing less than 4 people in the baking industry in 1984-5. However only 5 such establishments, well below our expected pro rata share existed in South Australia. That fact alone indicates that some factor is inhibiting the development of such establishments in South Australia. It is not unrealistic to assume that one of those factors is the restriction on baking hours which inhibits the development of hot bread shops and some instore bakeries within the State. That view is substantiated when one considers the initial enquiries made of the Department of Labour which do not come to fruition in the establishment of such bakeries within the metropolitan area. The development of smaller establishments such as hot bread shops will provide employment opportunities which will partially offset the inevitable decline in employment in the bread industry.

It is acknowledged that without doubt rationalisation will occur in the industry upon the removal of restrictions. Further, some country bakeries which have developed a reliance on the weekend market in the metropolitan area will be adversely affected. That fact should be considered in the overall effect of this Bill in that the anomalous situation which prohibits metropolitan bakers particularly those most affected, the smaller bakery, from gaining access to its fair share of the metropolitan market would be removed.

The passage of this Bill will remove one of the last vestiges of discriminatory legislation affecting the production of foodstuffs and will place the bread industry on the same operational footing as the cake and pastry industry which presently enjoys unrestricted hours of production. I commend the Bill to the Council.

Clause 1 is formal.

Clauses 2 and 3 are consequential amendments.

Clause 4 amends the principal Act by repealing section 194. The effect of this amendment is to eliminate statutory regulation of the hours when bread may be baked in the metropolitan area.

Clause 5 is a consequential amendment.

The Hon. M.B. CAMERON secured the adjournment of the debate.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE BILL

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

Consideration in Committee.

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

That the Council do not insist on its amendments.

I do no more than indicate that I understand that the matter will go to a conference. I suggest that the sooner we get there the better.

The Hon. M.B. CAMERON: I totally agree with that course of action. I indicate that I think that this Chamber should insist on its amendments and that it should go to a conference tomorrow or as soon as possible.

Motion negatived.

STAMP DUTIES ACT AMENDMENT BILL (No. 2)

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

ADJOURNMENT

At 1.50 a.m. the Council adjourned until Wednesday 3 December at 2.15 p.m.