LEGISLATIVE COUNCIL

Wednesday 3 December 1986

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

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

QUESTIONS

MEDIA OWNERSHIP

The Hon. M.B. CAMERON: I seek leave to make a statement prior to asking the Attorney-General a question on media ownership.

Leave granted.

The Hon. M.B. CAMERON: I am informed that News Corporation has today launched a takeover bid for the Herald and Weekly Times group which, if successful, would give News Corporation a controlling interest in Advertiser Newspapers Limited. There is already speculation in media circles that one result of this move could be an amalgamation of the *Advertiser* and the *News* to give Adelaide only one daily newspaper.

The policy of the South Australian branch of the Labor Party on media-ownership, which the Government is obliged to follow, spells out a significant Government role in regulating ownership. I refer, for example, to the following commitment from the policy:

> A State Labor Government will establish an inquiry into media ownership in South Australia with terms of reference including such questions as compulsory declaration of commercial interests, the possibility of a media ownership review board, public and/or trust ownership of media.

The policy also provides for moves 'to establish a State newspaper independent of commercial and Government control'. In asking this question, I do not advocate any interference in this takeover bid but merely seek information from the Minister in view of the Government's policy on media ownership. In view of the Labor Party's policy on media ownership, is it the Government's intention to seek any information or take any action over News Corporation's takeover bid for the Herald and Weekly Times group?

The Hon. C.J. SUMNER: The honourable member obviously has better contacts in the stock exchange than I do.

An honourable member interjecting:

The Hon. C.J. SUMNER: No, I have been at the Australian Hotels Association Christmas lunch so there is no reason why I should have caught up with this particular matter that is alleged by the Hon. Mr Cameron to have occurred. I am not aware of the position; therefore, I am not in a position to answer the honourable member's question.

LIBRARIES

The Hon. L.H. DAVIS: I seek leave to direct a question to the Minister of Local Government on the subject of libraries.

Leave granted.

The Hon. L.H. DAVIS: I recently received a copy of a letter to the Acting Director of the Department of Lands from the South Australian President of the Library Association of Australia, Mr Alan Bundy, part of the text of which says:

> . . . we considered it our responsibility to alert you to the likely consequences of such action—

that is, the disbandment of the library of the Department of Lands, and the impact of this—

> on this State's network of library and information services. We understand that ministerial advice to departments of the availability of the South Australian Library Advisory Committee (SALAC) for consultation on changes in library services has been circulated.
>
> In that context it is inexcusable that the collection has already been dispersed. The consequence is that your departmental officers are already seeking to use other departmental libraries to meet their information needs, and that a collection established at considerable cost to the Australian taxpayer is no longer accessible to the community through the State's network of library and information services.
>
> This is the clearest indictment possible of the folly of your department's ill-considered decision.

A copy of that letter dated 19 November went to the Premier, to Ministers, to State departmental heads, to SALAC committee members and to me. That letter is couched in very strong terms. It follows hard on the Government's intention to disband the Education Department library as a result of State Government budget cuts. That library has been scattered to the four winds; that makes it the only head office in the Education Department in any State of Australia without a central library.

It follows hard on the extraordinary comings and goings of the Public Library's branch warehouse being sold from under it by a Government which clearly misrepresented the situation to it. It follows hard on the fairly unusual circumstance of a Minister demanding that an annual report from the Libraries Board should be rewritten because it was not couched in language of which she approved, and that resulted in the Libraries Board annual report being delayed for several months before being tabled in the Parliament.

It also reflects the growing unrest in the libraries community in South Australia generally. There is low morale in the State Library area, the public libraries network and other libraries throughout South Australia. It reflects a growing disenchantment, it has been put to me, with the competence of the Minister of Local Government, who is responsible for the libraries network in South Australia.

Is the Minister aware of the decision to disband the library of the Department of Lands? Does she approve of that disbandment? If not, what has she done about it? Does she believe that such decisions made by departments should be first referred to SALAC, the South Australian Library Advisory Committee, which, in fact, was established for the purpose of consultation by Governments—a committee which the Minister in her 18 months as Minister responsible for libraries has yet to meet?

The Hon. BARBARA WIESE: The first point I want to make is that I, as Minister of Local Government, do not have responsibility for the libraries which exist within other departments—departments outside my ministerial control. However, as Minister of Local Government responsible for the State Library and the development of the community libraries network, I do have an interest and concern in the matters that the Hon. Mr Davis has raised with respect to decisions which are being taken in other areas relating to libraries in Government departments. I would also like to point out from the beginning that these departments have no responsibility to consult with SALAC on these issues. It would be desirable for such consultation to take place, but there is no requirement for that to occur.

The Hon. L.H. Davis: Do you think that there should be a requirement for that to occur?

The Hon. BARBARA WIESE: I think that there should be consultation, discussion and close cooperation in the network of libraries throughout the State Public Service, as

that would be very useful. That is certainly an issue that I have discussed with the State Librarian. We have talked about the decisions that are being taken in various parts of the Public Service in respect of individual library collections and, in fact, the State Librarian will convene a meeting of the various people in the South Australian Government service responsible for libraries to discuss ways of preserving library collections and perhaps doing so more economically.

It may be that some of these collections can be combined and located at venues which are convenient for the respective users, resulting in each agency saving money. These matters have not been discussed in any depth at this time, but certainly they will be and I hope that it will be possible for some decisions to be taken in future that will assist in rationalising the library services within the State Government service to ensure that the collections can be preserved. For very good budgetary reasons, decisions made in some instances are not carried through in others. It is time that we had a close look at what is happening in the departments across the service, and I think that we can improve the delivery of library services to users and preserve the very important network of libraries within the State Government.

COMMUNITY WELFARE POLICIES

The Hon. DIANA LAIDLAW: I seek leave to make a short explanation prior to directing a question to the Minister of Community Welfare on Department for Community Welfare policy.

Leave granted.

The Hon. DIANA LAIDLAW: In recent days I have received a stream of letters from mothers highlighting their anguish and frustration with DCW policy and practices concerning the rights of youth in relation to their family. For the sake of brevity, in relation to this matter I will just read from one of these letters, forwarded by a Mrs E. Bell from Elizabeth East, as follows:

I am a parent who has been affected by the Department for Community Welfare policy on homeless children and the rights of kids. In the past six months my family and I have been through the mill as far as trying to get some sense into her head—this is my daughter I am talking about. She left school half way through year 11 and had two part-time jobs, but as soon as she found out about the allowances she could get plus all the other handouts both jobs went down the drain. She now collects the dole and other benefits. Why should she work when she can get this money for nothing?

The Hon. J.R. Cornwall: How old is she?

The Hon. DIANA LAIDLAW: She is 16. The letter continues:

At home she had her own room, TV, stereo, and the like, but she rebelled at being told that she had to be home at 10 p.m. week nights and 1 a.m. Friday and Saturday nights. She told me that because she was now 16 she could do what she liked and that she had the backing of Community Welfare on this and that they had also told her that she could leave home and that we could not do anything about it. Also, if needed they would give her emergency housing.

My family and I have been torn to pieces by this issue and now it is time to take a stand and fight back . . . I am the one who gave life to this 16-year-old girl; I am the one who loves her, dressed her wounds, stayed up all night with her when she was sick. I clothed and educated her, so I am asking you what right does any Government have to tell her that we, as parents, have no rights as far as maintained guardianship till she is 18?

It is clear from that letter that Mrs Bell intends to fight for what she believes is right, and it is clear also from a number of other letters that I have received that she is not alone in this respect. In fact, she is one of a large group of mothers so extremely angry with the situation that they have set up a group to fight DCW policies and practices which they claim entice children to drop out of school, to leave home and to be put at risk as a result of drugs, alcohol and unwanted pregnancies.

The experiences of the group of women that have been confirmed in letters to me reveal that DCW practices may well be at odds with the department's stated objective on child care and child protection. In the Estimates Committee earlier this year, the Minister referred to that objective, as follows:

The principal objective was to provide helpful and practical assistance to families to enable children to be nurtured in the family environment.

Will the Minister address the very real concerns of Mrs Bell and the other members of the newly formed parental group by establishing an inquiry to investigate the frustrations of these respective mothers and to determine whether the practices within the department in relation to advice to youth actually reflect the department's stated policy objectives in relation to child protection and families?

The Hon. J.R. CORNWALL: The sort of anguish that is felt by Mrs Bell is not new. I sympathise with her and a host of other parents like her, just as I sympathised with Mrs Cornwall 10 years ago when we found ourselves in similar situations from time to time with our 16-year-olds. The simple fact is that you cannot lock up 16-year-olds; we do not do that any more. If Ms Laidlaw, who prior to today has shown a good deal of enlightenment in her shadow portfolio, suggests that 16-year-olds who wish to lead a relatively independent life style should somehow be manacled to their beds or should be placed in reformatories, then let her stand up and say so, but she should not stand up and denigrate the welfare workers, the social workers and all the very good professionals in the Department for Community Welfare.

I have told this Council before—and I repeat it—that intensive family support is an area that has been developed very significantly by the department in recent years as a matter of quite deliberate policy. One of the two cardinal rules of the department is to support families as intensively as is necessary, whenever it is necessary, to the extent that it is possible to keep that family together and functioning. I cannot say that too often. I think that the time has come when DCW bashing as a sport should be above decent politicians. Frankly, I am quite disgusted that Ms Laidlaw has seen fit on this occasion (and quite uncharacteristically) to try to get a cheap line at the end of the session.

The Hon. Diana Laidlaw: That's absolute rubbish.

The Hon. J.R. CORNWALL: It is not absolute rubbish at all. The Hon. Ms Laidlaw stood on her feet and made deliberate, quite clear allegations that workers in the Department for Community Welfare are engaged in breaking up families. That is totally untrue and I completely reject it. It is also wildly irresponsible. I can only think that the behaviour of the Leader of the Opposition in this place must be infectious for some of his colleagues. Did the Hon. Ms Laidlaw go to the Department for Community Welfare office in Elizabeth? She was prepared to name Mrs Bell in this place. Did the Hon. Ms Laidlaw go to that office? Has she spoken to anyone in a senior position at the Elizabeth office? Has she made any inquiries at all? The simple answer to all those questions is, 'No'.

The Hon. Ms Laidlaw is using the sort of technique used by the Hon. Mr Griffin. Members opposite come in here as a group and as individuals with these wild allegations which they have not checked. What is the other side of the story? What has been the department's role? Who are the officers involved? What are the facts? Has the Hon. Ms Laidlaw been to the office? I suspect that the answer to all those questions is, 'No'. We are dealing here with one of

the most difficult areas in the spectrum of human behaviour. Inevitably, it is a very difficult area.

As I said, we are involved in intensive family support wherever that is appropriate, possible or necessary. We are involved in crisis intervention. This year alone, despite the difficult budgetary situation, we have created an additional eight positions in crisis care. We are about supporting families and, of course, we are also about protecting children. They are the two cardinal rules. It is not possible—nor do I think it is desirable in 1986—somehow to physically restrain a 16-year-old person. We all know—and those who are a little older and have reared families would certainly know—that teenage behaviour can be quite difficult. However, it is quite wrong to say that we encourage the breakdown of families. In fact, it is not only wrong—it is quite mischievous and quite destructive.

The Hon. C.J. Sumner: The policy is the opposite.

The Hon. J.R. CORNWALL: Exactly; that is what I have said. We are about intensive family support.

The Hon. M.B. Cameron interjecting:

The Hon. J.R. CORNWALL: If the Hon. Mr Cameron and the Hon. Ms Laidlaw want to indulge in DCW bashing, that is okay: they can get a cheap line out of that any time they like. However, if they behaved responsibly, they would realise not only that we do support families as a matter of deliberate policy, but also (and I said this in the Chamber only last week) that the stories we hear about runaways (and I exclude the particular case raised by the Hon. Ms Laidlaw in this place) very often involve a 16-year-old person who has been the victim of an unhappy life.

I am certainly prepared to concede that on other occasions 16-year-olds can be quite unruly despite the fact that they have been nurtured in perhaps the most favourable environment imaginable. There are no easy answers to those problems. The verbal bashing of dedicated and professional DCW officers, because one thinks that somehow that will reflect poorly or badly on the Minister and the Government of the day, is quite a despicable technique.

The PRESIDENT: The Hon. Mr Elliott.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Elliott has the floor.

Members interjecting:

The PRESIDENT: Order! There is far too much audible conversation. People who wish to have conversations across the floor of the Council, I suggest, should sit next to each other and do it quietly. The Hon. Mr Elliott has the floor.

PEACE MATERIAL IN SCHOOLS

The Hon. M.J. ELLIOTT: I seek leave to give a brief explanation before asking a question of the Minister of Tourism, representing the Minister of Education, on peace material in schools.

Leave granted.

The Hon. M.J. ELLIOTT: Further to matters I brought up in Parliament some two weeks ago concerning what I consider was misleading information coming from the Liberal Party, further material has been brought to my attention. A letter was written by Senator Baden Teague to headmasters of high schools around Adelaide. I will read the contents of that letter to show how misleading it was. I will read the whole lot except the telephone number and information at the top.

The Hon. R.I. Lucas: Give us the telephone number.

The Hon. M.J. ELLIOTT: 'Education for Peace.'

The Hon. R.I. Lucas: Are you against peace? You are a warmonger.

The PRESIDENT: Order! Order!

The Hon. M.J. ELLIOTT: It states:

Consultation: Monday, 8 December 1986

After speaking to John Steinle, SA Director-General of Education, and Jim Giles, Director of Studies, I write to invite you to a specially arranged consultation to outline new parliamentary material and to preview a new video and book available to schools, 'Peace It Together'. The agenda is enclosed (see yellow sheet). The 'Peace It Together' video and book will be launched nationally at the Festival Centre on 27 February 1987. Countdown compere, Molly Meldrum, and former Foreign Minister, Andrew Peacock, have contributed enormously, as has Sting's lyrics and music, to this IYP video for schools (see blue sheet).

Mr Jim Giles will chair the meeting. Our purpose is to enable you to know at first hand what these new curriculum resources are about. By previewing the video and other material and by answering your questions we hope to clarify the content and usefulness of these resources. These resources are not party-political but present the mainstream Australian approach to education for peace. I hope you will be able to come and find this hour and a half to be of lively interest and real value. Please let me know only if you cannot come and, if you wish, nominate one of your staff or colleagues to represent you.

Yours sincerely,
(signed) Baden Teague
Senator for South Australia
Producer, 'Peace It Together'
Deputy Chairman, Parliamentary Committee on Disarmament and Arms Control
Coordinator, Parliamentary Disarmament Forum

It appears to me to be highly misleading because an *Advertiser* article said some weeks ago there was a request for Liberal Party members to contribute to the cost of this video and yet when you read through the letter Senator Baden Teague makes it appear as though it is parliamentary material. It is an IYP video but he is quoting Steinle and Giles as if they have been very much involved in the preparation of the whole thing as well.

The Hon. R.I. Lucas: That is disgraceful. Jim Giles has agreed to chair the meeting; that's all he's done.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. Lucas: Obviously too much lentil soup.

The Hon. L.H. Davis: The windmill has gone too quickly.

The PRESIDENT: Mr Davis, I warn you.

The Hon. M.J. ELLIOTT: You protest too much. I would understand any headmaster gaining the very clear impression that the material is sanctioned by the Education Department, but they are indeed impartial and they do not try to present any particular Party's policy. At least having seen the booklet, it is honest enough to have the Liberal logo on the back page and, for that little bit of honesty I applaud them. I ask the Minister of Education:

1. Is the Minister aware of this meeting which has been publicised throughout the high schools to all headmasters?

2. Does the Minister and did Mr Steinle believe that it was not Party political?

3. If not, will this meeting continue to get what appears to be sanction, if such sanction ever existed?

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

PORT ADELAIDE WATERFRONT

The Hon. R.J. Ritson, on behalf of the Hon. K.T. GRIFFIN: I ask: does the Attorney-General have answers to questions asked by the Hon. Mr Griffin on 21 October on the subject of the waterfront? In view of the pressures on the Council, I indicate that leave might be granted for incorporation in *Hansard* without them being read.

The Hon. C.J. SUMNER: I will seek that leave.

Leave granted.

The Minister of Emergency Services has provided me with the following additional information on this topic.

A small number of persons whose employment is believed to be connected with shipping or port freight handling, have been charged with criminal or behavioural offences. However, the offences are completely unconnected with employment activities or indeed the Ship Painters and Dockers Union. The offenders charged have not been linked with any known organised crime syndicates or activities operating from any waterfront employment base.

It should also be clearly understood that police do not monitor any unions. This is not to say, however, that resulting from the revelations of the Costigan report, monitoring of certain groups of people and their possible criminal activities has not been established.

As previously advised, the Police Commissioner will arrange to discuss allegations of criminal activity with any honourable member. I understand that Mr S. Baker, M.P., has already availed himself of this opportunity.

COURT SENTENCES

The Hon. R.J. Ritson, on behalf of the Hon. K.T. GRIFFIN: I ask: does the Attorney-General have answers to questions asked by the Hon. Mr Griffin on 23 October on the subject of court sentences? In view of the pressures on the Council, I indicate that leave might be granted for incorporation in *Hansard* without them being read.

The Hon. C.J. SUMNER: I will seek that leave.

Leave granted.

I have now received a report from the Crown Prosecutor in relation to the 21 year old man recently convicted and fined $150 for being unlawfully on premises. The Crown Prosecutor has discussed this case with the Police Prosecutor who appeared in the Para Districts (Elizabeth) Magistrates Court on Monday, 20 October 1986. It would appear that the circumstances of the offence are significantly different from those suggested in your question.

There were three defendants charged in relation to being unlawfully on premises over this particular incident. One was a child and was dealt with under the provisions of the Childrens Protection and Young Offenders Act. The other two, both adults appeared separately on Monday, 20 October and both were fined $150. One man had a prior conviction, one had no prior convictions.

The facts as alleged are that at approximately 5.50 p.m. on Sunday, 24 August 1986, the Manager of Monier's Quarry at Black Top Hill near Elizabeth was at the quarry and, from a distance, saw three youths near the sand and quarry area. The youths saw him and decamped. The area where they were seen was within Monier's property which was surrounded by a barbed wire fence and with the occasional 'Trespassers Prosecuted' sign. The Manager reported the matter to the police and gave a general description of the vehicle in which the youths were travelling. I understand that Monier apparently has had a lot of trouble with vandals damaging plant and vehicles at the quarry.

The vehicle in which the youths were travelling was stopped nearby by the police. When spoken to by the police, the three occupants admitted having been at the quarry. Dealing only with the adult who is the subject of your question, he said they were driving around and someone suggested they go to a quarry. They agreed because he said he had not been to a quarry before. They all jumped the fence and were looking around when they realised they had been seen and decamped. All knew they had no permission to be there and that they were trespassers. This particular defendant is single and a car detailer with no previous convictions.

I understand that he did not say anything to the police about climbing a fence to walk stiffness out of his leg or that he had previously injured his leg. The police prosecutor is confident that nothing of that nature was submitted to the court. He was unrepresented and said little, if anything, by way of mitigation.

By virtue of his actions and admissions, he clearly knew he was unlawfully on the premises and that, no doubt, is why he pleaded guilty. As with this type of offence, the penalty is designed to have a deterrent factor built in to prevent repetition and possible vandalism.

The Police Prosecutors are of the view that this fine was normal. They would have expected a fine between $100-$200, the maximum being $2 000 or six months imprisonment or both.

The vast majority of people who commit this offence are dealing with by way of fine. The figures from the Office of Crime Statistics reveal that approximately 75 per cent of offenders are fined. For the period 1 January 1985 to 30 June 1985, statistics show that the minimum fine was $10, the maximum $500, and the average, $75.

Finally, the Crown Prosecutor has not been able to trace any information pertinent to your allegations that on the same day another person was fined $125 for assaulting a Police Officer. The Police Prosecutors have advised that no 'Assault Police' matter was dealt with at the Elizabeth Magistrates Court and no person on any matter was fined $125 on this day.

COUNTRY FIRE SERVICES

The Hon. M.J. ELLIOTT: Does the Attorney-General have an answer to my question of 24 September regarding Country Fire Services?

The Hon. C.J. SUMNER: I seek leave to incorporate my answer in *Hansard* without my reading it.

Leave granted.

The Deputy Premier and Minister of Emergency Services has provided me with the following answer:

1. Yes—refer to table.

2. Refer to table.

3. The funds to be supplied by the Government to the C.F.S. are:

1985-86—$2 729 000

1986-87—$3 715 000

4. Expenditure of $6 298 000 for 1985-86 in the report of the Auditor-General is the total amount expended in that year and includes carry-over funds from 1984-85. Expenditure of $7 887 000 in the *Government Gazette* referred to the total cost. Sundry income of $47 000 has to be deducted to arrive at net expenditure.

5. C.F.S. fire rating data is based upon reports submitted by brigades. No information has been made available which may require these statistics to be re-evaluated.

6. The C.F.S. is working towards standardising vehicle specifications which will result in a State-wide upgrading of vehicle standards.

7. A working party comprising of officers from the C.F.S., Local Government Association and the Volunteer Fire Brigades Association has been formed to review proposed changes to legislation.

8. No.

9. Discussion between the Minister of Emergency Services and representatives of local government have helped

to identify and substantially allay concerns within the local government sector.

10. Some councils have differing views on C.F.S. policies. These do not constitute 'massive unrest'. There is regular consultation with the Local Government Association.

BUDGETS

Line Item	1985-86 $'000	1986-87 $'000
Salaries	1 541.0	1 918.6
Secondments	36.5	—
Accommodation	138.5	196.5
Administration	638.5	840.2
Fire Operations	216.0	280.5
Training	86.0	236.0
Research	55.0	36.0
Publicity and Promotion	107.0	271.0
Subsidies	2 187.0	2 500.0
Loan Repayments	155.0	145.0
Capital Equipment	565.5	875.0
Contingencies	227.0	588.5
Total Expenditure	5 953.0	7 887.3
Less Opening—		
Balance 1 July	272.0	207.8
Operating Receipts	220.0	249.7
Deficit	5 461.0	7 429.8
Funded by—		
State Government	2 730.5	3 714.9
Insurers	2 730.5	3 714.9

RANDOM BREATH TESTS

The Hon. M.B. CAMERON: Does the Attorney-General have an answer to my question of 23 September regarding random breath tests?

The Hon. C.J. SUMNER: I seek leave to incorporate my answer in *Hansard* without my reading it.

Leave granted.

The allocation of funds to the Police Department in 1986-87 includes provision for increasing the effectiveness of random breath testing. An announcement has recently been made about increasing random breath testing.

AIDS FOR DISABLED PEOPLE

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 PADS.

Leave granted.

The Hon. M.B. CAMERON: As the Minister would be aware, I have been approached by a number of constituents about the PAD (or Program of Aids for the Disabled) Scheme. It is quite clear that there is a freeze on the supply of wheelchairs and other appliances for disabled people, and that this freeze is having a dramatic effect on individuals in the community. Unfortunately, it would appear that many disabled people have not been informed of the freeze, or the reason for it, and those who have been informed have not received any notification in writing, but purely by chance. It is simply not fair for people to be left hanging, waiting for their appliances without proper information.

I fully realise that the problem arises as a result of Federal Government funding decisions; however, as the scheme is administered by the State, the responsibility of informing people of the present situation and the likely future of funding arrangements supply must lie with the Health Commission. I repeat, it is essential that full and frank information be given to everybody on the waiting list for wheelchairs and other appliances as a result of disabilities. If the Federal Government decision is finally to pull completely out of the PAD Scheme, it is also essential for the State Government to give a clear indication of the future of the scheme and likely funding arrangements. Many of these devices have to be renewed fairly constantly and are a continuous drain on many families and disabled people who have families of their own.

Arbitration certainly does not provide additional salaries for those people in the community who have disabilities. There is not even any tax relief. Under private health funds and Medicare it is possible to obtain some relief, but the additional cost of health insurance is not worth the benefit you receive, so that is not the answer to the problem. Let me quote from a letter I received from a constituent as an example of the situation in which some disabled people find themselves. It states:

1. I am permanently disabled and rely on special essential appliances for my mobility; to maintain these appliances it can cost up to $1 200 a year, an amount I cannot afford to meet.
2. I am in permanent full-time employment with only an average income.
3. I am supporting an expectant wife and one child.
4. I am paying off my home and a car, the car being essential.

At this moment my mobility relies entirely on one old caliper and one pair of old boots, and, given, their age, it would be quite probable at some stage in the near future I will be stranded by Government indecision, incompetence and a lack of real commitment by Government to put the livelihood of disabled people, once and for all, above politics.

The comment has been made to me by people with disabilities that the PAD Scheme was brought in in the Year of the Disabled but, like so many other schemes brought in by Governments, it appears that once the credit has been received it does not take long for the Government concerned to pull out the funding. This is a very unfortunate characteristic of Governments and leaves people in many areas, and in this particular area, with some very bitter feelings.

Why was there no consultation with people waiting for wheelchairs or other devices, or the Disabled Persons Association, before the decision was made to freeze the supply? Why have people waiting for devices not been informed in writing of the full facts and the likely future of the PAD Scheme by the Health Commission? Will the Minister ensure that letters are sent immediately to peole waiting for devices explaining the reason for the delay? In any decison the Government makes on the future of the PAD Scheme, will it take into account the very difficult position that families and individuals are placed in financially by providing those devices, even if those people are in full employment and would probably fail a means test because of it?

The Hon. J.R. CORNWALL: The scheme is the PADP scheme, Program of Aids for Disabled People, not the PAD Scheme. It was introduced by the Fraser Government in the International Year of the Disabled. It has provided without means test on the prescription of doctors a whole range of aids for disabled people. These range from mammary prostheses for women who have had mastectomies, through to wheelchairs. There have been burgeoning demands on the system ever since it was established. In this State it is administered by the South Australian Health Commission as the agent for the Commonwealth. That is our only direct role: we are not involved in financing the PADP scheme. It is a Commonwealth scheme and we simply act as the agents for the Commonwealth.

There has been previously no limit, no means test and, as I say, this has been against a background of burgeoning demand. We have had some difficulties as the agents in meeting the demands on behalf of the Commonwealth in every year since I have been Minister of Health. This year,

that has been brought to a head by the fact that in the first two or three months we received demands on the system through prescriptions which amounted to seven to eight months funding. Obviously, the Federal Government, through the Department for Community Services, became very concerned about that level of commitment.

They have examined the situation. It is a matter on which I asked for a report, in fact, only yesterday. The proposal basically is that, in future, persons eligible for the PADP scheme will be limited, in general terms, through a means test. As I understand it, it is the intention that they will have to be the holder of one of the various cards, whether it is a pensioner health benefit card or a health card, for example. I do not have the final details of the decisions that have been taken by the Federal Department for Community Services. However, I understand that those details will be available very soon, and I would expect some sort of public announcement within a matter of days.

LOCAL GOVERNMENT PARTNERSHIPS

The Hon. J.C. IRWIN: I seek leave to make a brief statement before asking the Minister of Local Government a question regarding partnerships with local government.

Leave granted.

The Hon. J.C. IRWIN: In the ministerial statement on human services the Minister said:

> The Government further supports the principle of block funding some human services to local government as a further reflection of partnership and cooperation.

Later in her statement the Minister said:

> At present the Government believes that the libraries maintenance program is the only program which has developed to the point where block funding is appropriate. It is therefore proposed that this program will be used as a pilot case for block funding.

I use that quote first to point out to the Minister and the Government what has happened with libraries funding—and they well know that. The original capital funding for community libraries has been cut back from the original 50/50 basis, I believe. The original 50/50 basis for maintenance is under pressure to be reduced or has been reduced; local purchases are no longer subsidised, and there is now a cataloguing charge.

These were parts of contracts signed between local government and the State Government. These original contracts were entered into by councils to get them involved, and have now changed once they have become involved. Many councils now question the free nature of community libraries. Their obligations are much more than they first thought when they entered into their contracts.

The point I make is that, once councils and the Government become enmeshed in arrangements, the rules change and councils are left with increasing costs. That is one reason why councils are and may be apprehensive about block funding schemes. They have already, in many instances, had their fingers burned, using the example as I have, and as the Minister has in her statement, of the libraries scheme.

Further, does the Minister know—and she ought to—that the cost of running school traffic lights is now borne by councils? The Minister should also know that—despite the so-called boom in tourism—the grants to local government for tourism have in some cases been halved, and we already know of electoral roll costs and valuation costs being passed on to local government. The Minister is adamant that minimum council rates will go, because she says they are an unfair distortion of the rating system, yet the minimum rates still remain so far as ETSA charges are concerned.

These charges have quite an effect on country halls and facilities in country areas—and probably in urban areas—when these facilities are not used on a day-to-day basis. These may also be called an unfair distortion of the rating system, and I wonder whether the Minister is arguing in Cabinet to have the minimum rate withdrawn from ETSA charges, and, if they apply to E&WS Department charges, and from any other charge, if they are a distortion of reality. The ministerial statement further says:

> These arrangements intended to be binding on participants will be established for a fixed period of up to five years, and will clearly establish funding levels and indexation formulae for the life of the agreement. They will provide the financial security desired by local government.

I endorse those words as going some way towards satisfying local government, as do the Minister's words in the middle of page 8 in her statement, but the actions can fail because of the examples I have already given, so I ask the Minister: will she acknowledge that the only real way to provide the financial security and planning certainty so desired by local government will be to, first, not allow any interference in the way Federal grants to local government are distributed now by the South Australian Grants Commission and, secondly, develop and spell out a mechanism to take contracted projects past the initial contract period?

The Hon. BARBARA WIESE: The Hon. Mr Irwin amazes me, because at least once a week in this place he gets up and asks me these penetrating questions about the Government's move to secure cooperative arrangements with local government for the delivery of human services in our community. The Hon. Mr Irwin's questions all seem to be very much geared to suggesting that this is not a good thing. He will not actually come out and say it, but his questions certainly imply it. I think his approach to this issue is quite irresponsible. I have stood in this place on a number of occasions now and explained what we are attempting to do, the way we are trying to work cooperatively and in consultation with local government in the development—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —of this program. This will not occur unless there is a feeling of agreement and mutual trust in these negotiations, and that process is not helped by members like the Hon. Mr Irwin chipping away at the edges and trying to create a feeling of a lack of trust where it does not exist. It is totally unnecessary, when we are at such an early stage of consultation. I want to address just a couple of issues that the Hon. Mr Irwin raised in his preamble, first, relating to the community libraries program, when he suggested that—

The Hon. L.H. Davis interjecting:

The Hon. BARBARA WIESE: Shut up, will you! For God's sake, you are the most boring man in this place. There have been cuts in the community libraries program as there have been cuts in just about every area of Government this year. I will say that again and again, and again as well. It seems that it is absolutely necessary to talk about the budget over and over again to make members in this place realise that we live in different times; no longer do we live in an environment where we can hand out money whenever people ask for it. We must make some tough decisions about reallocating resources and changing our responsibilities.

The Hon. L.H. Davis: That would be a bit like John Cornwall talking about humility.

The PRESIDENT: Order!

The Hon. BARBARA WIESE: Therefore, the community library program, as have other areas of Government funding, has been treated in just that way. The Libraries Board

itself made the decisions about how the funding would be allocated for libraries for the following 12 months, and decisions that have been made have been made to ensure that the catalogue book allowance and the administration funding for community libraries were preserved. The administration budgets for those community libraries have been increased by 3 per cent for this year and the catalogue book allowances have been maintained at what the Libraries Board considers to be the optimum level. If the Libraries Board considers those to be the most important areas of funding for the community libraries program, I support such decisions being made. Anyone who really understood the funding arrangements for this year and the budget decisions that we have had to take would realise that decisions that have been taken in this respect are very responsible ones and that the funding arrangements are as good as they could be under the circumstances.

It is not true to suggest that tourism subsidies—to change the subject—have been halved. It is not true at all. We are providing the same sort of subsidies as we always have; in fact, we have introduced a new element in relation to tourism subsidies during this year, in that we are now funding more than the usual dollar for dollar or $2 for $1 subsidies for some local government projects. Where it is considered necessary in order to develop an area as a tourism priority, in some places we have decided to fund to the level of up to 100 per cent of costs.

The Hon. L.H. Davis: Give us an example. What sort of examples can you provide?

The Hon. BARBARA WIESE: I will give some examples. Earlier this year I made the decision to provide funding for various projects on Kangaroo Island, for example. That is a very good example of the things that we are doing. We will spend $1.1 million over a four year period on Kangaroo Island. Part of the funding that will be made available will be on the usual dollar for dollar basis. In the area of signposting on the island, for example, the Government will fund improvements in that regard to the tune of 100 per cent—because it is important that such things be done soon and that they are in place in order to develop tourism. Local governments are not in a position to fund such projects themselves, and the Government is assisting them. So, I resent very much the sort of implications drawn in this place that this Government is not taking responsible decisions in subsidy arrangements in providing for various organisations and, in particular, local government authorities.

The Hon. L.H. Davis: Can you get around to answering the question?

The Hon. BARBARA WIESE: I want to sum up: the issues raised in relation to block funding for local government are issues that we are currently working through. Certainly, at this stage it is the Government's view that the libraries program is the only program that fits the category, or fits appropriately a block funding arrangement at this time, and we will work cooperatively with local government in expanding the range of services that might be provided by way of block funding, and we will work with local government in determining how that can best be achieved. I do not know how many more times I have to say that—we are at the beginning of a very long road. There is a lot of work to be done with local government before we can achieve our goals. However, I think we have started very well. We are not assisted at all by the sort of sniping from members of the Opposition that seems to occur in this place every day of the year, and I wish that they would just go away and be a bit more positive.

TAFE COURSES

The Hon. R.I. LUCAS: I seek leave to make a brief explanation prior to directing a question to the Minister of Tourism, representing the Minister of Employment and Further Education, on the subject of TAFE courses.

Leave granted.

The Hon. R.I. LUCAS: I have been contacted by a number of students attending the TAFE School of Horticulture at Brookway Park, Campbelltown, complaining about Government cut-backs there, particularly in relation to the Certificate in Horticulture (Amenity). I shall quote from one of the letters that I have received, as follows:

> It is my understanding that there are up to 300 students similarly engaged and we were informed by the school only this week of a decision made by the Minister of Employment and Further Education that from 1987 onwards the school will cover the certificate course to apprentices only. Effectively, none of the abovementioned 300 students will be able to complete the course and gain certificates, unless they are able to be apprenticed.

I am informed that the horticultural industry is approximately a $100 million growth industry in South Australia at the moment, with very good prospects for those suitably qualified to gain future employment. Many of the students at this course conducted at Brookway Park are mature age students; a number of them are middle age persons who have been retrenched because of the downturn in the manufacturing industry at the moment and who are undertaking the course as an avenue for providing either a small business opportunity for themselves or an employment opportunity for themselves in the industry. A number of students are single supporting parents who, similarly, are trying to either establish a small business eventually or gain employment in what they see as a growth industry. Obviously, in view of the number of enrolments it is a very popular and useful course.

Of course, the other advantages of a course such as this are that it will reduce the welfare payments paid by Government in that the number of people currently receiving either pension payments or unemployment benefits will be reduced if those people can be suitably qualified and either obtain employment in a growth industry or establish their own landscaping business, for example, in metropolitan Adelaide or elsewhere. The decision that has been taken by the Minister of Employment and Further Education is particularly harsh on those students who find themselves part way through a course en route to getting this Certificate in Horticulture (Amenity). Of course, as the letter I have quoted indicates, they will not be able to finish the course and obtain their qualification. They have argued to me, and with some justification, that they consider that the decision involves a waste of State resources in that many of them have undertaken two years of study and training in this course with a view to gaining the certificate and gaining future employment, finding now that they will be unable to complete the final year of their studies for this certificate course.

So, my question to the Minister is simply this: will the Minister review his decision in relation to the Certificate in Horticulture course conducted at Brookway Park and, at the very least, will he consider (if he cannot reintroduce the course completely) allowing those students currently enrolled in the certificate course at Brookway Park to complete their studies and training, to ensure that valuable State resources are not wasted, as might occur if the current decision prevails?

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

EDUCATION STAFF CUTS

The Hon. PETER DUNN: Has the Minister of Tourism an answer to a question that I asked on 29 October about education staff cuts?

The Hon. BARBARA WIESE: The Minister of Education has assured me that it is not his aim to reduce staff of country schools. Schools in all areas, including country areas, are staffed according to formula, based on their predicted staff numbers. When student numbers decline, there will be staff reductions. Likewise, when student numbers increase, there will be staff increases. However, the staffing formulas actually advantage rural area schools. To use the honourable member's example, the secondary numbers at Streaky Bay Area School entitle them to 9.3 teaching staff. A high school with the same secondary enrolment would have only 7.8 teaching staff.

In fact, I have been advised that there is a reverse snowball effect in operation. Numbers in senior secondary classes in a number of area schools are increasing rather than decreasing. Some area schools in 1985 and 1986 have been able to offer a year 12 course for the first time. My colleague has taken such action, and will continue to do so. Students outside the metropolitan area are now increasingly able to make subject choices which were not available to them even five years ago.

AGRICULTURAL CHEMICALS

The Hon. J.C. IRWIN: Has the Minister of Health an answer to a question I asked on 30 October about agricultural chemicals?

The Hon. J.R. CORNWALL: I seek leave to incorporate the reply in *Hansard* without reading it.

Leave granted.

(a) Yes. Through the Australian Agricultural Council/Standing Committee on Agriculture committee system considerable progress has already been made towards uniformity of registration and labelling requirements for both agricultural and veterinary chemicals. That is being achieved by the two technical committees; Technical Committee on Agricultural Chemicals (TCAC) and Technical Committee on Veterinary Drugs (TCVD). These committees consist of senior officers from each State registering authority plus senior officers from Commonwealth Departments of Primary Industry, Health, Arts Heritage and Environment, National Health and Medical Research Council and National Occupational Health and Safety Commission. The function of these committees is to be given backing by legislation to be introduced by the Federal Minister for Primary Industries, Hon. J. Kerin, as he announced during the AVCA conference to which you refer.

(b) South Australian Department of Agriculture is actively involved in the activities of the two technical committees, TCAC and TCVD, as are all States, working towards uniformity with these very objectives in mind.

GLANDULAR FEVER TESTS

The Hon. M.B. CAMERON: Has the Minister of Health an answer to a question I asked on 25 September about glandular fever tests?

The Hon. J.R. CORNWALL: I seek leave to incorporate the reply in *Hansard* without reading it.

Leave granted.

Quantification of EBV specific antibody in a patient's serum, continues to be available from the IMVS. The guidelines supplied by the IMVS to general practitioners are designed to ensure that the test is performed only in situations where the result could give useful additional information, and in this respect the guidelines are comprehensive. This results in a reduction in the number of inappropriately performed tests, and therefore avoids wasting resources. The clinical diagnosis of glandular fever (infectious mononucleosis) can usefully be supplemented and usually confirmed by laboratory tests. The IMVS, as a centre of excellence, provides additional tests which are labour intensive and expensive in order to distinguish between possible causes. Most laboratories world wide do not provide these tests. Guidelines are issued for the application of these tests.

The letter issuing these guidelines ends with an invitation for practitioners to telephone members of the medical staff of the Division of Medical Virology if they wish to pursue the matter of further EB virus tests, a paragraph which the Hon. M.B. Cameron omitted to mention. There is no question that such tests are being 'removed from doctors'.

On 20 September 1986 the Division of Medical Virology at the IMVS received a request from Adelaide Diagnostic Pathology Laboratories for viral studies including EBV serology on a blood sample of a 14-year-old male patient with possible glandular fever. No information regarding the length or severity of the patient's illness or the results of other tests accompanied this request. Respiratory virus, cytomegalovirus and measles titres were determined as requested and the final results reported in the normal way. However, a letter outlining the guidelines for EBV serology was sent to the general practitioner, outlining recommendations for performing this test because:

1. The patient was not suspect for having EBV related malignancy.
2. There was no information available to indicate that this patient's illness had lasted more than three weeks with a repeatedly negative Paul-Bunnell.
3. The patient was not under five years of age.
4. There was no suspicion of Non-A, Non-B hepatitis.

In the case under consideration, the test was processed and when the general practitioner rang the IMVS after receipt of the letter on guidelines for EBV testing, the specific test was in progress and the result was communicated to the general practitioner within 30 minutes of his call. There was no evidence of current EBV infection.

After consideration of the above facts, it should be clear that the service provided by the IMVS was rather generous, given that the general practitioner was provided within four days of his request for a Paul-Bunnell, with the results of a test which he had not directly asked for and which appeared to fall outside the guidelines for its application.

The IMVS provides a high quality, efficient service to medical practitioners and is concerned to ensure that use of expensive tests such as this are used appropriately.

SAPSASA PROGRAM

The Hon. R.I. LUCAS: Has the Minister of Health an answer to a question I asked on 7 August about SAPSASA?

The Hon. J.R. CORNWALL: I seek leave to incorporate the reply in *Hansard* without reading it.

Leave granted.

1. The report recommended that 2 017 TRT days be available to SAPSASA/SASSSA for the 1986 school year. This is based on the figures supplied by officers associated with two programs and allows for a growth of over 10 per cent in real terms over 1985 to accommodate J150 activities. This level of support has been accepted.

2. The estimates prepared by officers involved in the two programs together with actual expenditure incurred in 1985 were used in determining the 1986 school year budget. Of course there is need to bear in mind that school years and financial years are out of phase. Payments lag the actual days used.

3. Clearly, by making the present level of TRT days available the Government through the Education Department has acknowledged the worth of these programs.

4. As mentioned in answer to the preceding questions, support has been greater in the 1986 school year. It must be underscored however that with J150 this has been an exceptional year in relation to the activities scheduled by these two bodies (see attached list). In consequence there will be discounting of the 1986 level for future budgets.

NATIONAL EVENTS IN SOUTH AUSTRALIA DURING 1986

South Australian Primary Schools Amateur Sports Association—(SAPSASA)

Swimming; Football; Netball; Hockey; Soccer; Cross Country; Tennis; Athletics; Softball; Cricket.

South Australian Secondary Schools' Sports Association Inc.—(SASSSA)

Football; Golf; Girls Hockey; Girls Netball; Rugby Union; Tennis; Basketball and Volleyball National School Knock-out Championships.

DISEASED EXPORT SHEEP

The Hon. PETER DUNN: Has the Minister of Health an answer to a question I asked on 25 September about export sheep?

The Hon. J.R. CORNWALL: I seek leave to incorporate the reply in *Hansard* without reading it.

Leave granted.

1. Yes, the potential for loss of export income because of the various certification requirements of overseas countries for Johne's Disease, does cause concern. Ovine Sarcoptic Mange is not considered as important as Johne's Disease. Virtually all countries have some health certification requirements. They vary from a declaration that no disease is known to exist on a property of origin at the time of export, or for a specified number of years prior thereto, through to the requirement that all animals must pass a test, or series of tests.

Australia sets rigorous pre-import testing regimes for animals it imports from other countries.

2. Ovine Sarcoptic Mange. No action has been taken by the department to control this disease. The condition can be easily eliminated in individual sheep and by relatively inexpensive means.

The condition is not severe in this species. Caused by a mange mite, clinical evidence usually only appears when sheep are put in sheds for varying periods of time, and disappears when they are put out to pasture. It can be easily treated and the mites killed by medication. The rams for proposed sale to the Chinese in this incident would have been confined to sheds for preparation and inspection by them.

Johne's Disease. Eradication of this disease is not presently possible in any species, in the absence of a sufficiently accurate biological test to detect infected but non-clinically obvious cases.

In cattle, where infection is detected, the property is placed under a quarantine restriction for a period of time, and disease control in that herd is achieved by management practices and the elimination or permanent isolation of stock considered to be at high risk of being infected.

Where this is done, and management practices are considered to be in place to minimise any more cases occurring, quarantine is lifted but surveillance continues for a number of years.

3. All domestic cloven hoofed animals can be infected by a sarcoptic mange mite.

Clinical Johne's Disease has only been detected in cattle in South Australia. The disease has been reported in sheep and goats in other States as well as cattle. Overseas, there are reports of disease in most domesticated cloven hoofed species.

4. The Department of Agriculture acts to ensure that all tests on stock required by overseas countries are carried out to their specifications. Staff also advise livestock producers of requests so that there are suitable animals for purchase.

The Commonwealth Government is responsible for negotiating health requirements for stock with all importing overseas countries, and in many instances, senior officers travel to individual countries where there are particular problems. For instance, a Commonwealth officer has just been to China as a result of the Johne's Disease test requirement problems arising out of the consignment of rams under discussion.

VEHICLE INSPECTION

The Hon. L.H. DAVIS: Has the Minister of Health an answer to a question I asked about the registration of a vehicle?

The Hon. J.R. CORNWALL: I seek leave to incorporate the reply in *Hansard* without reading it.

Leave granted.

1. Mrs Davis wished to register an unregistered vehicle. The vehicle did not carry a compliance plate indicating that it met Australian Design Rules (ADRs) and had not previously been registered in South Australia.

2. As is normal in such circumstances, the owner was requested by an officer of the Motor Registration Division to take the vehicle to the Vehicle Inspection Station at Regency Park. At Regency Park the usual two inspections were carried out:

- by a Police Officer to check against the stolen vehicle register,
- by a Technical Officer to determine whether the vehicle was in a condition suitable for registration.

3. The Technical Officer who carried out the inspection is an experienced, competent officer who is considered to be helpful, polite and considerate in his dealing with the public.

4. Mrs Davis left Wakefield Street, City, at about 3.00 p.m. on the day in question for Regency Park. She did not telephone to make an appointment, but hoped to complete inspection and registering procedures which involved three different organisations:

- inspection by police (Police Department),
- inspection by a technical officer (Road Safety Division)
- registration of vehicle (Motor Registration Division) before close of business that day.

5. To enable a vehicle manufactured in 1978 to be registered in this State, it should demonstrate compliance with some 20 complex Australian Design Rules. To require demonstration of this would be a very time-consuming and expensive exercise for the owner. The Road Safety Division

has authority to grant exemption from compliance. In the case of a vehicle previously registered in another State, demonstration of compliance (with the spirit if not the letter) of only the more significant ADRs is generally called for. In the case of Mrs Davis' vehicle, the inspecting officer pointed out that the only technical requirements to be imposed would be:

- seat belts to be provided for the back seats or, alternatively, these seats to be removed.
- sunvisors to be removed or alternatively replaced with ones meeting the current ADR.

6. Installation of extra seat belts is quite practical by someone who understands automotive design. Mrs Davis' garageman contacted the Vehicle Engineering Branch to enquire whether the extra seat belts could be fitted to the same anchorages as the existing (front seat) belts. He was advised that this was quite unacceptable as, in the case of an accident, it could have placed on the anchorages twice the force they are designed to carry. He was further advised that the simplest solution was to remove the rear seats.

7. Mrs Davis opted to remove the rear seat and sunvisors.

8. If Mrs Davis was in any way dissatisfied with her treatment it is unfortunate that she did not ask to speak to the Manager or Deputy Manager of the Vehicle Inspection Station at the time. They would have been pleased to advise her.

GENERAL ISSUES

1. There are not inconsistencies in ADRs between States. ADRs are Australian standards and the system of compliance demonstration is administered by the Federal Department of Transport.

There may be minor differences between States as to how far they are prepared to 'bend the rules' to help people with non-complying vehicles.

2. Five years ago there was no vehicle inspection station. Vehicle safety standards have been tightened during that period.

3. It is not a common practice for an inspector to pick out a defect and require it to be corrected before completing the rest of the check. The practice is to complete an inspection and give a list of defected faults.

4. People are not often forced to come back three or four times. In the rare instances when this occurs, it is because necessary repairs or modification have not been carried out.

5. It is considered that the work practices at the Vehicle Inspection Station are satisfactory.

REGISTRATION OF NURSES

The Hon. M.B. CAMERON: Has the Minister of Health an answer to a question I asked on 16 September about the registration of nurses?

The Hon. J.R. CORNWALL: I seek leave to incorporate the reply in *Hansard* without reading it.

Leave granted.

The Nurses Act 1984, which was proclaimed on 5 May 1986 required a nurse who has not practised for a period of five years, to obtain the approval of the Board. In granting such approval, however, the Board is empowered to exercise its discretion.

Section 29 (1) of the Act states:

> A registered or enrolled nurse who has not practised nursing for a period of five years or more shall not practice nursing without first obtaining the approval of the board.

In granting such an approval, the board may consider a variety of options which are outlined in subsection 2 of this section of the Act. This subsection in itself provides the board with the flexibility to consider any situation on its individual merits. In considering the implementation of this total section, the board has attempted to clarify what it will regard as 'practised nursing'. It has also examined the type of experience which, generally, would be required for those nurses who have not practised within the previous five years.

As a result the board has determined that 'practised nursing' would as a general guide, be regarded as 'six months full-time equivalent employment as a nurse'. This would include those nurses who have actively practised and those who are employed in 'non-practice' settings but are required to maintain their registrations as a condition of such employment. It has also resolved that those nurses who have not practised within the five year period would be required to undertake a refresher program, or a stipulated period of supervised practice.

With regard to the question of a phasing-in period, it is pointed out that practising certificates are currently issued for a period of 12 months. In view of this, the board's policy in relation to the implementation of section 20 will only become effective 12 months after the promulgation of the Act, which will be 5 May 1987. All nurses holding current practising certificates in this State have been individually advised of these requirements and of the phasing-in period.

It is not the intention of the board to prejudice any nurses who are currently employed but who may not comply with these requirements. Such persons, undoubtedly, will be permitted to continue practising. The board is also aware of the difficulties experienced in country areas and the lack of available refresher programs. In such instances, consideration will be given to issuing a conditional practising certificate which will enable such nurses to undertake a period of supervised experience in their own environment.

In determining its attitude to this section of the Act, the board has been conscious of its responsibilities in accordance with section 14 of the legislation whereby the board, in exercising its functions, is required to ensure that the community is provided with nursing care of the highest standard and that the highest professional standards of competence and conduct in nursing are maintained. The board has endeavoured to adopt a responsible approach to the implementation of section 29. Its policy is considered to be realistic, it provides for a considerable degree of flexibility so that individual situations can be examined and it allows for a phasing-in period.

The board will continue to adopt a responsible and realistic attitude to this section. Whilst conscious of the necessity to ensure that nurses are able to provide proper nursing care, any nurse who has practised within the required five-year period will not be disadvantaged by the board's policy and every effort will be made to assist those nurses in country areas to meet the requirements where previous practice has been outside the five-year limit.

BRITISH NURSES

The Hon. M.B. CAMERON: Has the Minister of Health an answer to a question I asked on 6 August about British nurses?

The Hon. J.R. CORNWALL: I seek leave to incorporate the reply in *Hansard* without reading it.

Leave granted.

1. The South Australian Health Commission in consultation with RANF and the hospitals wishing to recruit nurses from overseas.

2. Requirements placed on the agency were:

- Agreement to the holiday package being optional.
- Ensuring those selected met the hospitals' requirements.
- To act to recruit as expeditiously as possible.

3. The recruitment of nurses from overseas was for the State, with the South Australian Health Commission acting as co-ordinator of the process. Agreement to numbers with RANF had first to be achieved (following Cabinet approval of overseas recruitment) and then the distribution of those numbers to a variety of institutions. Once a hospital's quota was set, applications from the agent's London office were forwarded by electronic transfer to their Melbourne office who offered the application to a hospital. If the hospital made a job offer, this information was conveyed to London for acceptance by the applicant.

The hospital had the responsibility of accepting or rejecting an applicant, just as if they were doing their own recruiting.

4. The nurses are treated in a fair and reasonable manner by this organisation.

5. The recruiting procedures are monitored by the South Australian Health Commission and the RANF and legitimate concerns about procedures or clarity of documentation have been acted upon promptly by the Agency.

6. The matter of the RAH's recruiting policy is a matter for their administration, not the Minister.

7. The recruiting procedures presently in place are fair.

BLACKWOOD FOREST RESERVE

The Hon. J.C. BURDETT: Has the Minister of Health an answer to a question I asked on 31 July about the Blackwood Forest Reserve?

The Hon. J.R. CORNWALL: I seek leave to incorporate the reply in *Hansard* without reading it.

Leave granted.

At the time the Blackwood Forest Reserve was declared surplus to the Government's requirements the Minister of Lands initiated the establishment of a committee under the Chairmanship of Mr Stan Evans, MP, to advise on the future use of the land so that representative comment could be obtained from a range of community groups interested in the land. That committee has now completed its work and submitted a report which indicates that because of the wide range of community interests in the land, one simple solution for its use could not be established. The report provides four alternatives, including that promoted by the Save the Blackwood Forest Reserve Group.

WETLANDS POLLUTION

The Hon. M.J. ELLIOTT: Has the Minister of Health an answer to a question I asked on 26 August about wetlands pollution at Proper Bay?

The Hon. J.R. CORNWALL: I seek leave to incorporate the reply in *Hansard* without reading it.

Leave granted.

1. Yes. 13 May 1986.

2. The Minister for Environment and Planning is convinced that the Minister of Local Government has acted quite properly in this matter.

3. Yes. A proportion of the accumulated pollution in the wetland is now being drained to sea through existing drainage facilities. This operation will remove approximately half the accumulated polluted water. It has been proposed that the remainder be pumped to sea and then the exposed sediments assessed for fluoride levels and a suitable detoxifying strategy determined and implemented. It is anticipated that the detoxifying operation could be completed by March 1987.

4. 20 parts per million of fluoride.

BILLS PAYMENT

The Hon. L.H. DAVIS: Has the Minister of Tourism an answer to a question that I asked on 18 November about slow payments?

The Hon. BARBARA WIESE: I followed up the issues highlighted by the honourable member and am pleased to advise that the Department of Tourism usually takes approximately 20 days to pay their accounts. This period takes into account certification of payment, processing through the computer and dispatch to the client concerned. In this particular instance the conference was organised externally and the accounts were not sent directly to the Department of Tourism but were forwarded through the conference organiser. In addition to this delay, the department experienced a computer breakdown during the processing of these and other accounts received at that time. These two factors brought about the extraordinary delay in payment. All accounts have now been paid.

THE STAGE COMPANY

Adjourned debate on motion of Hon. L.H. Davis:

That this Council condemns the State Government for its hasty, illogical and unjustified decision made without proper consultation to withdraw funding at the end of 1986 for the Stage Company which deservedly has gained a reputation in South Australia, interstate and overseas as one of Australia's leading theatre companies in the staging of Australian plays, and calls upon the State Government to review this decision as a matter of urgency.

(Continued from 26 November. Page 2310.).

The Hon. BARBARA WIESE (Minister of Tourism): On behalf of the Government, I am happy to respond to this motion. I intend to move an amendment to that motion. The Hon. Mr Davis, in moving the motion, attempted to portray a sinister conspiracy, but I think it really ended up as very little more than a second-rate melodrama. The Hon. Mr Davis sees plots and conspiracies and heroes and villains everywhere. Really, this would be quite amusing if it were not so pompous and pathetic.

Furthermore (and I think that this is much more serious), the Hon. Mr Davis has abused his parliamentary privilege by standing up in this Council, in this coward's castle, and making allegations against officers of the South Australian Public Service, and he has attributed base motives to people who have no right of reply. I think that that is quite disgraceful. The Hon. Mr Davis really should get out of the gutter and concentrate on the issues.

I contrast the Hon. Mr Davis's approach with that of the Hon. Mr Hill, the previous spokesman on the arts for the Liberal Party. The Hon. Mr Hill really does know something about the arts scene and consequently he had one or two things to say that really were worth listening to. For example, I appreciate his comments about the Government's fair and just treatment of the arts in last year's budget process and in distributing the necessary savings in difficult financial times.

I remind the Council that this issue is about money. It is not really a question of artistic standards or artistic merit; it is about financial standards and financial accountability to the taxpayer. I contrast the Hon. Mr Hill's willingness to concede a difficult job well done with the approach adopted by the Hon. Mr Davis. The Hon. Mr Davis was quite unwilling to talk about arts funding in South Australia and, of course, he does not want to talk about that because he knows our record in South Australia is very proud. The Hon. Mr Davis is not noted for giving credit where credit is due.

I remind the Council about the South Australian Government's record in the arts during the past few years. More particularly, I will concentrate on the latest figures because they are consistent with what has happened in the past in relation to central administrative costs. The latest available figures are for 1985-86. Recurrent funding for the arts on a per capita basis during that year for South Australia was well in advance of any other State in the Commonwealth. I will read the figures to the Council because they should be on the record. New South Wales spent $6.45 per capita, Victoria spent $6.88, Queensland spent $9.63, Western Australia spent $11.61, and South Australia spent $18.78. So South Australia continues to be well in front of other States in terms of its support for arts organisations. South Australia remains the flagship for the arts in Australia, and not even the Hon. Mr Davis's bitchy, gossipy character assassination can shake our resolve to keep South Australia in that position.

The Hon. Mr Davis—or 'Jeremy' as I will call him—thinks that he is the whole of the Adelaide arts community, as far as I can tell. He talks of plots. I think that we should try to avoid those second-rate scripts and concentrate on the facts and a little bit of straight talking. I think it is instructive to look at Government funding received by the Stage Company during the past few years. In 1977-78 to 1979-80, the Stage Company received project grants from the State Government; in 1980-81, it received $55 000; in 1981-82, it received $75 000; in 1982-83, it received $85 000; in 1983-84, it received $120 000; in 1984-85, it received $200 000; and in 1985-86, it received a grant of $251 000, plus an additional $60 000 grant which was given to it when it was in financial difficulty.

In 1986-87, the grant allocated for the Stage Company was $317 000. This represents a real term increase of 283 per cent to the Stage Company during the course of the Bannon Government. That is an increase with which no-one could disagree or which could be criticised. Unfortunately, the increased support has not been met with the financial management and control which is required in these circumstances. The performing arts in South Australia is not just about artistic merit. It must also concentrate on proper financial management and accountability. Many millions of taxpayers' dollars go into the arts in this State. Therefore, it is quite right and proper that the Government should seek to ensure that that money is spent appropriately and that the recipients of Government money are accountable for the moneys they spend.

The Arts Finance Advisory Committee, which is responsible for keeping an eye on these things on behalf of the Government, has been concerned with the financial problems encountered by the Stage Company since 1984 when the Stage Company quarterly budget report to the Department for the Arts indicated that it was experiencing financial difficulties. In March 1985, the Stage Company requested an extra one-off grant of $26 500 to assist with financial difficulties due in part to problems in connection with its 1984 Festival production. In June 1985 the department guaranteed an overdraft for the Stage Company with the State Bank for $50 000. In August 1985, the State Bank wrote to the department expressing concern about the overdraft and asking for a more formal Government guarantee. In October of that year, the department advised the Stage Company's Chairman that an operating deficit in the region of $50 000 was expected at the conclusion of 1985-86 and the company was told:

> It is imperative that the Stage Company make every effort to minimise its costs in order to live within the amount already allocated.

In December 1985, a meeting was held between the Premier and representatives of the Stage Company to discuss the company's grave financial problems. Papers prepared for that meeting showed that the company would need a further $60 000 for the balance of the 1985-86 period to meet its commitments.

In February 1986, the department wrote to the Chairman of the Stage Company advising that an additional $60 000 had been granted to the company for the remainder of the 1985-86 period subject to the following conditions: first, that every effort be made to contain costs and maximise box office income; secondly, before the end of the 1985-86 financial year, management positions were to be restructured to ensure that financial capability was improved; and, thirdly, that no further Government funding would be made available in 1985-86. Despite this extra grant, in May 1986 the company's half-yearly balance sheet indicated a deficit of $4 500.

In June, the department's senior finance officer was concerned about the company's financial position and prepared a report for the Arts Finance Advisory Committee indicating a possible shortfall on the 1986 calendar year operations of $99 000. On 11 and 12 September 1986, representatives of the Stage Company met with the Director of the Theatre Board (Chris Mangin), the Director of the Australia Council's Financial Advisory Division (Bob Taylor), the department's Senior Finance Officer and the Director of the Arts Development Division in the South Australian department (Chris Winzar) to discuss the company's financial position.

Jeremy has already reported that the Director of the Australia Council's Financial Advisory Division complimented the Stage Company on its excellent presentation of the financial material that was asked for. However, he censored his plot to omit the vital information that, at the end of the day, the conclusion of the meeting was that both the Australia Council and the Department for the Arts feared that the financial outlook for the balance of 1986-87 was grave indeed and that the company's formula to trade out of its difficulties was not viable.

While we have to allow some artistic licence to Jeremy when he is writing his plays, it would be better for him to stick to the facts and not fantasy. Therefore, we should turn to the central ingredients of Jeremy's perceived plot: the decision of the Theatre Board of the Australia Council not to provide funding to the Stage Company for its 1987 activities. While it is time consuming, I will quote from a couple of letters written by the Director of the Theatre Board of the Australia Council, because I think that these excerpts from the letters will lay these conspiracy theories to rest. In his letter of 27 November the Director of the Theatre Board wrote as follows:

> . . . the principal reason for the Theatre Board's decision not to provide funding for the Stage Company's 1987 activities as described in their amended application received by courier on Thursday 25 September 1986 was that the board 'found the company's deteriorated financial position untenable'.

He went on to say:

. . . a current ratio of 0.017 as at 31 August 1986 caused the board to question the continued viability of the Stage Company's operations.

On 8 November 1985 the Stage Company was notified of its $55 000 general grant for 1986. The company was placed under review and informed that, given the concerns of the board, summary consideration of the nature of the board's commitment to the company might occur post 1986. The stated concerns were as follows: first, the standards of artistic direction; secondly, the financial situation of the company; and thirdly, the standard of the company's application for funding in 1986.

On 15 May 1986 the Stage Company's application for 1987 general grant funding was received. On 21 July 1986, following the Theatre Board's June meeting, the Stage Company advised that within the context of the board's consideration of its commitment to the company after 31 December 1986, the board's director would want to raise questions relating to structure, organisation and financial management of the company at the forthcoming round table meetings.

On 4 August 1986 at the Theatre Board's round table meeting held in Adelaide with the Stage Company, which was hosted by the South Australian Department for the Arts, and also the Financial Advisory Division director was present, the company tabled its financial questionnaire. The meeting adjourned when it was jointly agreed that further work was required to develop a profile of the company's fiscal position together with a range of options.

On 11 September 1986 the Theatre Board and the Financial Advisory Division convened a special meeting in Adelaide to discuss with the Stage Company their financial position and options. That meeting was also hosted by the South Australian Department for the Arts. On 25 September 1986 the Theatre Board received an amended 1987 general grant application from the Stage Company. On 29 September 1986 the Theatre Board met to consider the 1987 general grant and project applications. The board determined decisions on all applications by the evening of 1 October. On 2 October 1986 representatives of all State and Territory funding authorities met with the Theatre Board to discuss general policy and be appraised of board funding decisions with respect to those applications seeking joint State/Federal support and to make comment on those decisions. On 31 October 1986 the Theatre Board dispatched notification to all funding applicants.

Therefore, I think it is very clear from the sequence of events that I have just described that the process adopted required the Theatre Board to make its determination with respect to any application before the board before it formally met with the State representatives. So much for the conspiracy theory that someone from the Department for the Arts might have been involved prior to the decision being made. On the same day in a separate letter the Director of the Theatre Board wrote the following:

I am aware of the considerable controversy which surrounds the decision of the South Australian Department for the Arts to similarly cease funding.

In light of this I wish to confirm that to the best of my knowledge there was no collusion between any officer or member of the Theatre Board of the Australia Council and any officer of the South Australian Department for the Arts in reaching their respective funding decisions. Indeed the procedures outlined to you in my letter of 27 November clearly show that procedurally this was not possible.

Jeremy, across the way here, has been spreading rumours and gossip around town and I think he should know better and he should retract the statements.

The Hon. L.H. Davis: What do you mean by that?

The Hon. BARBARA WIESE: The statements the honourable member has been making here in this place and around town about officers of the Department for the Arts.

The Hon. L.H. Davis: Are you suggesting that I am going outside this Chamber?

The PRESIDENT: Order!

The Hon. BARBARA WIESE: He should know better. On the basis of the information I have presented here today, he should also withdraw those remarks and apologise to the individuals involved. What emerges is not a conspiracy but both funding organisations openly and separately giving the Stage Company warning that it was not financially viable and telling them to get their house in order. Both funding agencies had been concerned to work with the Stage Company to assist the company over its financial problems. I think also the sequence of events that I have outlined, which indicates that there have been numerous meetings over at least a two year period to try to achieve better funding arrangements for the Stage Company, indicates that both the Department for the Arts and the Theatre Board have been genuine in their desire to assist the Stage Company through these difficult times.

Depending on the results of the box office from the company's next production *Those Dear Departed*, it is likely that the company will conclude the first half of this financial year to 31 December 1986 utilising at least $240 000 to $250 000 of its South Australian Government grant of $317 000. In cash flow terms that means that it will conclude December with an operating deficit of somewhere between $80 000 and $100 000. The company's administrative costs, including permanent salaries, the proposed general manager, rental, lighting and other costs for the six month period until 30 June 1987 would be somewhere in the vicinity of $79 000. Even if the company did not employ a general manager, it would still have administrative costs of $65 000.

Given that the company has had its Australia Council funding withdrawn, it is clearly not in a position to mount any productions at all in the first half of 1987. Even if Australia Council funds had not been withdrawn, the company would have been unlikely to have been in a position to mount more than one production in the first half of 1987, particularly when one considers production deficits on its recent productions—for example, *Redinka's Lesson*, $41 000, *Sunrise Over Angie East* and *The Humble Doctor* $59 000—the department's financial advisers indicate that *Those Dear Departed*, based on a 60 per cent box office, will have a deficit in the vicinity of $41 000. A withdrawal of funding by the Australia Council, which is an independent decision, despite Jeremy's conspiracy theories, left the State Government with no option but to call for a moratorium on the Stage Company's activities. What all this indicates is that the Stage Company has been unable to cut its garment according to its cloth and does not have the financial resources to realise its artistic ambitions.

Over recent financial periods the Stage Company has adopted the unorthodox accounting practice of incorporating grants into the books of account as soon as they are received as opposed to the more conventional accounting practice of applying grants evenly over the time period to which the grant relates.

Over recent financial periods the Stage Company has sought some assistance from its company accountants and, while this is so, it lacks a strong general manager/administrator to exercise tight financial control. The Department for the Arts had held discussions over the past few months with the Stage Company in relation to appointing such a person to manage the company's affairs properly. Far from

a planned assassination attempt, the Department for the Arts has been attempting to help the Stage Company help itself by taking control of its financial future.

Hard decisions needed to be made by the Stage Company to ensure its viability. Despite over a year's consultation and warnings, these decisions were not taken so, in the resulting crisis, the funding agencies finally and reluctantly had to take the hard decision to suspend funding. There was no way the State Government could afford to continue to increase the grant to the Stage Company every year. In a shrinking revenue base, meeting the additional deficit by an additional grant is, frankly, just not on.

We do not live in financial times which allow this sort of practice to continue any longer. We cannot do it. Arts agencies, like all other agencies receiving Government funding, must get their houses in order. They must be financially accountable and, for that reason in this case, the hard decision had to be taken. I want to make it very clear that this has not been a decision taken lightly. The State Government does support the Stage Company, and I think that the figures which I indicated earlier give a very clear indication that the State Government has done all it could during the past few years to provide a level of financial assistance which would help the Stage Company to develop.

I want to reply to a question raised by the Hon. Mr Hill during his contribution to this debate. The balance of the $317 000 which was allocated for this year will largely be spent on clearing the accumulated debts, outstanding payments to staff and other matters relating to the Stage Company. It is not clear at present to what use the balance of funds, if any, would be put. The Hon. Mr Hill has asked if a compromise could be reached, and I am pleased to be able to report that there is a compromise being pursued.

In the past few days the Director of the Arts Development Division, Mr Chris Winzar, has held discussions with John Noble, the Artistic Director, and Peter Mullins, the Chairman of the Stage Company in relation to financial procedures and financial expertise in 1987-88. It has been suggested that the six month recess will allow a number of things to happen: first, it will allow the company to commence the new financial period (1987-88) with no accumulated deficit. Secondly, it will enable the company to charter a course of action in relation to its financial management which has the approval of the company's board, the Arts Finance Advisory Committee, the State Government and the Australia Council, and it will give the Stage Company time to devise a strategy to win back theatre board funding in 1988.

The Premier, as Minister for the Arts, is prepared to lend his weight to negotiations with the Australia Council to achieve that restoration of funding in 1988. If the arts are to continue to play a prominent role in this State, issues of financial management and attention to financial viability must be accorded the same importance as artistic matters by performing arts companies. The Government is not in the business of ever-increasing grants to particular performing arts bodies when these same funds may be spent more productively elsewhere. Artistic companies are a business just like any other business and the Government expects the same commercial principles to apply.

The Hon. Mr Hill expressed the expectation that the Stage Company could take over from the State Theatre Company as our top professional company at half the cost. He expressed support for the Stage Company as an intermediate theatre. While making no judgment as to the relative artistic merits of the two companies I agree with him that the support of 'intermediate' theatre companies is required. However, the State Government cannot afford to support two State theatre companies and the increased funding required for the Stage Company to meet its increasing deficits would have led to that circumstance.

All the Government has done in this case is to apply the brake to the increasing debt of the Stage Company and it is my hope, and I am sure the hope of all honourable members, that the next six months will allow the Stage Company to develop its financial skills to match its artistic ability, and I feel sure that the work that can be done jointly by members of the Stage Company in consultation with the Department for the Arts and with officers of the theatre board will bring about the sort of result that every member in this place would like to see with respect to the future of the Stage Company. I now want to move my amendment to the motion. I move:

Leave out all words after 'Council' and insert in lieu thereof the following:

regrets the need for the State Government decision to withdraw funding at the end of 1986 for the Stage Company which deservedly gained a reputation in South Australia, interstate and overseas as one of Australia's leading theatre companies in the staging of Australian plays, and supports the State Government decision to review this decision in the context of the 1987-88 Budget.

The Hon. I. GILFILLAN: I rise to oppose the amendment and support the motion. It was revealing, I think, that in the *Advertiser* this morning there was an article entitled 'Festival Trust loses $123 000 on 14 shows'. I quote from the article:

The Auditor-General's report on the trust was tabled by the Premier, Mr Bannon, who is Minister for the Arts. The Adelaide Festival Centre Trust lost more than $123 000 on 14 stage productions during 1985-86.

It was also interesting to hear the Minister, the Hon. Barbara Wiese, saying that the Government is not in the business of increasing grants. This article also shows that the State Government increased grants to the trust by $1 million since 1984-85 to a total of $5.5 million, so the Government is certainly in the business of increasing grants. I would also like to take from this article another couple of reflections of other entities in the art world who have suffered similar dilemmas to the Stage Company. It states:

In a separate report on the financial performance of the State Theatre Company, the Auditor-General says the STC's operating deficit for 1985-86 was $2 million, an increase of $66 000 on 1984-85. In its annual report the State Opera of South Australia reports an operating deficit of $2.1 million compared with $1.8 million in 1984-85.

That is in spite of the fact that the State Opera sold 78 per cent of all seats available for its 59 performances of seven operas and four recitals, so it is a tough business in which to make a profit. It is very unfair that the Stage Company had been selected—I think, ill advisedly—for a sort of economic vendetta. It certainly does not pay to be one of the deserving poor in South Australia in the response of the current Government. I compare this action of the Bannon Government to their refusal to continue the *One and All*, that other deperately surviving and worthwhile enterprise. The Consumers Association of South Australia has been chopped off at the knees.

The Hon. C.J. Sumner: That is not true.

The Hon. I. GILFILLAN: A little bit of tidying up surgery has been done so that they do not actually bleed while they can not walk.

The Hon. C.J. Sumner interjecting:

The Hon. I. GILFILLAN: I heard the President of the organisation acknowledge—as indeed he tactfully would do—the gratification that someone had staunched the flow of blood from the actual exercise by patching it up. Now it is the Stage Company. So, obviously, the meek and humble who strive to carry on doing their job get chopped. I do

not think the issue requires any further debate. I think the motion is intelligently worded in that it talks about a review. No-one can expect the Arts Theatre or any other branch of the arts to carry on without economic responsibility, and I am sure that the mover of the motion does not intend that to be the case. However, I think that the motion is properly compiled on the basis that it signals a criticism of the Government, and I think the Government has acknowledged the good sense of the intent of the motion in the announcement of the Minister, who said that a compromise had been reached. What prompted the compromise? If it was such a justified action, why was it not taken beforehand? Why did it have to get to the stage where the Stage Company had gone through the trauma of impending demise and then (through some sort of oratory and initiative from the Opposition) this motion urged the Government to rethink the matter? So, I indicate again that the Democrats intend to support the original motion and to oppose the amendment.

The Hon. L.H. DAVIS: First, can I say that I am pleased, in fact delighted, to hear the Hon. Mr Gilfillan indicate that the Democrats will support this motion. It is pleasing to see that the Australian Democrats have an appreciation of the importance of the arts to the South Australian community. The Minister, in seeking to be theatrical in her rebuttal of this motion, said some quite remarkable things. I do not intend to dwell on them, because we know which way the numbers are going to fall, but I totally reject the proposition that I am a Thespian lone ranger fighting a lone battle for the Stage Company which deserves no support. I certainly reject totally the allegation of the Minister that the facts that I have presented—might I say with the wholehearted support of my colleagues—are other than those that have been reported to me from a large number of people, both here and interstate. There is concern that this Stage Company, which over nine years has mounted 60 plays, mostly Australian, many premieres, in Adelaide, interstate and overseas, has been the victim of discrimination both here and at the Australia Council level. Just to give added emphasis to the facts that I presented last week, I want to read into *Hansard* a letter from Mr W.A. Spear, a partner in a firm of chartered accountants Spear Walters Lloyd & Co. The letter, forwarded to the Editor, Advertiser Newspapers Ltd, King William Street, Adelaide, and dated 28 November 1986, states:

Re: Stage Company Closedown

There has been considerable publicity in the past few weeks relating to the Premier's decision to close down the Stage Company at 31 December 1986, and it is my belief that this decision was not one which he believed was productive for the State of South Australia and its arts program.

However, he was guided in making his decision by information and a final recommendation provided by the Finance Council for the Arts in South Australia, who had studied the financial budget report submitted by Mr John Noble, the Director of the Stage Company.

I am the Chartered Accountant who was asked by the Stage Company Board in March of this year, to establish financial controls in their organisation to monitor spending, revenue and budget comparisons. I am pleased to say that this was achieved and that on the basis of the monthly reporting, the financial management of Stage had improved considerably over what was availble at the same time last year, when the deficit referred to, in most newspaper reports as being a current year deficit, was incurred.

My amazement at bureaucratic behaviour was exemplified by the fact that at the doomsday meeting with the Premier, it was reported to him that the Arts Finance Council did not believe the budget was achievable and that on that basis Stage should be closed down. To this day, no member of the Finance Committee has ever contacted me, has ever challenged any figure of mine included in the budget, has ever challenged my newly introduced reporting system or attempted to contact me to seek my views as to whether this budget was realistic.

How is it that the Labor Government of South Australia, the founder of the excellent Arts Program of this State, can allow decisions with such ramifications to be made by some council members—

I think he means the Arts Finance Advisory Committee members—

on a set of papers they think is wrong, and without an opportunity being given to support that report by the author of those papers, leaves me completely disillusioned with the honesty and integrity of bureaucrats and Government.

No wonder John Noble and his Stage Company Board believe that there was something other than proper consideration given to the Stage Company in the final judgment handed down by the Arts Finance Advisory Committee.

Finally, would someone from the arts ministry please let the community of South Australia know how the Festival Theatre Trust's lost income from Stage of approximately $70 000 for 1987 is going to be replaced?

Maybe the Labor Government will have to give the Festival Theatre Trust the grant it would normally give Stage to keep it viable makes you wonder how creative accounting can be used for political purposes.

That is pretty tough stuff—and it is right on the ball. It is directly in line with the argument that I mounted last week, with the support of my colleagues, the Hon. Murray Hill and the Hon. Bob Ritson. There is a total rejection of the argument that the Minister attempted to mount today that the Stage Company has been unmindful of its financial obligations, and that there has been no financial accountability and management. That is totally rejected by the very man who instituted a proper financial control system in the Stage Company some eight or nine months ago. I spoke to that gentleman, whom I did not previously know, for the first time today, and he confirmed the fact that they do have a monthly printout of their financial position, that they are in a position immediately at any stage to find out how the financial position is running. So, it is quite erroneous of the Minister to suggest that the Stage Company does not have its financial house in order and that rejection of course is based firmly not only on what I said but also on that letter of Mr Spear.

Also, to argue that the Stage Company has run through $250 000 in the first six months of this year, with six months left and only $70 000 from the State Government grant left for productions in the first half of 1987, is also to considerably misrepresent the situation. Quite clearly, the Stage Company in programming its productions for the first six months of this financial year (that is, from 1 July 1986 to the end of this calendar year) was anticipating receiving the $60 000 from the Australia Council. Also of course one should be mindful that this was the last six months of the Jubilee year; it was always the company's intention to have a much more active first six months for the 1986-87 financial year than the latter six months. So, to take the first six months operating deficit and project it through and say that that would be a full year's financial deficit is to considerably misrepresent the situation.

Also, of course it denies the fact that, if that new musical *Those Dear Departed* is successful at the box office, the operating deficit would be considerably reduced. However, it is quite clear from the treatment by the State Government and the Department for the Arts of the Stage Company that they have considerably overplayed the financial difficulties. The Minister did not inform us of the financial state of some other companies in South Australia in the performing arts because, if she did, she would have admitted that they also would have to be closed down.

In my view, there has been discrimination against the Stage Company. I called it a planned assassination in introducing the motion and I stand by that charge. It is quite

clear that the Arts Finance Advisory Committee has not consulted with the Stage Company, nor has the Department for the Arts or the Premier as Minister for the Arts, because in mid October the Minister for the Arts said, 'We will consult on this.' One can see from Mr Spear's letter (a highly indignant financial adviser to the Stage Company) that they have not even talked to him about the figures that were put together in consultation with the Stage Company. Quite properly, the Board of the Stage Company can make that same complaint. After the Department for the Arts, and the Premier as Minister for the Arts promised to consult, no discussions were held with the Stage Company. What sort of behaviour is that? What sort of performance is that? What sort of caring is that? What sort of respect is that for the Stage Company that has given so much and run an operation on such a tight financial budget with very few people?

Last night the Stage Company had a board meeting and it was forced to retrench its administrative officer. It saddens me that it has been forced to do that, because of this Government's treatment of it. I hope that the Stage Company will not be judged on just one play *Those Dear Departed* which starts this Saturday, because it would be quite unfair to do that. It would be particularly unfair because of the Premier's and the Department for the Arts' prevarication on this important matter and the uncertainty that was created as the result of the department's decision to close it down. The Premier said, 'Perhaps we will not; we will have a look at it and we will consult with you.' It meant that the staging of this premiere of Steve Spears' musical *Those Dear Departed* has been jeopardised because the production started several weeks late following the uncertainty surrounding it.

I think that this has been a disgraceful, dark and sorry episode in the life of the arts in South Australia. It is disappointing that I had to move this motion, but I stand by everything that I have said. I believe that the Stage Company deserves better treatment than it received. The fact that the Department for the Arts' key player in this scenario admitted that he had not even been to a Stage Company production for 18 months suggests that the Stage Company is not exactly the popular favourite of some of the key players in this sorry fiasco.

The Hon. C.M. Hill: That couldn't be right, could it?

The Hon. L.H. DAVIS: That was contained in a feature article written by Jason Daniel in the *Advertiser* last week and it has not been denied. The only redeeming feature of this is that, because of the adverse publicity this decision has generated, it seems that the Government has softened its position. I hope that the Government will further soften its position from this point because, as I have said, it is ridiculous and false economy to effectively close the company down for the sake of $50 000 or $60 000 when, on the other hand, it will relinquish what could be between $40 000 and $70 000 in revenue from the Space Theatre, which is utilised by the Stage Company for all its productions. It means also the loss of an artistic director, production designers, a very talented group of actors, actresses and other supporting staff. If one weighs up the benefits and costs as I have just done in a very brief fashion, one can see the merit of the argument which has been advanced in this motion. I am pleased to see that the majority of members in the Legislative Council share the sentiments that are contained in that motion.

The Hon. C.M. HILL: I wish to speak briefly to the amendment.

The ACTING PRESIDENT (Hon. Carolyn Pickles): I am sorry; the debate is closed.

The Hon. C.M. HILL: The Minister has the right to reply to the amendment after discussion on it.

The ACTING PRESIDENT: There is no reply to an amendment.

Members interjecting:

The ACTING PRESIDENT: Mr Hill, will you please resume your seat. I put the question that the words proposed to be struck out stand part of the motion.

Amendment negatived; motion carried.

SELECT COMMITTEE ON ENERGY NEEDS IN SOUTH AUSTRALIA

The Hon. I. GILFILLAN: I move:

That the interim report of the select committee be noted.

Gas, the subject of this interim report, is a precious finite resource and an excellent fuel for many purposes. As Chairman of the select committee I urge members to take particular note of the report which was tabled yesterday. One of the ingredients of natural gas, ethane, is a feedstock for petrochemical processes. In relation to heating, natural gas is twice as efficient used direct than if converted to electricity. I believe that it is important to put in proper perspective the intrinsic and long-term value of the resource about which this interim report has so much to say.

South Australia is dependent for 35 per cent of its primary energy needs on gas. The committee realises that the assured supply will drop to three years before additional gas becomes available. This fact is not clearly recognised and is often camouflaged by the spectacular publicity given in the media to each discovery or successful well drilled. In fact, this program only keeps the ball rolling. Unless there were successful wells drilled, then South Australia's plight would indeed be one of stark crisis.

The situation needs the accelerated exploration program as proposed by Santos and the inclusion of gas from south-west Queensland, but the committee recognises that, for the former, the other joint producers with Santos have not yet indicated their full support for an accelerated exploration program. A condition that Santos asked of the Government—an undertaking not to negotiate an alternative source of gas in the interim—remains undetermined. As to Queensland, the anticipated supply of gas has not yet been proved up and therefore, although likely, South Australia cannot bank on it with certainty, bearing in mind the extraordinary complication of ownership of that area of gas with AGL, the New South Wales supplier, a major shareholder. I refer members to the addendum of this report, particularly in relation to the Queensland situation. I remind members that the report was virtually concluded in substance before the Premier of Queensland consented to interstate sales of the gas.

Ethane, which is an ingredient of the Moomba gas and has been retained as a possible petrochemical feedstock, could be made available for South Australian gas supplies. However, the committee is of the opinion that, as it has an enhanced value as a petrochemical feedstock, it would be unfortunate for it to be consumed as a primary fuel source unnecessarily; therefore we have recommended its continued retention. It may not be used in any petrochemical development in South Australia, but there are other market possibilities, for example, New South Wales.

The price at which gas is available is of critical importance. In the short term, the South Australian field gate price—that is, the price at the oil field—remains at 50 per cent above that paid by the company supplying New South Wales AGL, with a further rise scheduled for 1 January

1987. This situation has disadvantaged South Australians by over $40 000 000 in 1986 when compared with New South Wales customers, and the committee is of the opinion that that should not be permitted to continue. It is inevitable that prices will ultimately rise, but the current situation is regarded by the committee as very unfair for South Australia, and we have recommended that the Government act to maintain the field gate price for South Australian gas at its present price, which is $1.52/GJ until the new New South Wales price has been determined. At this stage the South Australian price will be on an equivalent footing with the New South Wales price.

Price determination by arbitration is of concern to the committee. The procedure has gone on for some 18 months, with no clear end in sight. We estimated that it has cost $8.5 million and is unlikely to be concluded until March 1987. We believe that, in the event of any further delay in the arbitration procedure, the Government should act to set the field gate price of gas sold to South Australia at the New South Wales price of 1.01/GJ as of 1 March 1987.

Further, in relation to price, unless there is a linking of South Australian price with the New South Wales price, the cost of further exploration in the Moomba gas fields will be borne by the South Australian consumer. This comes about because of the unique situation for New South Wales's supply. It has to be all proved up before further South Australian supplies can be made available. Therefore, South Australian consumers have contributed substantially to the exploration cost required to prove up the New South Wales requirements. It would be only justice for South Australian consumers that future prices for both South Australia and New South Wales share the cost of further exploration required to provide gas to South Australia.

In relation to the Australian Gas Light Company (the New South Wales Gas suppliers), the committee never ceases to be amazed at the deal that AGL managed to achieve for itself as far as gas supply to New South Wales is concerned. The agreement for price allows that it can be reviewed only every 3 years. If agreement cannot be reached, the dispute goes to arbitration. The arbitrated price is binding but only applies for AGL on the date that the decision is handed down, so obviously the longer the arbitration case is extended the more money AGL saves (presuming that the price is actually going up—and historically that is always the case). This compares with the South Australian gas price, which is not only subject to an annual review but, if it does go to arbitration, the price applies retrospectively. That was the case prior to the legislation at the end of last year.

According to Crown Law opinion, AGL has the extraordinary privilege that, should it at any time have any doubts that the quantity of gas set aside for its use is not proved up to its satisfaction, then the provision of AGL's requirements will override any contract of supply to South Australian producers.

It is no wonder then that AGL has shown no enthusiasm to renegotiate its position. It is protected by the famous section 92 of the Constitution so that legally the Government can do nothing to interfere with its current trading arrangements. The committee has been very disappointed at the lack of response from AGL to its invitation to appear before it or indeed to provide written responses to its requests. It is within the power of the Legislative Council to require AGL to be more cooperative if that were found to be necessary, but the committee did not consider that as an option.

It is important that we establish the best relations possible with AGL because the optimum means of using that Moomba gas is through a sharing arrangement so that some of the gas which has currently been proved up for AGL could be made available to South Australian consumers. The costs of exploration for and proving up of gas which is not to be used for 15 years or so adds to the price of gas. A saving from a rationalised program could be shared as price benefits for both South Australian and New South Wales consumers. The committee does not doubt that, if AGL were prepared to enter into such an arrangement, the gas supplies to fulfil the contract would be assured.

This leads to a further point of cooperation, and I refer members to our recommendation for a forum of Queensland, New South Wales, South Australian and Federal Governments to look at a cooperative approach to the use of gas. The advantages of cooperation are that equipment, pipelines and refineries can be fully utilised, and the distributed cost is spread over a larger volume of gas and therefore lowers the price. As well, sensible planning can assure that fields can be efficiently exhausted. This is critical where, in the latter stages of a field, the economics of extracting the final portions of gas are marginal. If they are not incorporated into the stream while it is running, the economics of returning to those remote pockets of gas, some of which may be very hard to extract, are unattractive. This would be an irresponsible misuse of such a precious resource. We cannot and should not use it inefficiently.

Finally, the committee's recommendation that the newly formed Natural Gas Task Force be obliged to consult with industrial and domestic consumers recognises that consumers should be involved in price negotiation. The task force will be responsible for further gas pricing arrangements. Without satisfied customers—both industrial and domestic—the full picture of South Australia's gas needs will not be acceptable. We have put forward a recommendation that the task force be required to seek direct inputs from consumer interests.

In finishing, I acknowledge the significant contribution made by Mr Bruce King, who has been our Research Assistant, and I thank the Minister of Mines and Energy (Hon. R.G. Payne) for allowing him to be available. I mention the efficient and courteous help given by our Secretary, Mr Trevor Blowes, and my fellow committee members, Brian Chatterton, Mario Feleppa, George Weatherill, Diana Laidlaw and Peter Dunn, whose hard work and clear thinking have made this interim report possible. I recommend the report to members and urge them to take particular note of the first portion of the interim report. We have thoughtfully included our conclusions and recommendations in the beginning of the report so that weary Legislative Councillors do not have to wade through a lot of pages. We would appreciate members paying attention at least to the first six or seven pages of the report. I commend the report to the Council.

The Hon. DIANA LAIDLAW secured the adjournment of the debate.

LAND AGENTS, BROKERS AND VALUERS REGULATIONS

Adjourned debate on motion of Hon. J.C. Burdett:

That the general regulations under the Land Agents, Brokers and Valuers Act 1973 made on 25 September 1986 and laid on the table of this Council on 21 October 1986 be disallowed.

(Continued from 5 November. Page 1835.)

The Hon. C.J. SUMNER (Attorney-General): I oppose the motion. The regulations came into effect on 10 November 1986. The Hon. Mr Burdett has moved disallowance of

the general regulations on the basis of representations made by the operators of certain rental referral agencies about the code of conduct for such agencies set out in the sixth schedule.

I will deal with his specific objections against the code of conduct shortly. First, I will set out the background against which the code of conduct was developed. In this respect I would commend to any honourable member the evidence given before the Joint Committee on Subordinate Legislation on 4 November 1986 by officers of the Department of Public and Consumer Affairs and, in particular, the evidence given by Mr Sargent. I believe that any questions about the appropriateness of the code can be answered by perusing that evidence. I also indicate that the Joint Committee on Subordinate Legislation, after hearing evidence from the people who objected to the code of conduct and evidence from the officers of the Department of Public and Consumer Affairs, resolved to take no action on the matter—they resolved not to disallow the regulation.

The control of rental referral agencies revolves around the definition of the term 'agent' and the Land Agents, Brokers and Valuers Act. The definition is very broad and requires, generally, an agent to be licensed if he manages or controls any property in any way. A court decision in the late 1970s held that, because rental referral agents did not physically see the property or come into contact with the property, they were not 'agents' for the purposes of the Act and, therefore, did not need to be licensed. They operated by way of hearsay advice from either landlords or land agents, and because of their reliance on those sources, they appear to be in a conflict of duty of care between the source of their information and their clients. There were many occasions when the client did not actually receive all the advice he had requested because the agent was selecting certain properties which might be suitable for the tenant. By so limiting the information, these operators could avoid the requirement to be licensed agents.

The Hon. Mr Burdett indicated that, while he was Minister of Consumer Affairs, a survey was carried out which examined clients' attitudes towards the rental referral agencies which they had used. One of the problems which was uncovered was that prospective clients did not always realise that a fee was payable for the service, because they believed that the agent was acting for the landlord and would be collecting any fees from the landlord. A second problem was that there was a great deal of uncertainty about the availability of premises advertised. In many cases, availability of premises was never updated. In some cases, there were allegations of 'bait' advertising in relation to referral agencies. Attractive properties would be advertised but no records were kept to indicate the availability of the premises. The code of conduct which was developed attempted to ensure that accurate information was provided by the agency, and that the clients understood the relationship between the agency and the client.

Against this background the Hon. J.C. Burdett objects to some provisions of the code of conduct. In particular, he objects to the provisions which require a rental referral agency to keep and maintain records of the name and address of the landlord of each of the premises in relation to which the agency provides information, and the address of all premises in relation to which the agency provides information. He does so on the basis of representations that these operators will lose a very substantial part of their business because many owners or agents are not prepared to disclose their addresses or the addresses of the premises. The code, however, does not require that those addresses be disclosed to clients. There is, therefore, no security risk or probability of interference with existing tenants.

The requirement to keep the name and address of the landlord of each of the premises arises from the result of the survey which was conducted three years ago and in which I understand the Hon. Mr Burdett was involved. It was found that the agencies were keeping addresses then and the code of conduct simply required what was already being done. We have now been told that these agencies are no longer keeping the names and addresses and that this will not fit in with their current business practice. If this element is removed from the code of conduct, a rental referral agency could experience difficulties if a complaint is made to the Commercial Tribunal as to whether the operators obtained the prior consent of the landlord, and the landlord has verified the availability of the premises within the past 24 hours. It would seem to be good business practice to obtain the name and address of the landlord so that, if a complaint is made to the Commercial Tribunal, it can be confirmed that consent was obtained, and the availability of the premises was confirmed. In any case, it would appear to be essential that this information be kept so that the client may contact the landlord if the premises are suitable.

In regard to the requirement to keep the address of all premises in relation to which the agency provides information, this information is absolutely essential to ensure that the client obtains the service paid for. This requirement helps to ensure that the information is accurate and avoids the situation where a rental referral agent simply provides a list of advertisements in the newspaper and recovers a fee.

It has been pointed out that the code of conduct was developed over a period of three years and that there has been no impropriety by any of the agencies now operating. My response is that the agencies have been aware that legislation would be for a code of conduct implemented for their businesses and that they have adapted their businesses accordingly. It is not simply the businesses which are now operating which must comply with the code of conduct, but potential businesses which could be set up to take advantage of the failure to introduce regulations for a code of conduct in this industry as the Government indicated it would do.

The second specific objection raised was in relation to the requirement to advertise that a fee was charged for the service. This requirement arises directly from the fact that many clients are unclear whether the agent is acting for the landlord or the client. Rental referral agents appear to be the only businesses advertising in the real estate pages of the newspapers which charge an initial fee. The cost to these agencies of requiring disclosure that a fee is charged was investigated by officers of the Department of Public and Consumer Affairs, and it was found that, over a period of a year, the cost to agencies would be minimal.

In conclusion, the object of the code of conduct is to ensure proper conduct and proper service. It has been suggested that the agencies will be put out of business by imposing these conditions, but, as I have said, the code was modelled on the practice of these agencies.

Whether the representations the Hon. Mr Burdett has received are correct or not, it is certainly clear that one of the agencies, which he even admits in his disallowance speech, operates in accordance with the code of conduct. The code of conduct, is an incredibly minimal code of conduct; it could hardly be described as over-regulation in any sense. It just sets out very simply the basic conduct that ought to be followed in the interests of consumers by these rental referral agencies.

If these regulations are disallowed, the potential for previous abuses, which I have outlined and which were identified by a working party established, in fact, by the Hon. Mr Burdett, will return. I do not think a case has been made out for not proceeding with the code of conduct as included in the regulations. It is a simple and minimal code of conduct, and it ought to be able to be complied with without a great deal of difficulty. If it is complied with, consumers will know what they are paying for.

The Hon. I. GILFILLAN: The Hon. John Burdett courteously made sure that we were fully aware of the significance of his motion. It gave me the opportunity to peruse it and consider it with other people and also to have someone on my behalf telephone Centalet and Home Locators. Our opinion is that of the four listed objections as far as the regulations were concerned—the requirements to advertise fee charged, to record address of landlord, to record address of all premises, and to record date when premises are actually let—the only one that is an imposition would be the requirement to advertise fee charged.

In both the telephone calls we made there was no doubt left in our minds after quite a small part of the conversation that there would be a fee charged. To me, the other requirements seem to be reasonable if the list is to have integrity, particularly the requirement to record date when premises are actually let. Although I recognise that it will add some work to those who are compiling these lists, it is our intention to oppose the motion for disallowance.

The Hon. J.C. BURDETT: Obviously, I do not have the numbers so I will not speak for long and I will not divide. The Attorney early in his speech referred to the fact that the Joint Standing Committee on Subordinate Legislation did move no action. Ever since I have been on that committee divisions have always been on Party lines, and it was so on this occasion.

The Hon. C.J. Sumner interjecting:

The Hon. J.C. BURDETT: Okay, but it is a relevant point to make. Divisions have always been on Party lines and this side of the Council is outvoted four to two, so I do not really think that that is much of an argument.

In regard to the question of advertising fees charged, I go back to the point that I made when I originally spoke, that this is a very unfair competition of the public sector against the private sector, because the public sector, through the Housing Trust, does have an organisation, Whereabouts, which performs the same service, charges no fee and advertises that it charges no fee. It is pretty unfair to expect the private sector to compete with that when they will be obliged to advertise that they charge a fee. There is no harm whatever in their not advertising that they charge a fee, because if any business is going to be done they have to be contacted, and before any business is done they have to say that they charge a fee, otherwise they will not get it.

To me it is quite improper. It is another example of the public sector overriding and overruling the private sector. I do not mind the public sector operating in fair competition with the private sector, but this is not fair, because the public sector advertises that it charges no fee and the private sector will be obliged by these regulations to advertise that it does charge a fee. As I say, there is nothing wrong with its not advertising that, because before anything can be concluded, and before any fee is incurred or parted with, it will have to be disclosed that it charges a fee. All they are asking is that people be able to ring them.

The other major issue was the question of keeping records of the premises and the agents. That is not necessary, because another part of the code of ethics—with which I do not disagree—requires that the premises must be available. That is all that is necessary. It is quite unnecessary to have to go to the extra trouble of keeping the records, and if the records are kept people will want to see them, and on some occasions they will be disclosed, and agents and owners will not trust that they will not be disclosed. I certainly have no hesitation in saying that I believe that the two major organisations, Centralet and Home Locators, will go out of business because of these regulations. I think it is a shame.

The Hon. C.J. Sumner: They don't have to.

The Hon. J.C. BURDETT: They will have to, because of the costs. I have no doubt they will go out of business because of these regulations, and I think it is a shame that two small businesses employing several people will go out of business because of excessive Government regulation. I realise I do not have the numbers and, as I said, I will not divide and will not speak any further, but I repeat two major points. First, it is not fair that the public sector should be able to conduct a business which says that no fee will be charged and the private sector is required to advertise in advance that it charges a fee, whereas in fact it will obviously have to disclose that a fee is charged before any fee can be recovered and, secondly, it is required to keep records which are quite unnecessary and which are coped with by other parts of the code of ethics. I certainly would urge the Council to support the disallowance motion although, from what the Hon. Ian Gilfillan has said, that will not succeed.

Motion negatived.

FREEDOM OF INFORMATION BILL

Adjourned debate on second reading.

(Continued from 19 November. Page 2062.)

The Hon. C.J. SUMNER (Attorney-General): As members would be aware, freedom of information has been under consideration for some time in South Australia. Several members would realise that in 1978 a working party was established to deal with FOI matters, and in that same year a working party on privacy was also established. I have mentioned the working party on privacy as I shall explain in the course of this speech the manner in which the two matters are interrelated. In the years between 1978 and the present, FOI legislation has been enacted in Victoria and federally, and in both instances that legislation has been subjected to quite substantial review, particularly in recent times.

On 20 August 1986 the Hon. Martin Cameron introduced an FOI Bill into this Chamber. That Bill is based in large part on the 1983 report of the interdepartmental working party on FOI. The Government opposes the Bill introduced by the Hon. Mr Cameron. Speaking in opposition to this Bill, I would refer members to my press release on 13 August 1986 in which I commented on Opposition plans to introduce a Freedom of Information Bill. It read as follows:

> The Government supports freedom of information in principle and is currently working on a package incorporating FOI and privacy principles to enable people to have access to personal records. The cost of such a scheme is a major factor. Current Federal legislation costs about $20 million a year to administer. Both the Federal and Victorian schemes are currently being reviewed, and it would be premature to proceed with any legislation until these reviews are completed. The significant cost implication of the Hon. Mr Cameron's proposals will have to be examined, particularly in the current budgetary circumstances.

On 4 August 1986 Cabinet approved the implementation of freedom of information as a privacy principle, that is, a

citizen's right to access to personal information held by Government subject to certain exceptions, which I will summarise later. In summary, that is the Government position.

For the benefit of members I will outline the history of the FOI debate in South Australia and current problems as seen by the Government. On 16 January 1978 a working party was established to study and make recommendations to the Premier and the Attorney-General on measures to make accessible to members of the general public information held by the Government, its departments, instrumentalities and other bodies. In December 1978 an issues paper was produced by this working party and public comment was sought. In September 1979 there was a change of Government. On 11 August 1980 the Liberal Government decided to establish a working party to consider the previous working party's discussion paper and responses, and to make specific clear recommendations on the concept of FOI.

It seems that this working party did not report. On 28 February 1983, following the election of the Bannon Government in 1982, the interdepartmental working party was re-established to complete the work of 1978. In December 1983 the report of the freedom of information interdepartmental working party was released. Cabinet approved that report in principle and referred it to the Public Service Board and Treasury for detailed consideration. To date, no allocation of funds has been able to be made to enable the implementation of the report.

The report recommended that a basic principle to be embodied in freedom of information legislation should be that a person has a legally enforceable right of access to any document in the possession of an agency unless that document is in the category of exempt documents to which access can be denied. The report recommended that documents which should be exempt from access under the legislation should include Cabinet documents, documents containing matters communicated by other States for the Commonwealth, internal working documents, law enforcement documents, documents affecting legal proceedings, documents affecting personal privacy, documents relating to trade secrets, documents affecting the economy, documents containing material obtained in confidence, documents arising out of companies and securities legislation, and documents to which secrecy provisions apply.

The report argues that where a document containing information relating to the personal affairs of an individual is released to that person he or she should be entitled to request the correction or amendment of any part of the information, where inaccurate, incomplete or out of date or where it would give a misleading impression. The report indicated that the full implementation of freedom of information legislation in South Australia could cost between $600 000 and $1 million—that was at the end of 1983.

In releasing that report in 1984, I further said that this was a substantial commitment, in both financial and staff terms, and that the Government would have to consider the consequences of the report's recommendations in the context of the next budget. As I have noted, consideration of the Victorian and Federal schemes (which I will outline in slightly more detail shortly) indicated that it would be premature to proceed with comprehensive legislation on FOI.

There is merit in assessing relevant experience and reviews interstate and nationally. The Victorian experience with FOI is interesting and relevant. Victoria started operation of FOI in 1983. In the 1983-84 year the majority of requests were for personal documents. It is worth noting that it was 55 per cent, that is, the majority of the requests, were for personal records. The agencies receiving the most requests were those agencies holding information on members of the public, for example, the Victorian Police Department, the Health Commission and the Department of Community Welfare Services. The Metropolitan Fire Brigade received the second highest number of requests, with 346 requests being made for fire reports.

After three years of operation an internal review of FOI legislation was prepared recently by the Law Department for consideration by the Victorian Cabinet. It is expected that very many changes to the legislation will result from the review. Its terms of reference were to look at all aspects of operation and administration of the FOI legislation, with a view to proposing appropriate amendments. The review report is with the Victorian Cabinet. Among other things the review considered, first, the need for a provision in relation to voluminous requests. This type of provision exists in Commonwealth legislation. Secondly, there is the matter of the confusion that exists regarding the meaning of a provision protecting documents provided by business to Government in confidence. It considered the need to protect the interests of business, including the need that withhold some business names. Thirdly, the review devoted some time to the definition of a Cabinet document. Apparently there was a division of opinion. One view was that a Cabinet document should be defined as a document prepared precisely for Cabinet. The alternative view is that any document considered by Cabinet is a Cabinet document.

The Victorian review also considered whether an administrative appeals tribunal should have the right to decide whether or not a document is a Cabinet document. It also considered matters related to disclosure of university research proposals and results. Finally, it looked at charges made for information provided. Specifically, the review looked at raising the $100 limit that now applies for requests under FOI. I note the comments that the Hon. Mr Cameron made in his second reading speech in relation to costs, and I shall address that matter in a little while.

Further, the Victorian review also looked at the wording of the FOI legislation, and some provisions were of concern. Another area of concern related to the area of physical violence. The view can be taken that where the release of information results in physical violence directed to a third party that information should be withheld. The Victorian Cabinet also considered holes in the Commonwealth and Victorian provisions relating to the protection of public servants against defamation and considered whether freedom of information legislation should apply to local government.

In summary, many complex matters are under review at this time in Victoria. I repeat: it is expected that many changes will result from the review. As honourable members would be aware, freedom of information legislation also exists on the Federal scene. The Federal system has cost more than $45 million since it began in 1982.

The Hon. C.M. Hill: You were premature in bringing the matter forward at that time, weren't you?

The Hon. C.J. SUMNER: In what way?

The Hon. C.M. Hill: You didn't proceed with it.

The Hon. C.J. SUMNER: No, the honourable member has to listen to my speech.

The Hon. C.M. Hill: You just try to get some cheap political advantage.

The Hon. C.J. SUMNER: No. The honourable member will see that we have a very reasonable proposition, which I am sure will receive his support, in the light of his attitude on the matter previously. The Federal system has cost more than $45 million since it began in 1982, and now has yearly

administrative costs of almost $20 million. The average cost per request fell from $917 in 1983-84 to $548 in 1984-85. In 1985-86 the Federal Government received about 37 000 requests, and those cost about $14 million to process, or about $378 each. The greatest proportion of requests involve personal affairs matters, that is, 90 per cent, and a substantial portion consists of employees asking for personal files.

Up to 30 June 1985 there were some 57 000 freedom of information requests at the Federal level. These included an estimated 43 389 requests for personal documents, such as records relating to social security or veterans affairs benefits, immigration status or tax assessment, and 8 678 requests for personal documents to present or former Commonwealth employees seeking records relating to their employment. The operation and administration of the Federal legislation is currently under examination by the Senate Standing Committee on Constitutional and Legal Affairs.

The terms of reference for this review are quite broad, namely, to review the operation and administration of the FOI legislation. The Standing Committee on Constitutional and Legal Affairs and the interdepartmental committee of Commonwealth departments has looked specifically at costs and efficiencies in relation to processing of FOI requests. I understand that the IDC report will be made available to the Senate Standing Committee.

I now wish to examine in more detail the matter of costs to the Government. Obviously, costs will vary according to the nature and extent of freedom of information legislation. For the information of honourable members, I point out that the total amount of charges collected by the Commonwealth in 1984-85 was $21 977 and by Victoria in 1983-84, $24 027—quite clearly, a miserable amount in terms of the total cost of FOI legislation.

The latest annual report on the Victorian Freedom of Information Act for the 1984-85 financial year estimates the total salary costs of administering the legislation at $3 million. This estimate does not include the cost of appeals. As I have previously noted, the Federal scheme costs some $20 million a year. In relation to costs, the Hon. Mr Cameron said in his second reading speech:

> I would not want costs to be a factor. If the Government wishes to head towards cost recovery . . . let us talk about it. There is plenty of opportunity in the Bill to do that—it is entirely up to the Government. Certainly, it will receive no criticism from me if it attempts to recover costs as much as possible.

In this context I would like to note the use made of FOI in Victoria by Opposition politicians, and the costs to Government. State Transport Authorities spent nearly $89 000 in a little more than one year complying with Liberal and National Party Freedom of Information Act requests—presumably the Hon. Mr Cameron, in the light of what he said, would have no objections to members of Parliament paying the cost of FOI requests.

Not surprisingly, the Minister of Transport (Mr Roper) in Victoria said that these freedom of information requests place considerable strain on the resources of the ministry and the portfolio. According to Mr Roper, between 1 July 1985 and 29 August this year more than 3 850 hours of work were performed to comply with 266 freedom of information requests for Liberal Party and National Party members of Parliament. Members would be interested to know that these figures are conservative estimates of the costs incurred by authorities, based on the cost of processing comparable requests from members of the public. At the moment, MPs in Victoria do not have to pay. While other politicians were not as excessive as the Liberal transport spokesman (Mr Brown), who lodged 149 requests which cost $49 276 to process, use of FOI has the potential to seriously disrupt departmental operations. Members of the public pay a maximum amount of $100 per request in Victoria, while journalists often seek (successfully) to have fees waived for the requests that they make.

The Victorian Premier has indicated that legislation will be introduced this session extending payment of fees to MPs. I assume that the Hon. Mr Cameron would support such a move, given that he has said that he supports recovery of costs to the extent possible. Similarly, costs are of concern to the Federal Government. This has given rise to amendments to the Federal Freedom of Information Act. These amendments introduce new charges for a person making a request (that is, a $30 application fee and for a department deciding its response there is a new charge of $20 per hour for bureaucrats' decision making and consultation time). The charges for searching for documents also are to be increased.

It is noteworthy that the Federal Opposition condemns the proposed charges. The Federal spokesman on legal matters (Mr Spender) has calculated that the average cost of requests will rise to $310 under the amended Act (that is, the cost to be paid as opposed to the cost to Government). In South Australia, Mr Cameron's cost estimate, should his Bill become law, was $1.8 million.

The Hon. M.B. Cameron interjecting:

The Hon. C.J. SUMNER: No, not as I understand it. As this is a substantial sum, I have sought information from departments and agencies in relation to anticipated requests under FOI legislation consistent with the Cabinet decision of 4 August 1986. I emphasise that that decision was to develop access to personal information as a privacy principle, that being the decision that the Government has taken on this matter.

I emphasise also that these estimates that I am about to give apply only to facilitating access to personal information as a privacy principle—not to the full range of freedom of information activities. The estimates do not apply to freedom of information in a broad sense as provided for in the Cameron Bill. However, I think that even these estimates give some indication of the costs that are involved. The estimates vary considerably and are only estimates. They are in response to my requests to departments to indicate the likely cost and of course they could be substantially greater. Further work will need to be done in this area.

Within the Police Department the estimated costs are $540 416. The Department of Transport estimates that there would be some costs involved, but that they would not be unduly onerous, while the Department of the Premier and Cabinet does not see any additional costs. A similar situation exists with regard to the Office of the Government Management Board in that no additional costs are foreseen. The Commissioner for Public Employment believes that the proposal may create considerable additional work for some agencies. As yet, the agencies have not been specified and the amounts have not been quantified by the Commissioner for Public Employment.

The Executive Director of the Correctional Services Department estimates recurrent costs of $70 000 per annum would be required. He estimates that, if the scheme is implemented on a full cost recovery basis, the cost would be between $100 and $150 each, depending on the number of requests received. The Ethnic Affairs Commission estimates that, for the sorts of requests that it expects to receive, a fee of $10 would be adequate. The Director of Woods and Forests advises that there would be only a nominal cost involved, if not zero, because personal information on individuals is only kept in relation to staff, and staff have access to their personal files. The Lands Department and the Regis-

trar-General's Office advise that the public records are already readily accessible for perusal by any person. A charge is only made when a hard copy of the information is required.

In relation to the Survey Division of the Lands Department there are four areas in which some personal information may be kept in departmental files. These are the Local Government Act (section 308 alignment surveys), the Roads (Opening and Closing) Act, the Geographical Names Act and occasional disputes with landowners in field survey. The charges that would need to be levied to recover costs based on an average of two hours per inquiry would be, first, the LGA section 308 alignment surveys, $100 per inquiry, plus actual costs for copies; and, secondly, other areas, $70 per inquiry plus actual costs for copies. In the Valuation Division of the Lands Department the type of information that it is envisaged would be made available to the public is already available for inspection free of charge as required by the Valuation of Land Act.

In relation to the Land Operations Division there may be a demand for information relating to land lease transactions, etc. Based on an average of 2.5 hours per inquiry, a charge of $60 would be envisaged. In the Operations Services Division there could be a requirement to provide information from the debtor system. An hourly charge for such information would be in the order of $25 to $30 plus actual costs for copies. Within the Marine and Harbors Department it is estimated that the total cost of implementing the scheme would range from between about $1 000 or $1 500 based on the current number of similar types of inquiries of 100. This cost would increase if the number of requests for information rises. ETSA estimates that the cost would be in the order of several thousands of dollars annually, whilst the Pipelines Authority of South Australia advises that the information could be provided without charge.

Similarly, the Director-General of the Department of Mines and Energy feels that it could meet anticipated requests within its budget. Within the Department of Labour, current practices are such that personal information is normally made readily available to individuals at no cost. The new scheme is therefore unlikely to have any significant effect on the department. However, the degree to which the adoption of the scheme by the Government may generate additional demands for access to person information is unknown. Should requests substantially increase, the department may well incur additional costs in meeting the demand, in which case consideration would need to be given to recovering the cost incurred.

The Education Department advises that provision of access by individuals to personal information about themselves held by the Education Department in terms of the scheme proposed is not expected to impose great difficulties. Indeed, the proposed scheme appears very similar to the provisions of the Commonwealth freedom of information legislation, the spirit of which it has observed for several years in anticipation of complementary State legislation being introduced. That is in respect of the personal records.

The Hon. M.B. Cameron interjecting:

The Hon. C.J. SUMNER: No, I am giving you a full rundown on it. Access will be made available in terms of the criteria detailed in the proposal and the applicant should meet the administrative costs of retrieval and preparation for perusal. The Director of the Children's Services Office advises that the proposed FOI guidelines would not involve additional administrative work or costs for the office. Similarly, the view of the Teacher Housing Authority is that implementation of the proposed scheme will not have additional impact on the South Australian Teacher Housing Authority and its operations.

The Department of Local Government envisages a charge of $10 for the sorts of requests that it expects to receive plus costs of copies. The Small Business Corporation of South Australia envisages a charge of $7 to $10 per request, while the Director of Technology recommends a fee of $5 plus 20c for each page photocopied.

The Department of Fisheries envisages a nominal charge of $10 for FOI requests, whilst the Executive Director of Technology Park supports a charge of $25 plus copying costs. A charge of $10 to $15 is envisaged by the Director of the Senior Secondary Assessment Board of South Australia, and the South Australian Housing Trust envisages significant extra costs arising from implementation of the Government's FOI proposals. As noted initially, more work needs to be done in this area. Bearing in mind the Victorian and Federal experience, the Government has directed its efforts towards developing a package incorporating FOI and privacy principles to enable people to have access to personal records.

I indicate that I have given the Council as much detail as I can on the question of costing to indicate the sorts of costs that will have to be imposed within Government departments to cover the cost of access to personal information. The Government's proposal to develop freedom of information as a privacy principle to enable people to have access to personal records is consistent with the use of Victorian and Federal freedom of information legislation in the majority of cases. I repeat that 55 per cent of Victorian requests were for personal documents and 90 per cent of Federal requests are directed to personal affairs matters.

Put simply, most people using freedom of information legislation do so to look at files concerning themselves. The Government proposes to allow that to happen. As the Government is accepting at this stage FOI as a privacy principle (that is, access by individuals to the records held on them by Government), I will deal briefly with the history of privacy issues in this State. In 1978 the working group on privacy was established. On 12 December 1983 the Bannon Government approved the appointment of the Privacy Committee to complete the work of the 1978 working group on privacy, after that had been disbanded by the Tonkin Liberal Government.

The Hon. M.B. Cameron interjecting:

The Hon. C.J. SUMNER: This is a very significant move. I do not know what the Hon. Mr Cameron is whingeing about. In November 1984, this committee prepared and published a discussion paper in order to encourage and obtain public comment on its contents. The paper was titled 'Privacy: A Review and Proposals for Reform'. Over 160 copies of the discussion paper were distributed for comment and only 25 written submissions were received. The paper contained the details of the information privacy principles. Cabinet has now agreed to the implementation of information privacy principles which can be summarised as follows:

1. Personal information should not be collected by unlawful or unfair means, nor should it be collected unnecessarily.

2. A person who collects personal information should take reasonable steps to ensure that, before he or she collects it or, if that is not practicable, as soon as practicable after he or she collects it, the person to whom the information relates—the 'record-subject'—is told, in general terms, the usual practices with respect to disclosure of personal information of the kind collected.

3. A person should not collect personal information that is inaccurate, irrelevant, out of date, incomplete or excessively personal.

4. A person should take such steps as are, in the circumstances, reasonable to ensure that personal information in his or her possession or under his or her control is securely stored and is not misused.

5. Where a person has in his or her possession or under his or her control records of personal information, the record subject should be entitled to have access to those records. That is the privacy principle upon which the Government's FOI proposals have been based.

6. A person who has under his or her control records of personal information about another person should correct the information if it is inaccurate.

7. Personal information should not be used except for a purpose to which it is relevant.

8. Personal information should not be used for a purpose that is not for the purpose of collection or a purpose incidental to or connected with that purpose unless:

(a) The record subject has consented to the use;

(b) The person using the information believes on reasonable grounds that the use is necessary to prevent or lessen a serious and imminent threat to the life or health of the record subject or of some other person;

(c) The use of the information for that other purpose is necessary or desirable for medical, epidemiological, criminological, statistical or any other genuine research application that is being conducted in a manner that is consistent with authenticated research guidelines; or

(d) The use is required by or under law.

9. A person who uses personal information should take reasonable steps to ensure that, having regard to the purpose for which the information is being used, the information is accurate, complete and up to date.

10. A person should not disclose personal information about some other person to a third person unless:

(a) The record subject has consented to the disclosure;

(b) The person disclosing the information believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the record subject or of some other person; or

(c) The disclosure is required or authorised by or under law.

11. A researcher should take reasonable steps to ensure that in any product of his or her research the identity of a record subject, in respect of whose records of personal information he or she has had access, is not disclosed and cannot be ascertained. That is a summary of the general principles that Cabinet has approved in relation to privacy. They will be further developed and promulgated for action by Government departments.

As I have previously noted, privacy principle No. 5 of the list I have just detailed is the basis of the scheme for access to personal information. In summary, access to personal information will be authorised by Cabinet directing Ministers, departments and agencies under ministerial control to give individuals, on request in writing, access to records of personal information about them held by Ministers, departments and agencies. Personal information for this purpose means information or an opinion about a natural person whose identity is apparent, or can readily be ascertained, from the information or opinion.

Access to personal information can be refused in the following circumstances: in the case of Executive Council and Cabinet records, intergovernmental records, records relating to the economy where the public interest would be prejudiced, certain records relating to law enforcement, public safety records that constitute contempt of Parliament or the courts, internal working documents, certain financial or property records where there would be prejudice to the financial interests of an agency of the State, legal professional privilege, business affairs (trade secrets and commercial value), obligations of confidence, unreasonable disclosure of personal information about a third person, prejudice to the welfare of an incompetent person, secrecy provisions and special provisions on minors, and medical records.

With respect to medical records, where a record contains information of a medical or psychiatric nature and it appears that the disclosure of the information to the person might be prejudicial to the physical or mental health or well-being of that person, access should be given to a legally qualified medical practitioner nominated by the person. With respect to amendment of records, a person who considers that a record of personal information about him consists of or includes information that is inaccurate, out of date, misleading, incomplete or irrelevant may request the record-keeper to do one or more of the following:

(a) Correct the inaccurate or misleading information;

(b) Bring up to date out-of-date information;

(c) Add information to make the record complete;

(d) Delete irrelevant information.

Where a decision is made not to grant access to a personal record because of the considerations that I have just outlined, but it is reasonably practicable to prepare an edited version of the record that is not misleading, the person should be given access to an edited record.

With respect to refusal of requests, where the work involved in dealing with a request, would, having regard to—

(a) the number or size of the records concerned; or

(b) any difficulty in identifying or finding those records,

substantially and unreasonably interfere with the ordinary work of the agency, access to the records may be denied without the records having been identified or found.

Further, with respect to the question of privacy, the Government believes that a part-time privacy committee should be established to monitor the implementation of the principles that I have outlined in the Government sector and to liaise with the private sector on the applicability of those principles to them. The information privacy scheme that I have outlined will be introduced progressively throughout the public sector, depending on budgetary considerations. Of course, it will be easier to implement the scheme in areas where costs can be met within existing resources or where charges can be made.

In summary, the Government reaffirms its support for the freedom of information principle. The Government has agreed to proceed with freedom of information as a privacy principle on an administrative basis by providing access by citizens to personal information held on them by the Government. This will be implemented over time as resources permit in relevant Government departments and agencies. Full cost recovery will be considered as applicable to the provision of this information where it is not already provided free.

On the question of privacy generally, the Government has approved certain broad information privacy principles, which I have referred to. These will now be referred back to the Privacy Committee established in 1983 to enable it to complete its work taking into account this approval and the submissions it has received following the preparation of its discussion paper.

The second decision on privacy is that a small part-time Privacy Committee be established. These proposals now need to be costed and considered as part of the budget process. However, the Government's decisions provide a framework for dealing with freedom of information and privacy issues over the next few years responsibly, taking into account financial constraints. Within that framework action will be taken by Government departments and agencies to implement the FOI privacy access to personal information on a progressive basis as resources permit, taking into account cost recovery where appropriate.

The Government believes that the Hon. Mr Cameron's Bill cannot be supported. There are difficulties identified with the Commonwealth freedom of information legislation and the Victorian freedom of information legislation and there are substantial cost penalties to Government, for which at this stage there has been no budgetary allocation. However, the Government has determined that the—

The Hon. M.B. Cameron interjecting:

The Hon. C.J. SUMNER: No. The Government has determined that the important principle of access by people to personal records held by Government on them ought to be proceeded with, and that constitutes the bulk of freedom of information requests in Victoria and the Commonwealth. In addition, the Government has made a decision on broad information privacy principles, of which the access to information by citizens is one, and those broad principles will be finally promulgated and formulated by the Privacy Committee and then circulated as principles for operation within the Government including, for instance, for operation by such organisations as the Justice Information System, which is operating within Government and, indeed, the privacy principles will be applicable to other areas of Government activity where information is held on citizens.

This is a significant step in providing citizens with access to information. As I have indicated, this will be on a case by case basis with respect to Government agencies and will be done responsibly as resources and finances are available or as costs can be recovered.

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

ENVIRONMENTAL IMPACT ASSESSMENT PROCESS REPORT

Adjourned debate on motion of Hon. M.J. Elliott:

That this Council strongly urges the Minister for Environment and Planning to release the Report of the Committee of Review of the Environment Impact Assessment Process immediately.

(Continued from 19 November. Page 2059.)

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

That this debate be further adjourned.

The Council divided on the motion:

Ayes (8)—The Hons G.L. Bruce, J.R. Cornwall, M.S. Feleppa, Carolyn Pickles, T.G. Roberts, C.J. Sumner (teller), G. Weatherill, and Barbara Wiese.

Noes (11)—The Hons J.C. Burdett, L.H. Davis, Peter Dunn, M.J. Elliott (teller), I. Gilfillan, K.T. Griffin, C.M. Hill, J.C. Irwin, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Pair—Aye—The Hon. B.A. Chatterton. No—The Hon. M.B. Cameron.

Majority of 3 for the Noes.

Motion thus negatived.

The Hon. J.R. CORNWALL (Minister of Health): There is a report, as the Hon. Mr Elliott and everyone else knows, which has been prepared by the Committee of Review on the Environmental Impact Assessment Process. It is a comprehensive report and one which quite clearly—

Members interjecting:

The Hon. J.R. CORNWALL: They snigger at the processes of good government.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: They really are a barrel of laughs. They snigger at the processes of good government, Ms President. The position is that there is a report and it is substantial. We consider this report requires a Government response. Obviously discussion papers are prepared from time to time which can be simply released to the public, and we let the pennies fall where they may and pick up all the pieces and have a look in six or 12 months or two years, or we forget about it altogether. But this is not that sort of document. It is a specific report of a committee of review. Quite obviously, a committee of review of that importance makes recommendations. It is not—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: It is not the custom, nor is it good government in those circumstances, to release a report without a Government response. We just do not do that: it is not the way in which good government operates. Obviously the report will be released at the appropriate time with an appropriate Government response. That is the simple fact of the matter. Why would the Government run away from a committee of review on the environmental impact process. The environmental impact—

The Hon. L.H. Davis interjecting:

The Hon. J.R. CORNWALL: You really are an objectionable fellow! The Hon. Ms Wiese is right—boring and objectionable. That was the Hon. Mr Davis to whom I was referring, just in case *Hansard* was under any delusion—certainly not my friend and comrade the Hon. Mr Elliott. The environmental impact assessment process is an important process indeed. This is an important report. The Government is treating it seriously and as an important report. It will be released with an appropriate Government response at the appropriate time.

The Hon. M.J. ELLIOTT: The word 'wimp' is being used a lot lately: I will not use it. This report was about two years in the making and, when given to the Minister three months ago, it contained a number of recommendations. Among those recommendations—and most important—was that the report be released for public discussion. I can only wonder what are the real reasons why it is not being released, and I certainly have floated my suspicions at another time.

The EIS process has been acknowledged not to be working; that there have been major loopholes in the process, and I have in this place on a number of occasions suggested that loopholes have led to a very deficient EIS being produced for the Jubilee Point project. I have also a very grave suspicion that that project will be announced after this Council has risen—and very soon. That is exactly the way I think Government members will do it.

The Hon. C.J. Sumner: That's the way you want it. You knock everything. You couldn't care less whether any development goes through. You don't want Roxby Downs to go ahead; you don't want the ASER project to go ahead; you don't want to have a casino here—you people are astonishing!

The PRESIDENT: Order!

The Hon. C.J. Sumner: You are the most negative—

The PRESIDENT: Order! I call the Attorney to order.

The Hon. L.H. Davis: Hear, hear!

The PRESIDENT: And I call the Hon. Mr Davis to order, too.

The Hon. L.H. Davis: I was just trying to help.

The PRESIDENT: I do not need your help, Mr Davis. It is the last thing I want.

The Hon. M.J. ELLIOTT: We were debating only a short time ago a Freedom of Information Bill. The Attorney-General once thought that was wonderful, but he now no longer seems to think so. This is precisely the sort of information that should be open to all members of the public.

The Hon. C.J. Sumner: The Hon. Dr Cornwall said it would be.

The Hon. M.J. ELLIOTT: At the appropriate time—and we all know what that means in political talk. That means at the time which will be least embarrassing for us and after it is going to have any possible deleterious effects as far as the Government judges it. That is what 'appropriate time' means in political language: everyone knows that.

The Hon. J.R. Cornwall: I said it would be released at the appropriate time with the appropriate Government response.

The Hon. M.J. ELLIOTT: I am afraid that from my dealings with the Department of Environment and Planning so far, what 'appropriate' means is very much open to question. This report was prepared by a number of members of the public: it was not just Government people. They gave a great deal of their time, and I believe that when they ask for the report to be released, it is a reasonable thing to ask for, and it has not been done.

Members interjecting:

The Hon. M.J. ELLIOTT: I think that is a point I really should take up. Why was the Government continually seeking to adjourn this motion? If it thought there were good reasons for withholding the report, it could have put those forward in an argument. It has not done it. It has simply talked about an appropriate response or an appropriate time. It has had it for three months, and I might have to go looking through kitbags to see if I can find a copy of the report soon, if the Government does not release the damn thing. I urge the support of members of this Council for the motion.

Motion carried.

WORKERS REHABILITATION AND COMPENSATION BILL

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

That the Workers Rehabilitation and Compensation Bill be restored to the Notice Paper as a lapsed Bill, pursuant to section 57 of the Constitution Act 1934.

Motion carried.

TOBACCO PRODUCTS (LICENSING) BILL

Adjourned debate on second reading.

(Continued from 2 December. Page 2545.)

The Hon. L.H. DAVIS: I will be brief. The Hon. Trevor Griffin has already outlined the Opposition's opposition to this Bill. It seems extraordinary that we have seen such contradictory legislation before this Council in the last few weeks. On the one hand, the Government is prepared to introduce on-the-spot fines of a maximum of $50 for the carrying of 100 grams or less of marijuana—the equivalent of 10 packs of cigarettes—but in other legislation we have seen South Australia become the first place in the world to ban packs of less than 20 cigarettes, which, effectively of course, bans not only standard packs but also imported cigarettes, which are purchased from specialist tobacconists generally by people of ethnic origin, people who are continuing a lifetime habit.

Further, in that same legislation passed quite recently by Parliament there is a very heavy impost for anyone daring to sell confectionery cigarettes, and now we have another example of the Government, which finds it very hard to be decisive on anything, acting in a most ham-fisted fashion by introducing a measure to circumvent the sales of cigarettes coming from other States and avoiding the licence fee of 25 per cent imposed by the Bannon Government. It is worth noting that this licence fee, which was doubled in value just two or three years ago, from 12.5 per cent to 25 per cent, has obviously been a factor in encouraging avoidance of the business franchise tax. Queensland does not impose that tax, so, understandably, people are seeking to bring cigarettes into South Australia, either for retail sale, as is the case with Mr Stokes of Clearview, or perhaps through direct purchase of cigarettes, bringing them in by post or just by regular transport.

So, the Opposition concedes, of course, that the Government is losing revenue from the avoidance of the business franchise tax on tobacco products, but the point that has been made in this place and in the other place is that the Government, having known about the problem for three years, has done nothing about it. The Premier has blustered; he has been long on rhetoric but very short on action when it comes to attempts to circumvent the problems faced by the Government. Indeed, it is quite clear that in Victoria and Western Australia by putting teeth into the legislation they have been much more successful in overcoming the problems that are so obvious in South Australia.

The Hon. C.J. Sumner: Arrant nonsense—you are making that up and you know it.

The Hon. L.H. DAVIS: We all accept that section 90 of the Australian Constitution does limit the ability of a State Government to impose what is described as an excise, and so the business franchise tax has been constructed in an effort to overcome that problem and at the same time raise revenue for the States. Business franchise taxes have been applied not only to tobacco products but also to petroleum products. However, in this case, the Government, instead of attempting to penalise the unlicensed retailer, seeks to penalise the consumer. Any legislation which basically is unenforceable, unworkable and impractical quite clearly is bad legislation.

In relation to the legislation before us, it is apparent that a consumption licence fee of $40 per quarter will be required from any consumer who is purchasing cigarettes from an unlicensed outlet. Therefore, the question can be asked, 'What happens to a person who takes out a consumption licence for one quarter, costing $40, and then that person acting on behalf of a cooperative group buys sufficient cigarettes for half a year or maybe even a full year? What is to stop one person using that fee of $40 to buy supplies for 100 or 200 people? One can quite readily understand that that could be an option for a person who might be involved in a large workplace where there is an active staff association. One can think of all sorts of reasons why people may take advantage of this legislation in such a fashion and, far from closing a loophole, the end result may be that the Government will lose money, with so many people taking advantage of the practical difficulties of enforcing this law and buying cigarettes at a cheaper price.

I am told that the difference is some $6 for a carton of I think 200 cigarettes. A typical price for a carton of 200 cigarettes might be $23, as against $17 for a carton brought in from Queensland. So, we are talking about a quite significant difference. In this regard we are talking about a saving of 25 per cent on retail price by avoiding the present business franchise tax. So, it is quite conceivable that people can band together, with one taking out a consumption licence, with that person providing cigarettes for many people who are either friends or part of a staff club. Further difficulties are involved in checking whether the person taking out the consumption licence is 16 years of age. Some reference has been made to the fact that the products will have to carry distinctive markings on them. How on earth that will be introduced, heaven only knows.

The principal concern of the Opposition is that the Government has known about this problem for three years. This problem has been pointed out by not only the Opposition but also the Mixed Traders Association. However, no prosecutions have been initiated; the Government has not sought to take the matter to the High Court. We believe that there are alternatives to this measure. The Opposition opposes this legislation, as we think it is a ham-fisted, clumsy and impractical way to deal with what admittedly is a serious problem.

The Hon. I. GILFILLAN: I shall add to my colleague the Hon. Mike Elliott's remarks, indicating our support for the intention of the measure. It has been mentioned to me that there is some awkwardness, to put it politely, in the current Bill. I ask that the Attorney, either when summing up or in Committee, to address himself to a matter that was raised by a member in another place, who stated:

> It seems that the offence created is in respect of the merchant who does not obtain a declaration and that it is not in respect of the consumer who does not sign it. What is proposed to be done in a situation where the consumer refuses to sign the declaration? How is the merchant to obtain a signature on the declaration if the consumer does not wish to give it? Where is the offence in respect of the consumer?

In another place the response indicated that the unlicensed retailer will not be able to sell if he does not have the declaration so, if his potential customer refuses to sign it, he has to say to the customer, 'Sorry, I can't sell to you', but the Bill does not quite say that: it says that a declaration must be obtained from the purchaser before the purchaser leaves the tobacco merchant's premises; it does not say 'Before he sells the goods'.

The Hon. C.J. Sumner: Where are you reading from?

The Hon. I. GILFILLAN: This is the point that was raised as being included in the drafting of the Bill.

The Hon. C.J. Sumner: Where are you reading from?

The Hon. I. GILFILLAN: I happen to have a few handwritten notes.

The Hon. C.J. Sumner: Handwritten notes all typed up by your secretarial assistant.

The Hon. I. GILFILLAN: I do not have much to type, but they are individually handwritten. I am sure that the Attorney-General will treat this matter seriously, because he realises that the Democrats' intention is absolutely sincere on this matter.

The Hon. C.J. Sumner: Isn't it always?

The Hon. I. GILFILLAN: No, there are times when we are perhaps a little bit—it seems that the offence is created only after the sale has taken place. I have now lost the Attorney-General's attention. Other powers higher than even in this place have called from the open door. It is quite important that, if legislation is to be taken seriously in this place, arguments of deficiency need to be treated seriously. In the hiatus, when there is no-one able to follow—

The PRESIDENT: It is not strictly a hiatus, Mr Gilfillan. All members should address the Chair, and I am here.

The Hon. I. GILFILLAN: You are indeed, Ms President.

The Hon. L.H. Davis: You're the only one.

The Hon. I. GILFILLAN: That is a completely undisputed fact. The rest appears to be—

The Hon. Barbara Wiese interjecting:

The Hon. I. GILFILLAN: You are not in your place; you are not officially here. It seems that the offence is created only after the sale has taken place. Given that the sale has occurred, how does the tobacco merchant physically prevent the customer from leaving before he has signed the form? In addition to the comments in the other place, there can be a defence on the part of the retailer if he can show that he has made all reasonable efforts to obtain such a declaration; in other words, he can erect a defence, otherwise he is in breach.

It seems that anyone who wants to circumvent the intention of this Bill will go through the farce of saying, 'Look, I have asked this customer to sign a form and he did not do it. Bad luck!'. The retailer has conformed with the provisions of the Bill and no-one has committed any offence. The word will spread like wildfire: you can buy cigarettes from Stokesy as much as you like and there will be no problems; just do not be silly enough to sign a form. This was verified by the Premier in the House of Assembly when he was asked:

> Is there an offence by a consumer who refuses to sign?

The Premier stated:

> No, that is no offence.

Obviously, I leave this to a completely vacuous Government bench. There will be an enormous trap in the real world in relation to this legislation. If that proves to be the case, all members who supported it will be a laughing stock. I hope that that matter will be seriously addressed by the Attorney-General in his reply and, if necessary, proper amendments can be drawn up, but support the intention of the Bill.

The Hon. C.J. SUMNER (Attorney-General): I thank the Hon. Mr Gilfillan and the Hon. Mr Elliott for their support and contributions to the Bill. There is little I can say about the Liberal Party on this occasion, but I suppose I will have to say something in response to its usual two-faced hypocritical approach to legislation. I seek leave to conclude my remarks later in order to do that.

Leave granted; debate adjourned.

TERTIARY EDUCATION BILL

Adjourned debate on second reading.

(Continued from 2 December. Page 2531.)

The Hon. M.J. ELLIOTT: After talking with a few people who are involved in tertiary education, I gather that they felt that the changes that are occurring generally are most welcome. The comments that were made were that TEASA had become excessively bureaucratic, because accreditation is open to public scrutiny which means that the process becomes costly and time consuming and, at times, it is counterproductive. I intend to move one minor amendment in relation to clause 6 as it has come to the Council from the House of Assembly. Subclause (1) provides:

> A principal institution of tertiary education (other than a university)—

must do a number of things. In particular, paragraphs *(a)* and *(b)* provide:

...it must inform the Minister in writing of—
(a) a proposal to introduce a new course;
and
(b) all other proposals of a kind or kinds prescribed by regulation.

It has effectively precluded universities from the need to notify the Minister of proposals for new courses. I suggest that the words 'other than a university' be removed and that they be inserted in subclause (3) so that the Minister may direct a principal institution of tertiary education other than a university not to implement the proposal. I think a university should be required to notify the Minister if it has a proposal for a new course but, quite simply, that the Minister should not have the power to prevent them from introducing the new course which is what I suspect was the original intention. In fact, the words 'other than a university' were inserted in the House of Assembly as a result of an amendment. I suspect that the amendment has been inserted in the wrong place.

When a Minister is trying to plan and maintain an oversight of everything that is happening in tertiary institutions in South Australia, it is important that he knows what new courses are proposed in all those institutions. The universities should not be precluded from the necessity of advising any proposals they have to introduce new courses. Obviously, those words 'other than a university' must be deleted from that subclause and inserted in subclause (3) where the Minister will not be able to direct the university not to implement the course. I think that that would probably achieve what was intended by the Government in the original legislation. I support the second reading of the Bill.

The Hon. BARBARA WIESE (Minister of Tourism): I thank honourable members for their contributions to this debate. I will briefly address some issues raised during the second reading debate which require some clarification. First, I point out that this Bill refers to tertiary education, not to primary or secondary education, nor to the Department of TAFE—only in so far as the department's affairs relate to tertiary education. There are other Acts of Parliament which refer to other forms of education. Mention was made of possible conflict of interest between the Minister's power to direct TAFE concerning its courses for year 12 students. The Minister, under this Bill, does not wish power over TAFE in relation to secondary education. There is the TAFE Act to accommodate other powers in this respect.

With respect to the questions raised during the second reading debate, I give the following responses; first the Hon. Mr Lucas raised an issue under clause 3 about the definition of 'institution of tertiary education', bodies other than 'principal institutions' are those mentioned by the honourable member only in so far as these are directing their attention to tertiary education (as defined). There may be other bodies in existence now and possibly in the future.

With respect to clause 4, the honourable member asked about the difference between clause 4 (1) and clause 4 (2). Clause 4 (1) requires all institutions of tertiary education (except universities) to obtain accreditation for degree courses and prescribed courses. Clause 4 (2) requires all principal institutions of tertiary education (except universities) to obtain accreditation for all courses. In so far as clause 4 (1) applies to principal institutions of tertiary education there is overlap between clause 4 (1) and clause 4 (2)—this is unavoidable.

In relation to clause 4 (4), the purpose is to exclude short courses from the requirement to be accredited. However, a degree course or a course prescribed under clause 4 (1) *(b)* must be accredited even though it is short. Clause 4 (5) reflects the current position, namely, that where a course is approved by the ICTC under the Industrial and Commercial Training Act it does not require accreditation. The current position will also be reflected in the fact that these courses may be accredited by the Minister upon the request of the Department of TAFE should the Minister think this desirable.

With respect to clause 6, first, I point out that clause 6 (1) excludes universities from the whole of this clause. The words 'prescribed by regulation' in clause 6 (1) *(b)* have caused some concern. This subclause permits the Minister to have a degree of control over course development. For example, there could be proposals to reduce or increase student quotas in courses (for example, teacher education or engineering) which would be counter productive. Similarly, there may be proposals to introduce courses in areas where there already exists a gross oversupply. I believe that, as regulations can be disallowed by either House, there is an opportunity at some future time to review this matter.

Clause 6 (2) refers to 'Institution' and not 'Principal Institution' as contained in clause 6 (3). The noun 'institution' clearly refers to 'principal institution of tertiary education' in subclause (11), because the definite article ('the') preceeds the noun in each case. Clause 6 (5) requires an institution to comply with a direction under clause 6 (3). These directions can be made only in reference to a principal institution of tertiary education. Therefore, there is no need to specify it as an institution as such in clause 6 (5). The concern in relation to clause 6 (3) is with the phrase 'be contrary to the public interest'. The Minister of Employment and Further Education accepts the honourable member's concern and believes that the amendment as proposed will be sufficient safeguard against capricious action by Ministers.

A question was asked in relation to Clause 8—'Advisory Committee on Tertiary Education'. I will pass on to the Minister of Employment and Further Education the suggestion that the rural interests of women and secondary schooling interests be considered when the Minister makes appointments to the advisory committee. I am sure he will want as balanced an advisory committee as possible within the limits of the membership as described. I believe that that covers all the points raised by the Hon. Mr Lucas during his second reading contribution. I note that the Hon. Mr Lucas and the Hon. Mr Elliott have amendments on file. I will respond to those amendments and indicate the Government's position on them at the appropriate time.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

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

FISHERIES ACT AMENDMENT BILL

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

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

That this Bill be now read a second time.

In view of the fact that this Bill was introduced in the House of Assembly and has already been formally read, I seek the indulgence of the Council to have the explanation incorporated in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill provides for a number of amendments to the Fisheries Act 1982 to enable both the Government and the

Department of Fisheries to more effectively meet the objectives of the Act as set out under section 20. Specifically, the amendments recognise the dynamic nature of fisheries management and the need to provide measures for the proper management and conservation of the State's aquatic resources. At present, persons charged with offences under the Fisheries Act 1982, are liable to forfeiture of any fish/devices (which were seized at the time of detection) following conviction by a court. However, there are two apparent deficiencies in section 28 of the Act, which deals with forfeiture provisions.

First, a court is not empowered to order forfeiture unless the person charged is convicted of the offence. However, there is provision under the Offenders Probation Act for a person who is found guilty of an offence to be released without conviction as a result of his good character, antecedents, age, health, mental condition, or the extenuating circumstances of the offence. If fish are taken illegally, the offender should not be entitled to return of the fish or compensation simply because he is granted the benefit of the Offenders Probation Act.

Secondly, during court action, the onus is put upon the complainant to obtain an order confirming forfeiture. Such matters are often prosecuted in country courts where police prosecutors are instructed to appear on behalf of the complainant. The danger of the prosecutor inadvertently failing to ask for such an order is apparent. If this occurred, the defendant would automatically have the right to claim compensation. Therefore, an order as to forfeiture made by the Minister of Fisheries or his delegate ought to remain in force unless revoked by the court.

The Bill proposes an amendment to section 28 to empower the court to order forfeiture of items if a person is found guilty of an offence but released without conviction; and to provide for a forfeiture order to remain in force unless revoked by the court. Speed and flexibility are vital elements in situations where urgent fishing prohibitions must be implemented immediately as a result of chemical spills into the State's waterways. This necessity was highlighted during two recent occasions—the Gillman chemical spill in September 1985; and the Ral Ral Creek (Riverland) chemical spill in January 1986. It is essential for public safety that a prohibition on fishing be implemented immediately if there is any threat of toxic discharge/spillage being absorbed by fish, thus endangering human health. Accordingly, the Bill proposes an amendment to section 43 of the Act, whereby the Minister of Fisheries, by notice published in the *Government Gazette*, may declare that it shall be unlawful for a person to engage in a fishing activity of a specified class during a specified period. This will speed up response time by not having to obtain a proclamation through Executive Council as is presently the case.

Under section 48 of the Fisheries Act 1982 the Department of Fisheries has a responsibility to protect the aquatic habitat—which includes the bed of any waters and aquatic or benthic (bottom dwelling) flora or fauna. In general terms, section 48 states that persons cannot remove or interfere with aquatic or benthic flora or fauna—except take fish (where the term 'fish' is implied to mean fin fish, sharks, crustaceans, molluscs and annelids). However, the Fisheries Act defines fish as 'an aquatic organism of any species . . . —which encompasses sea grasses, algae, sponges, corals, and the like. This broader definition of fish severely restricts the application of section 48 and is somewhat contradictory, in that persons could remove/interfere with species of sea grasses, algae, sponges, corals, etc., causing eventual damage to the local ecosystem. Therefore, the meaning of 'fish' in this section should be limited to fin fish, sharks, crustaceans, molluscs and annelids, which are the species commonly taken in recreational and commercial fishing operations. Accordingly, the Bill proposes an amendment to section 48 whereby fin fish, sharks, crustaceans, molluscs and annelids are exempt from removal/interference provisions.

The Department of Fisheries has a responsibility to protect the State's aquatic environment against the introduction of feral fish and exotic fish diseases. Certain freshwater aquarium fish have undesirable characteristics which owners of hobby aquariums need to be made aware of. Following discussions with aquarium and hobby traders in this State, agreement has been reached that a two category system for the trade of exotic fish will meet the Department of Fisheries' environmental responsibilities under the Fisheries Act 1982, whilst allowing a degree of flexibility for aquarium owners and traders. However, although agreement was reached with the majority of aquarium traders, one particular operator has indicated that he does not intend to comply with the proposal, nor the present legislation. He claims that the importation of exotic fish into South Australia cannot be subject to such a limitation as section 92 of the Australian Constitution provides for free trade between States.

The intention of the legislation is to provide a means of meeting the department's responsibility to protect the South Australian aquatic environment against the introduction of feral fish and exotic fish diseases, not to impose a blanket restriction on the interstate trade of fish. Accordingly, the Bill proposes an amendment to section 49 to provide for a prohibition on the entry into the State of such exotic fish as is reasonably necessary for conservational purposes; and that all fish in South Australia that are non-indigenous are prohibited, except for:

(1) exotic fish listed in a category 1, which may be traded freely with no encumbrances; and

(2) exotic fish listed in a category 2, which may be traded, kept or held on receipt of a permit from the Director of Fisheries.

In providing the above explanation of proposed amendments to the Fisheries Act 1982, I would inform the House that both the South Australian Fishing Industry Council, representing commercial fishermen, and the South Australian Recreational Fishing Advisory Council, representing amateur fishermen, have been consulted and support the proposed amendments to the Act. I commend the measure to the House.

Clause 1 is formal.

Clause 2 provides for the commencement of this Bill.

Clause 3 amends subsection (9) of section 28 of the principal Act which deals with the forfeiture of things seized by fisheries officers and entitlement to recover compensation.

Paragraph *(a)* provides, first, for an order for forfeiture of a thing seized to be made by a court where proceedings for an offence against the principal Act are instituted within six months of its seizure and the person charged is found guilty of the offence, whether or not a conviction is recorded. (The existing provision requires a conviction.) Secondly, this paragraph removes the onus from the prosecution of confirming an order of the Minister for forfeiture and places a duty on the court to consider the question of forfeiture and to either confirm or quash a ministerial order for forfeiture.

Paragraph *(b)* provides that a person from whom a thing is seized (or any person who has legal title to it) is entitled to recover, by action in a court of competent jurisdiction, the thing itself or compensation of an amount equal to its

market value, where either no proceedings are instituted within six months of its seizure, or proceedings are instituted within six months but the person charged is found not guilty of the offence, or proceedings are instituted within six months and the person charged is found guilty of the offence but either no order for forfeiture is made or an order is made quashing a ministerial order for forfeiture.

Clause 4 provides for all temporary prohibitions placed on a specified class of fishing activity during a specified period to be effected by ministerial notice published in the *Gazette*. (The existing provision provides for a declaration to be made by the Governor by proclamation, except where the prohibition relates to abalone or western king prawn, in which case the prohibition may be effected by a ministerial notice published in the *Gazette*.)

Clause 5 amends subsection (6) of section 48 of the principal Act, by limiting the removal of or interference with fish from the waters of the State, to fin fish, sharks, crustaceans, molluscs and annelids. (The scope of the definition of the term 'fish' currently permits the removal of or interference with sea grasses, algae, sponges, corals, etc., which may be potentially damaging to the aquatic environment.)

Clause 6 amends section 49 of the principal Act by striking out subsection (1), which prohibits the importation of exotic fish (to which section 49 applies) into the State, and substituting two new subsections. Proposed subsection (1) prohibits the importation of exotic fish (to which section 49 applies) into the State except in accordance with a permit granted by the Director of Fisheries. Proposed subsection (1a) provides that the Director must determine an application for a permit for the purposes of section 49 in accordance with the regulations made under the principal Act.

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

OCCUPATIONAL HEALTH, SAFETY AND WELFARE BILL

The House of Assembly requested a conference, at which it would be represented by five managers, on the Legislative Council's amendments to which it had disagreed.

STATUTES AMENDMENT (EXECUTOR COMPANIES) BILL

Returned from the House of Assembly without amendment.

SUMMARY OFFENCES ACT AMENDMENT BILL (No. 4)

Returned from the House of Assembly without amendment.

INDUSTRIAL CODE AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 December. Page 2602.)

The Hon. M.B. CAMERON (Leader of the Opposition): The Opposition supports this Bill; that has already been indicated in another place by the shadow Minister of Industrial Affairs. It is not the first time the matter has been before the Council but perhaps it is the first time it has been before the other place. This matter was debated in this Council in 1977 in relation to the deregulation of baking hours. It is interesting to note that it was introduced by a member from this side, the Hon. Mr Carnie. At that stage I do not believe he had a supporter of any kind; he was the sole person to promote the idea. At that stage the late Hon. Mr Dunford made a speech on the matter but one of the outstanding speakers for the Government of that time was the Hon. Frank Blevins, who is now, of course, the Minister of Labour.

I think the words of the Hon. Mr Blevins should be recalled, because he made a very interesting speech. It is interesting to look at some of the differences now that he is the Minister of Labour. I think it is important that we record again in *Hansard* exactly what his attitude was at that time. In speaking on the Industrial Code Amendment Bill on 30 November 1977 (nine years ago) the Hon. Mr Blevins said:

> True, the Bill has superficial appeal because, to suggest that one can have fresh bread provided seven days a week seems good until one looks at what are the costs of obtaining fresh bread seven days a week.

He then went on to say:

> If this Bill were passed, instead of fresh bread seven days a week there would be stale bread seven days a week. It would mean, as outlined by other members who have spoken in the debate, increased costs and increased working hours for bakeries, with no benefit to members of the public.

Further:

> My information is that there are 74 country bakeries in South Australia, and each of these bakeries would be threatened if this Bill were passed.

It is exactly the same Bill as the Bill we are considering here tonight. He continued:

> In Victoria, country bakeries and small bakeries were eliminated and giant bakeries took over, retrenched staff, closed down bakeries and put out an inferior product that is stale, seven days a week.

Further:

> That will not happen here because the cost of bread will increase, as outlined in the submissions made to us, and that is of no benefit to the public. This benefits only the large bakeries, usually overseas owned, to the detriment of bakers in the country.

He continued:

> . . . and a total lack of support for this Bill will ensure that we will never hear of it again: we will not be plagued with it year after year or month after month or election after election, as has been the case with shopping hours. In view of the total lack of support and rational opposition, I oppose the Bill.

That was the Hon. Frank Blevins speaking in 1977, yet today we have him moving to extend the hours for the production of bread in South Australia. It is amazing how things change in this life of politics, particularly, in relation to this subject. There is no doubt that there is a demand.

An honourable member interjecting:

The Hon. M.B. CAMERON: Well, he's changed. I think, somehow; he has not quite got the support he used to have at Trades Hall amongst the people engaged in this industry. I have no problem supporting this measure, except for one thing: that is the effect it has on people. I am surprised how quickly this measure has been brought before the Council, and we are expected to pass it at short notice. What effort has been made to ascertain the effects on people out there who have been working in this industry under the present ground rules?

Because of that, I will be moving some amendments to allow some little time for people to readjust, since plenty of people have made decisions about their lives, their investments and their occupation. These matters need consider-

ation—consideration I do not think the Minister has given to them. That really disturbs me. I was somewhat surprised that what I considered to be a rather mild amendment in the Lower House, to allow until at least 30 June for the industry to readjust, was rejected by the Minister.

The Minister had indicated, as I understand it, to people engaged in the industry that they would have until 18 December to put in submissions on this measure. That time was not granted to them. It is not 18 December yet, but we are expected to pass this Bill before the end of this week—and probably tonight. That is one feature of this whole exercise that I find somewhat surprising. I cannot help wondering whether, in fact, the Minister and the Government have decided to be half smart and put up measures for deregulation in the hope that we will reject them, because then they will be able to say 'We tried to deregulate but the Opposition would not support it.' If that is the case, I am afraid that they have fallen on their faces and, in the process, could be said to have let down some people in the industry who rely on them for support and for an understanding of their point of view. Many of the people involved are their supporters and will probably remain their supporters, but will feel very let down in the process we are now going through.

Bread is a very difficult area. It is very difficult—and I say this quite genuinely—to sustain an argument for artificial boundaries. I have stood in the Chamber and protested strongly and loudly about people in the South-East not being able to sell meat in the metropolitan area. It took a long time to get that changed, because of an artificial boundary. Artificial boundaries will not and cannot last but, in the process of changing them, I believe it is absolutely essential that we consider people who have been involved in those industries, have invested in those industries and, more importantly, who work in those industries and rely on them for a living. For that reason, I will move an amendment to allow some time for people to readjust, even though they will probably not agree that it is sufficient time.

It is essential that we move towards deregulation, but it must be approached cautiously. It should be done with due, proper and full consultation with everyone involved in the industry. That has not happened, as I understand it. I have no doubt that that upsets people in the industry, and certainly must upset people in the union movement who must be, and probably will remain, strong supporters of the present Government. That side of it I frankly cannot understand, and I find somewhat bewildering. However, that is a matter for those people to take up with their unions and eventually with the present Minister of Labour, who has previously supported the views of those same people. He was prepared to support them fully then. He accepted their views then but has not, obviously, done it now. I think it is a pity that perhaps they are being used as a matter of political expediency, in other words, trying to give the Government of the day a new image. I remember the Hon. John Carnie, my comrade in arms of that time, saying—and I think I have his words here—'When we finish this Bill, one day, perhaps next year or in 10 years time, we will see this service provided for South Australians.' He perhaps did not realise what he was saying at the time, but it is now almost 10 years. It was 1977 when he first made the move. I did not support him then, but almost 10 years later it is clear that, provided the Minister goes ahead and proclaims the Bill, this matter will come into force about 10 years after the original introduction of this measure into this Chamber by the Hon. Mr Carnie.

So, with those few words the Opposition indicates that it will support this Bill but will be moving amendments to give people involved in the industry a little time to readjust, and I trust the Government will accept that, because it is only fair and reasonable that people be given time to readjust. That does not stop the matter coming in: it does not alter it in any way. It makes no difference to the end result but, in the process, it gives people time to seek new employment, if that is necessary, and to readjust their bank loans. Under the old rules, some people have gone into debt as part of their investment in this industry and if members want information on that I can give it to them privately. It is absolutely essential that they be given time to readjust, time to talk to their bank managers and time, as I said, to seek new employment. I would expect unionists opposite to support that point of view, because that is a very difficult problem for people. Many of them live in country towns, and it is not easy for them to find other jobs: it will take time. In some cases, they may have to leave those towns and move to other areas. That is not a process that can occur overnight or by 1 January. So, I support the Bill.

The Hon. M.J. ELLIOTT: I would protest at what I consider the indecent haste with which this Bill has come before us. Certainly, the matter was raised at least 10 years ago and at different times, but I would not say there has been a great deal of public debate of late. Here we find in the last couple of days of this sitting that we are putting through a Bill which I think quite obviously has wider ramifications than simply the bread baking industry itself.

It was not so long ago that we saw the deregulation of petrol sales, and we have not seen the full ramifications of what will occur there. No doubt, we will see an increasing monopoly of retail sites within petrol retailing. Many small businesses will be forced out due to that move and other moves the Government is making or, in some cases, failing to make. Total deregulation usually leads to a great number of problems. In fact, that is why the regulation was brought in in the first place. We sometimes lose sight of why those original regulations existed. I really do not believe that we should be voting on it this side of the New Year but, nevertheless, the thing is before us so I am making my contribution.

The consumer gains one benefit from this Bill—the ability to buy fresh bread any day of the week, although that is available anyway, because it is coming in from the bakeries in the Hills.

The Hon. Peter Dunn: It's not always that fresh.

The Hon. M.J. ELLIOTT: We can have arguments about that but, nevertheless, the bread is available. I do not see a large gain for the consumer, and I think we need to admit that the total market for bread sales will not alter. We will not see people eating extra bread. There might be the odd person, perhaps, who might go and buy it because there is a steaming hot loaf available on a Sunday, but in real terms the total size of the bake will not vary.

The difference is the distribution of the labour which has to take it. This will mean that many people who once had a weekend they could spend with their families are going to lose it. There was a time when, as much as possible, we were aiming towards a 40 hour week (and now something less than that) and people were concentrating their working time between Monday and Friday, with a few working on Saturday mornings, and we had a time when families could actually spend time together.

First, the people in the bakeries are involved, and obviously further along the line more and more people in retailing will take the jobs that are available—and when there is a high level of unemployment a person will take a job that is available. In this case those jobs will be on Sundays and at

night in shops, and in that regard those people will have absolutely no choice whatsoever. One compensation for working these sorts of hours (and for some struggling families it might make it worthwhile) is the penalty rates. Quite clearly, the Liberals are saying that penalty rates will just have to go. They are supporting this move for deregulation of baking; they are supporting the move to have more people working on Sundays and, I guess, working in shops at night. They are supporting that, but they are also saying quite clearly that penalty rates must go. They realise that no more bread will be sold but that, because of the working hours involved, people will have to be paid more and therefore the price of bread will go up.

I have a graph that was prepared for me which compares, on a quarterly basis, the bread prices applicable in every State since 1971. The situation at the moment is particularly interesting. South Australia has by far the cheapest bread, based on the ABS figures. White sliced bread available from supermarkets is 5c a loaf cheaper than it is in the State with the next lowest price, and another 5c lower than the next applicable State. We are 20c cheaper than Melbourne. I guess these statistics are as reliable as one can rely upon. In fact, South Australia has had the cheapest or nearly the cheapest bread since mid-1983. Occasionally Brisbane prices have been below ours, but even they are well above us now.

What will the consumer really gain? All of our bread goes into the freezer; we buy in bulk once or twice a week and throw it into the freezer.

The Hon. C.J. Sumner: Who is 'we'?

The Hon. M.J. ELLIOTT: My family. I think most people tend to make their purchases every couple of days, so the consumer will not gain a thing. There will be losses, and I appeal to people to start thinking about the reasons why we used to think that weekends had some sanctity. Obviously, there are religious reasons for many people, while others just want to spend time with their families. The Bill will mean that more people will spend less time with their families. We have hypocrites in this place who carry on about drug problems in society, family breakdowns and children having problems at home, but they do not consider where these problems start. They start because of the way families operate. If parents do not spend time with their children, that is where the problems start.

We should consider that matter. Supporting these sorts of moves is being absolutely hypocritical. We are all very much into wanting to penalise people when they have become involved in drugs, when families are in strife or when people become involved in, say, prostitution. They are all symptoms of something much deeper; they are symptoms of the way that society operates. It is symptomatic of the way we treat people. I believe that this is absolutely deplorable. For the sake of a little added convenience for the average consumer, we will see thousands of people in this State working hours which will take them away from their families.

The Hon. Peter Dunn: Come off it, they are all family businesses.

The Hon. M.J. ELLIOTT: That is not what we are talking about. If, say, Tip Top bakes seven days a week or the inhouse bakeries operating eventually in supermarkets open seven days a week, this will involve the employment of people with families who, normally, work whilst the kids are at school, returning home shortly after the children have arrived home from school. However, the trend now is for this not to be the case. We must consider the effect of that as against the so-called benefit of shops being open for 24 hours a day and having baking done, for example, whenever we feel like it. I think it is an absolute nonsense; we must look much more carefully at balancing the so-called gains against the losses.

The Hon. Peter Dunn: What are the losses?

The Hon. M.J. ELLIOTT: The honourable member carried on about the problems associated with children apropos daylight saving. I quite agree that there are problems, but suddenly the honourable member is dismissive of them in this case. He is so blinkered by deregulation that he cannot see that total deregulation causes problems.

The Hon. Peter Dunn interjecting:

The Hon. M.J. ELLIOTT: In other words, the honourable member is saying quite clearly that he is happy for people to work on Sundays for the same rate as they are paid to work on other days.

The Hon. Peter Dunn: They choose to do it.

The Hon. M.J. ELLIOTT: Look at the unemployment situation. If a person goes to a bakery and says that he wants a job and is told that the bakery works on Sundays, does that person take the job or not? The honourable member says that it is his choice, but what choice does a person have? A person might have the ability to work as a labourer, and if a person offers his labour and is accepted, he must take the job that is available. In such circumstances, if a person does not take the job he is labelled a dole bludger. That is the position that a person might be in; it is the sort of thing that the honourable member wants to defend, but it is absolutely atrocious.

I have covered the main points that I want to refer to. I implore people to think very seriously before supporting the Bill at this time, to really consider the so-called gains and to try to ascertain what we really will gain from this Bill. The benefits do not add up to much at all, and then one must consider the extent of the losses involved, and I am damn sure that there are many. Whilst being involved in the Bill in the Committee stage I intend to vote against this Bill at the third reading.

The Hon. C.M. HILL: I will speak briefly on this measure. I am aware of course that it is not the role of this Council, and particularly members on this side of the Chamber to obstruct Government legislation. It is the Government that holds office; the people have given it so many years in which to provide government for the State and we in Opposition have the paramount duty of reviewing legislation as it passes through Parliament and to try to improve that legislation by way of review. I am always strong on the point that our role is not to obstruct the Government. However, by the same token, the Government must live with its legislation, and it must take the consequences of it.

The Hon. C.J. Sumner: So do you.

The Hon. C.M. HILL: No, we do not. The Minister knows the role of those on this side of the House as he has been here. He should not try to slide out of the problem. He knows the problems that exist in regard to this Bill. Frankly, I cannot believe that the Government ever brought it into Parliament. Here we have a Labor Government, and the Minister of Labour, in charge of this Bill, is Labor through and through, oriented with the left wing: I do not criticise him for that. He is a centralist in effect. He has suddenly brought in a Bill to deregulate the industry, against the wishes of his union. Where is the Labor Party going? In effect, it is going mad. It is bringing about its own demise, and the Hon. Mr Blevins is leading them by the nose, with people like the Hon. Mr Sumner sitting there and agreeing with him, as is the Hon. Mr Weatherill and you, Mr Acting President. All those members will vote against their union.

The Hon. C.J. Sumner: Don't reflect on the Chair.

The Hon. C.M. HILL: I am not reflecting on the Chair. The Attorney should not try to jump away from the issue. Frankly, if this sort of thing goes on, we on this side of the House are happy as Larry, because members opposite are bringing about their own demise. Where is this leading? How can we on this side of the House improve this legislation as a result of review, because there is this basic principle in the Bill of deregulation. How much consultation was undertaken with the interests involved in this measure? I do not know; I can only assume that the Hon. Mr Blevins did not worry about his union. The Hon. Carolyn Pickles is in the same position—what will she do. Will she vote against the union? So, all the Government supporters are now confronted with this major decision. Frankly, I cannot understand it.

The Hon. C.J. Sumner: Are you going to vote against it?

The Hon. C.M. HILL: No, I am not going to vote against it; it is not my role to vote against it. One cannot improve anything—

The Hon. C.J. Sumner: What about Eastern Standard Time? You threw out the Eastern Standard Time.

The Hon. C.M. HILL: Don't worry about the Eastern Standard Time. When one gets to the substance of this Bill, as far as the layman in the street is concerned, there is no need for it. We can all get our bread when we want it. I can go to the seven-day supermarket in O'Connell Street and other places where I can select from a wide range of bread. In relation to the style of loaf and the kind of bread that can be purchased, I think that the consumer in South Australia is in a better position than consumers anywhere in the world. When everyone is happy with such a situation, the Hon. Mr Blevins, who wants to lead the Government and make a name for himself, decides on deregulation. In principle, even that is completely contrary to the Labor Party's approach to legislation.

The Hon. M.J. Elliott: Eggs and potatoes as well.

The Hon. C.M. HILL: Yes, that is right. He is going from one industry to the next; the great white knight, you may say. What about his supporters who put him in his present position? They are the people who can be forgotten by this type of autocrat. He had the support of the unions for his preselection and now he can forget about them. I cannot hear a voice from the Government benches querying or questioning it or saying that they have some doubts about it. They are all going along with it, led by the nose and Mr Blevins. One can imagine the picture of the Hon. Mr Blevins leading the Hon. Mr Sumner along by his nose. That is what he has done.

The Hon. C.J. Sumner: It wouldn't be by the hair!

The Hon. C.M. HILL: No, he would have a hard job if he tried to do it by the hair. We all have problems in that area. I am terribly confused about the whole thing.

The Hon. C.J. Sumner: You were confused about Eastern Standard Time.

The Hon. C.M. HILL: Do not worry about Eastern Standard Time; that issue is not as important as this measure because in this case people's livelihoods are involved. Let us look at the situation in relation to people's livelihoods. If members opposite are not interested in jobs for the workers in this State, they might as well pack up and go home. Because the industry has been regulated, what do we have? We have bakeries that have commenced where lots of capital investment has been involved and many people are working well and giving their all for wages under a regulated system. This measure will shatter not only some of the big interests as far as capital investments are concerned, but also it will shatter the jobs of the workers.

On that point, how can members opposite hold their heads high when their own workmates will be put out of work by their vote in this Council tonight? You should be ashamed of yourselves. You should turn on the Hon. Mr Blevins and tell him to live by the principles that in the past he has always lived by and has been proud of. I am not criticising him for that. He has been totally union oriented.

The Hon. C.J. Sumner: You have in the past.

The Hon. C.M. HILL: We do it in political life.

The Hon. C.J. Sumner: I have heard you with some bobbydazzlers of speeches.

The Hon. C.M. HILL: Never mind about that. I would like to hear the Hon. Mr Sumner, who is rather keen to interject at the moment, get up and say what he will do for the workers who will lose their jobs as a result of the vote that he will cast in a few moments. Again, I say that you should be absolutely ashamed of yourselves. I am pleased to see that the Hon. Mr Cameron has an amendment on file which stops the axe falling until 1 July next year; in other words, those industries such as the bakery in Mount Barker and the other ones that are involved will at least have a few months.

The Hon. Carolyn Pickles: Do they have unionised labour?

The Hon. C.M. HILL: I do not know whether or not they have unionised labour. What is the honourable member saying? Is she trying to drag in the argument that, unless you are part of unionised labour—

The Hon. C.J. Sumner: You were just supporting them.

The Hon. C.M. HILL: Do not try and bring in compulsory unionism and unionised labour. If a fellow has a job at Mount Barker, to be honest I do not give a tinker's cuss whether or not he is a member of a union. All I am concerned about is his wife and kids at home and the dignity of the man who gets home and says, 'I have lost my job because the Labor Party has deregulated the industry.'

The Hon. G. Weatherill: I hope you show as much concern for the working people when we bring up the workers compensation legislation as you are today.

The Hon. C.M. HILL: I will show some concern as far as the compensation for your workers is concerned; do not worry about that.

The Hon. L.H. Davis: This is amounting to a fair bucketing.

The Hon. C.M. HILL: I do not know about bucketing. It just does not seem to be realistic or sensible. We seem to be almost in fairyland, because—

The Hon. C.J. Sumner: You're supporting the Bill.

The Hon. C.M. HILL: I am supporting the Bill, because I said it initially, but the Hon. Mr Sumner did not hear or apparently did not want to hear that it is not the role of this Party on this side of the Council—

The Hon. C.J. Sumner: What did you do on Eastern Standard Time?

The Hon. C.M. HILL: Never mind about that. Here he goes again about Eastern Standard Time. That has become a phobia with the Attorney-General. How many jobs were involved with Eastern Standard Time? What is your first consideration? Is your first consideration the workers, or is it the big businesses that you support?

The Hon. C.J. Sumner: No.

The Hon. C.M. HILL: Yes you were. You were supporting big business.

The Hon. C.J. Sumner: No, jobs for South Australians.

The Hon. C.M. HILL: You were supporting big businesses in South Australia. You know that the main contender for Eastern Standard Time in this State was big business, and you cannot deny that. You got into bed with them and you are supposed to represent the Labor Party. Again, you should be ashamed of yourself. Do not talk to me about trying to introduce Eastern Standard Time. What about the worker in Mount Barker who, if this Bill passes without the amendment, in a matter of a few weeks will go home and say to his wife, 'I have lost my job because the Labor Party, under Mr Blevins' leadership, has deregulated the bread industry?' The wife will say to the husband, 'What about your union?' What will he reply to that question?

Perhaps members opposite could get on their feet and tell me what the unions would say about that. As far as I am concerned, the whole damn deal is rotten. I suggest that at some stage the Labor Party in Government has to get back on its traditional track of looking after the workers and not rushing into deregulation unless it is absolutely necessary. If it considers deregulation, one of the first things that it should do is go to the union involved and take notice of it because, if it does not, there will be a sting in the tail; there will be some backlash in other forums and I do not have to tell members opposite about that. They are bringing the whole problem on to their own shoulders when there is no need whatsoever for it.

I commend the Hon. Mr Cameron for putting this amendment on file that will at least give a six month transitional period before the workers in those industries will lose their jobs. The interests that have invested and borrowed a lot of money will have an opportunity to do their best to re-adjust their labour and to re-adjust their capital investments so that the blow will not be so severe as it would otherwise be because, if the Government opposes this amendment and tries to introduce this change immediately, then far greater condemnation falls on its shoulders than would ordinarily be the case for the reasons that I have just mentioned.

I am very disappointed in the Government. I repeat: I cannot understand the policies or the attitude of the Hon. Mr Blevins, who is on some sort of deregulation train and he cannot seem to stop it. He has his foot on the accelerator instead of on the brake. Sitting up in the passenger carriages are all the Ministers looking out at the scenery, oblivious to what is going on while engine driver Blevins presses the button.

The Hon. C.J. Sumner: He's a seaman like you.

The Hon. C.M. HILL: He was a seaman, and I give him full credit for that.

Members interjecting:

The ACTING PRESIDENT (Hon. T.G. Roberts): Order! The Hon. Mr Hill is on his feet. He has served 21 years and I want to see him serve his 22nd year.

The Hon. C.M. HILL: I am waiting for the cockerels opposite to stop cackling.

The Hon. C.J. Sumner: You've not given a speech like this for some time.

The Hon. C.M. HILL: One cannot become anything but excited when one sees the Labor Party throwing its principles overboard.

The Hon. C.J. Sumner: It's never bothered you in the past.

The Hon. C.M. HILL: I do not know what the Attorney means. If the worker does not have the Labor Party in here to advocate his cause and fight for his issues, he may as well turn to the Liberals. In fact, that is probably why there is a trend in that direction. The hard fact of life is that backbench members opposite do not really believe in this Bill. Let us be honest about that. However, we will see them blindly put up their hands in favour of it because in the forum of the Caucus room, where faceless men debate and make these decisions—

The Hon. C.J. Sumner: What about your performance in the Party room?

The Hon. C.M. HILL: Never mind about that. The decision is made in the Caucus room. The Hon. Carolyn Pickles, the Hon. Mr Weatherill and the Hon. Terry Roberts come out on this issue holding their hands in front of them and say, 'Well, we are in trouble but Blevins won the day and the majority is for it. Somehow or other we must get up to Trades Hall and try to explain our position.' I can tell them that they will not sell it in Trades Hall on this occasion. I say all credit to the union that is trying to fight the cause because it wants to retain the present situation.

I do not know whether it is too late for the Attorney-General who, on most occasions, is a very reasonable man. However, somehow or other he has fallen under the spell of the Hon. Mr Blevins. I do not really know why that has occurred, although the Attorney always was a very strong advocate for the Hon. Mr Blevins. In fact, I remember that in this place. I remember the day when the Hon. Mr Blevins made his play for the Ministry. I happened to see the Hon. Mr Blevins in a back corridor of this building, and he was one pace behind the Hon. Mr Sumner. He was keeping close to him—

The Hon. L.H. Davis: Just a bit to the left.

The Hon. C.M. HILL: Well, he is to the left but that is his right. I do not blame him for being to the left. We all have our idiosyncrasies. The Hon. Mr Blevins stuck close to the Hon. Mr Sumner. They were close. Whether or not they are close now, I do not know. I warn the Hon. Mr Sumner: if he does not stop the Hon. Mr Blevins from going down the deregulation path, he will be in all sorts of trouble with those who hold the power on his side of politics. The power is not with the Caucus room; it is with the Labor Party's masters at Trades Hall. Members opposite yield to Trades Hall when it cracks the whip; it is Trades Hall which preselects members opposite; and it is the people at Trades Hall who have members opposite in the palms of their hands like putty. Members opposite sign the pledge—

The Hon. C.J. Sumner: Then why are we doing this? I cannot understand your argument.

The Hon. C.M. HILL: And I cannot understand the Attorney's submission. We cannot understand each other. I suggest that the Attorney should think about his future, and I suggest that backbench members opposite should also think about their futures because the unions will not stand for too much of this.

The Hon. C.J. Sumner: I'm in cahoots with the Hon. Mr Blevins?

The Hon. C.M. HILL: I have said that the Attorney has always been close to the Hon. Mr Blevins.

The Hon. C.J. Sumner: Did I get him his job?

The Hon. C.M. HILL: The Attorney supported him very strongly. That fact is known amongst those of us who keep our ears to the ground.

The Hon. C.J. Sumner: Do you think that that was a mistake?

The Hon. C.M. HILL: No, as a matter of fact I was very pleased to see the Hon. Mr Blevins elevated to the Ministry. It was a working man reaching what I thought to be the pinnacle of his life's career. He arrived in this country as a seaman and, because I was a seaman, I have a soft spot for fellow seamen: they are the salt of the earth in many respects. Within 10 years of arriving at Whyalla as a migrant, the Hon. Mr Blevins was a member of the South Australian Parliament.

The Hon. C.J. Sumner: How did he arrive?

The Hon. C.M. HILL: He arrived here through union power; he arrived in this Parliament through union power. I am not critical of him for that. The Hon. Mr Blevins joined the union movement and he was its faithful servant. In fact, he gave us the shudders in the northern areas with his campaigning for the Labor Party. I am the first one to admit that. The Hon. Mr Blevins kept close to the union movement. That was fundamental. If a Labor man forgets to do that, he deserves to get into trouble.

After living in this country for 10 years the Hon. Mr Blevins arrived in this place. He was on the backbench and, in fact, he sat in the same seat that I sit in tonight. I have a personal liking for the fellow. He is a self-made man. He is a reader, a thinker and very personable. I like the Hon. Mr Blevins at a personal level but, since he moved to the other place—and since he crept up a rung or two in Cabinet—he has gone mad on deregulation. I sit here as all these deregulation measures come through and I say to myself, 'What has gone wrong with Frank?', because I know that he is moving towards doom if he keeps this up. The time will come when his left wing friends at Trades Hall will say, 'Frank, something has gone to your head for some reason or other. You have forgotten the principles and the people to whom you should give first preference.' So, I suppose in some respects I am trying to help the Hon. Mr Blevins. There are fundamental principles involved with this question. I think we should have some debate on it.

The ACTING PRESIDENT: I thought we were doing that.

The Hon. C.M. HILL: I thought that I was still on my preliminary remarks. However, my position in regard to the Bill is that I am disappointed that the Government has brought it forward. More importantly, now that the Government wants it—and it is the Government of the day; and the people have to live with its legislation for four years or thereabouts (at least in excess of three years under the legislation introduced by the Attorney-General)—the people have to live with it. I do not think it is a good thing both from the point of view of the employers and the employees; and I do not think that it is a good thing from the point of view of the consumer.

One thing that this Parliament forgets about occasionally (when it should not) is the little consumer whose voice is not heard in this place enough. I hope that we will at least include a six month moratorium in this legislation to provide a transitional period so that some of the problems caused by the Government through this legislation can be sorted out before the lives of some of our fellow South Australians are affected greatly.

The Hon. C.J. SUMNER (Attorney-General): I thank members for their contributions and particularly the Hon. Murray Hill for his most entertaining and amusing excursion into the issues involved in this Bill. Allow me to say that I do not think the honourable member addressed the Bill at all. He gave us an interesting discourse on the character attributes of the Hon. Mr. Blevins, his friendships, ideology, place of birth and place of residence, but the Hon. Mr Hill did not make a serious contribution to the debate.

It is probably worth pointing out that his argument was riddled with inconsistencies. On the one hand he is accusing the Government of being run by the Trades Hall and he is accusing the Hon. Mr Blevins of being in the palm of the Trades Hall and the unions; on the other hand he is criticising the Government for having taken a position on this particular issue which is different from the position of one of the unions affiliated to the Labor Party—for what I believe are good reasons. That is the first inconsistency.

The second inconsistency worth mentioning is that the honourable member has referred to the Upper House as a House of Review that should not interfere with Government legislation. That is the honourable member's new found philosophy with respect to the Legislative Council. I must confess that that is the first time I have heard him put that view in this place and I would have liked to hear him put that view to the Council yesterday on the Standard Time Bill when it was before Parliament and he would not even let it have a second reading.

It might also be worth while pointing out that, as he refers to Labor members in Caucus, he also meets with his Party. I have noted the very rare occasions upon which the Hon. Mr Hill in his 21 years in this House has bucked the Party line on anything. The honourable member's argument—in so far as it was an argument—was irrelevant to the debate, in any event. I suppose you, Mr Acting President, like the rest of us allowed him some indulgence because of the entertaining and amusing nature of his contribution. However, to suggest that in any way it was a serious commentary on an important issue before us is really carrying it too far.

The substance of the debate in this matter revolves around issues of consumer preference, automation in the industry and whether or not there ought to be zones with respect to the production of bread. Certain statements were made by the Hon. Mr Blevins and other members in this Parliament 10 years ago and I suppose it is worth while pointing out that those attitudes have changed—not just in the Parliament, but in the community. It is important to make the point that attitudes have changed quite dramatically in the past 10 years, particularly with respect to this question of hours for baking, shopping, petrol retailing and the liquor industry. There have been significant changes in attitudes within the community to those sorts of issues over the past 10 years. Of course, it is interesting that it was only the Hon. Mr Carnie who at that time predicted that bread baking hours in metropolitan areas would be deregulated at some time in the future.

However, the reason we are debating this matter now and the reason people are adopting a different attitude to it today from that of 10 years ago is that the situation has changed in terms of the consumer's attitude to the purchase of goods and, in particular, the consumer's attitude to the enforcement of laws which impose those sorts of restrictions on trading hours, baking hours and on production hours. The question that has to be asked—and it had to be asked interstate on occasions—is this: can the Government enforce these sorts of laws when the community does not basically support them? There are incredible difficulties for a Government in enforcing these sorts of laws when it does not have community support behind it.

If the Government attempts to smash down a bakery that is baking illegally in the metropolitan area on Sunday and prosecutes the people for baking and providing fresh bread,

when you test it in the courts, you might win on the law but you have to appreciate what the community feeling is about that sort of issue. It might have been that the community feeling 10, 15 or 20 years ago was to support that sort of regulation. Whether the Hon. Mr Hill likes it or not, and whether members of this Parliament like it or not, these days the attitude of the community to the enforcement of these laws has, for better or for worse, changed.

The Hon. R.I. Lucas: How is bread different from anything else? Deregulation of hours is a very persuasive argument.

The Hon. C.J. SUMNER: It is a very persuasive argument, I agree. That is the problem we have. These things are not going to happen in every area overnight. We are certainly moving as a community towards greater deregulation of these sorts of areas, and that is a fact. That has happened in liquor and petrol trading and it is happening now in bread, for a number of reasons, the first of which is consumer preference. Consumers did not understand why you could buy petrol 24 hours a day at Darlington but could not buy it 24 hours a day at Marion; consumers do not understand why you can bake bread in Mount Barker on the weekend and bring it into the city but you cannot open a hot bread shop on Norwood Parade. The fact is that the consumer's attitude to getting access to goods and services has changed. Also, the consumer's attitude to the enforcement of these laws has changed—and that has been reflected in other States, again, for better or for worse. The Government can either put its head in the sand and ignore what is happening or it can take some sort of action, and in this case it has.

The Hon. R.I. Lucas: Are you saying the trading laws are unenforceable?

The Hon. C.J. SUMNER: I am not saying all the laws are unenforceable but there are certainly major problems with the enforcement of the bread laws—the baking of bread in hotels and the baking of bread in supermarkets at the weekend. I am not suggesting that, if you established an army of inspectors, you could not enforce the law. The query I am raising is whether you would have the support of the community in adopting that approach. The main point I am trying to put to the Parliament, with reference to the Hon. Mr Hill, to perhaps try and bring balance back into the debate, is that this is the reason for the change in attitude to laws relating to the regulation of shopping hours and the production of foodstuffs and the like.

In the bread industry it has been an issue for many years—not just bread baking hours but the whole bread industry has been an issue. The Government in its last term of office attempted to deal with it by the establishment of a bread authority. That was thrown out by the Legislative Council, so we have not seen any resolution of those issues by that means. There is little doubt that, as time goes by, there will be automation in the bread industry. If one gets automation without a relaxation of production hours in the metropolitan area, one will almost certainly get a dramatic loss of jobs and a much greater loss of jobs than one will get with deregulation.

That is because, while there will be automation and some loss of jobs in those automated plants, there ought to be a corresponding replacement of jobs in the diversity of products produced, probably by smaller bakeries in the metropolitan area, given that the whole of the metropolitan area will be opened up for this sort of baking, including on the weekend. At the present time, unless those small operations can bake on the weekend, it is not profitable for them to remain in business for the whole of the week, so we do not see them in the metropolitan area. Yes, automation will occur: automation would have occurred whether this had come in or not. We could have stuck our heads in the sand and said, 'Let that happen and we'll sort something out later.'

The Government has decided, for the reasons I have outlined, that the decision ought to have been taken; automation will occur but this will provide within the metropolitan area greater scope for production of new types of products over a longer period of time. So, I believe that the measure introduced by the Government is justifiable. I acknowledge that it is not completely painless as far as the industry is concerned, but the reality is that, in this day and age, it is impossible to justify the sorts of restrictions that existed with respect to bread baking hours. Someone at some time has to grasp the nettle. This Government has grasped the nettle, and I believe that, in the long term, it will be beneficial for South Australia and, indeed, for the work force in the bread industry.

The Hon. R.I. Lucas: Do you believe the price will rise 18c to 25c a loaf?

The Hon. C.J. SUMNER: No, I do not believe the price will rise by that amount.

The Hon. R.I. Lucas: What do the advisers of the Government say?

The Hon. C.J. SUMNER: On the question of price, as in all these areas, there are different views. It depends on what happens.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: Professional advice is divided, if the honourable member really wants to know. There may be some effect on price; that is one view.

The Hon. R.I. Lucas: As much as 18c to 25c?

The Hon. C.J. SUMNER: No, I do not have any advice indicating that the price effect will be anything like that. One has to remember that that is the assessment of bread manufacturers who are opposed to this legislation, in any event, and one would expect them to put the case to suit their interests in the most vocal way they can—as they did.

The Hon. R.I. Lucas: Ten cents?

The Hon. C.J. SUMNER: I will not speculate on whether there will be an increase in price. It depends on what happens when the deregulation occurs, on what approach the bakeries adopt and on whether the major bakeries bake on the weekend, to some extent. They may not bake on the weekend. So, there are many factors.

The Hon. M.J. Elliott: So you don't really know what's going to happen.

The Hon. C.J. SUMNER: I have already indicated in broad terms where the industry was going and what was happening to it. The honourable member can say that that was not happening and, in typical Democrat way, knock, be negative, and say that the Government is taking action that is not justified. We know that that is their approach to virtually everything that comes into this Parliament. As soon as the Government tries to do something that happens to be right in the long-term interests of the State, the Democrats have one approach. It does not matter what it is.

The Hon. M.J. Elliott: You just said you don't know.

The Hon. C.J. SUMNER: It does not matter whether it is deregulating bread hours, the ASER project, Roxby Downs, Jubilee Point or Porter Bay—anything the Government brings in that might assist this State, such as the Grand Prix—they want to knock everything and anything. They will never support it if the Government has introduced it.

The Hon. M.J. Elliott: How many Bills have you lost this year? You say we are against you: how many Bills have you lost?

The Hon. C.J. SUMNER: We say you are anti development.

The Hon. M.J. Elliott: We are anti stupidity.

The Hon. C.J. SUMNER: You are anti trying to develop the State and trying to produce jobs in the State, and that is demonstrated by just a quick list of half a dozen things. You seem to be opposed to the lot. You criticise Government actions in all those areas. All I am saying is that once again, by interjection and by his contribution, the Hon. Mr Elliott has criticised the Government for taking this action. In careful terms I have outlined the reasons for the Government's action. I believe that it is necessary action.

It is preferable now to grasp the nettle and proceed with the deregulation of these baking hours, rather than sticking our heads in the sand, hoping that the whole problem will go away and that there will not be automation. To expect that somehow or other the problems of job loss in the industry will be solved, the problems of consumer attitudes to law enforcement, the problems of artificial boundaries, where people can bake on one side of a line and cannot on the other—to expect that those problems will go away is unrealistic.

They are the issues that have been addressed, and they have been addressed in a challenging way by the Government. The action deserves the unreserved support of the Parliament. I am very surprised and, to say the least, disappointed in the sort of carping approach the Hon. Mr Hill has adopted to it in his contribution. He is one, in particular, who I would have thought could have given more serious attention to the issues.

Bill read a second time.

In Committee.

Clause 1 passed.

New clause 1a—'Commencement.'

The Hon. M.B. CAMERON: I move:

Page 1, after line 12—Insert new clause 1a as follows:

1a. This Act shall come into operation on a day (not before 1 July 1987) to be fixed by proclamation.

This amendment has been adequately explained by the Hon. Mr Hill, a man of 21 years of experience, all of which showed up here tonight during his excellent speech on this matter. It is important that people within the industry have sufficient time to readjust. This in no way affects the end result of the Bill. The end result of this amendment will be, of course, that the deregulation will take place on 1 July 1987 but, in the process, it will give people whose livelihood depends on the previously regulated industry time to go through that traumatic period—which will be traumatic for them, whether they be people working in the industry or people who have investment in the industry—and time to swallow what will happen and to make the necessary adjustments both in their lives and, where necessary, in their capital. So, I trust that the Government will accept this amendment and show that little bit of understanding—and it is very little that is necessary—towards those people. That, of course, means that, if the Minister of Labour and Industry decides that there is more time needed for adjustment prior to its introduction, there is nothing to stop him and the Government allowing that extra time. If the Government decides on a satisfactory date for this matter to be finally brought into law in South Australia, it means that people will have a definite cut-off date to work by.

The Hon. M.J. ELLIOTT: Unfortunately, it is rather typical of the Attorney-General to become abusive when he gets defensive, and he is very selective in what he listens to and what he wishes to quote. At no time have I said that I oppose the Bill. If the Attorney referred to the *Hansard* record he would see that what I said was that I felt that there was some uncertainty in the likely outcome and that, in the short time the Bill has been available, among the things that I have tried to do is get details in relation to price of bread applicable in the various States, those that are regulated and those that are not, and details of which States have the highest level of automation. In the limited time available to me, I have started to probe those sort of questions. It is clear that the State with the greatest amount of deregulation and the greatest amount of automation—that is Victoria—has the most expensive bread, with South Australia having by far the cheapest.

My interjection was prompted by the Minister saying that he was not quite sure what would happen to prices, and I asked about that being the basis on which to make decisions. At that stage the Attorney went on with a tirade of abuse—and it was absolutely uncalled for. A person suggesting that he is not quite sure what the result of an action to be taken will be does not inspire a great deal of confidence. All I suggested during the second reading debate was that perhaps we should be given a little more time to ponder the question. I do not know what research the Government has done as to the likely outcome; whether it has looked at the position in other States following deregulation or when baking operations have commenced in supermarkets, and so on. Certainly, not a great deal of evidence has been put to us tonight. We have just been told that there are general trends that are a bit concerning—and if those trends are in fact correct, I can certainly understand why the Government is doing this. However, it seems to me that the Government is just a little blase.

Certainly, the prospect of very rapid change is a threat. I, too, have been contacted by people in the Hills. For instance, a bread deliverer, with a very large investment which could be virtually wiped out overnight, realises that he would have to wear this sort of thing but he said he would have liked some sort of phase-in period to give him a chance to pay off his debts to a further extent and to look at other business prospects. Any Government change that happens overnight always puts some people at risk. This occurred with the wine grapegrowers in the Riverland, when a 10 per cent slug was imposed one year and then two years later another 10 per cent slug was imposed. Rapid changes made like that simply by the stroke of the Government's pen impose unfair imposts on people.

These things need to be phased in. With the wine tax we proposed that it should have been phased in over a five year period. I think the Hon. Mr Cameron's amendment is sensible in suggesting a six-month warning before the implementation of this Act. In relation to whether or not I think the Bill is a good thing, I point out that I am neutral at this stage. I do have some concerns, although some of the things that the Minister said were convincing. I think the concept of a phase-in period is healthy, where possible, so I indicate my support for the amendment.

The Hon. C.J. SUMNER: The Government opposes this amendment. I do not believe there is a basis for deferring the implementation of this measure. It is not as if the issue has not been around in the public arena for some considerable time. It has been debated over the last few weeks in the public arena; certainly it has been discussed by means of mass communication with a number of contending points of view being put. The Government sought information on the matter from various people from within Government and outside Government. The Cabinet Office, the Deregulation Adviser, and the Department of Public and Consumer Affairs have contributed to the debate and, indeed, the Bread Manufacturers Association and the Baking Trades Union were aware that the issue was before Government. So, it is not as though the matter has just been wheeled

into Parliament without any discussion at all having taken place.

So, the Government feels that it ought to proceed with the legislation as introduced. I think the sooner that the Bill is proceeded with the sooner the system in the industry will shake down and the sooner greater diversity will come into the industry, as I think it will, in terms of baking bread in the metropolitan area. In the long term this ought to have a positive effect on jobs and indeed investment in South Australia. So, the Government cannot support a case for delay. The Hon. Mr Elliott has attempted to justify his position after referring to what he said was my abuse of him. Allow me to say that I was merely pointing out the attitude that the Democrats tend to display on a lot of issues that come before Parliament.

On the issue that he raised I indicated that there were differing views on precisely what course the industry would take following deregulation. Surely the Hon. Mr Elliott would not suggest for one moment that the Government cannot take action unless there is absolute certainty on every issue. In this area it really depends on the approach that indusry will adopt in relation to the new hours. It may be that they will decide not to bake on the weekend. If they follow that assumption, certain things will flow; if they decide that they will bake on the weekend, other assumptions will flow. Further, if they decide to automate other assumptions will flow—my view being that they would have automated anyhow and this represents the only way that there can be some attempt to compensate for job losses that will occur by automation, in any event. So, the Government does not believe that a case has been made out to delay the introduction of this legislation.

The Hon. M.B. CAMERON: I do not suppose there is any point in arguing this matter out. I must say that I am somewhat bewildered by the position that the Attorney has taken in this matter. I have the feeling that perhaps if he continues down this track he could well be asked to join the New Right that we keep hearing about—because he is showing about the same attitude that many of those people appear to display. I certainly do not align myself with the New Right, but I think the Minister is heading down that track. When people's livelihoods are at risk, to get up here and say that the sooner the matter proceeds, the sooner a shake down will occur, and that it is just too bad, and to heck—

The Hon. C.J. Sumner: Don't misrepresent what I said.

The Hon. M.B. CAMERON: The Attorney said that the sooner the shake down occurs the better; to heck with the workers; they can go out of the window on 1 January—have a great new year, fellows, and to heck with you. In these circumstances I consider that to reject my amendment, which will provide a six month grace period, is absolutely appalling. Members opposite can never criticise us for having no heart towards those in the work force in this country, having displayed that attitude towards people. Obviously, the Attorney has never had to deal with capital, or he would know that it is not easy to change an investment overnight and to transfer it to a new mode.

One has to have some time. When a person is in trouble even a banker would display more heart than is the Attorney-General. Obviously, the Attorney-General has never had his livelihood on the edge of annihilation by Parliament, or he would show more heart. I am surprised and disappointed by what he has said. I am surprised that he does not accept this amendment. I ask him in this case to perhaps report progress and to think a little about the matter. He should talk to his fellow Minister (Mr Blevins) and discuss with him the impact of refusing to accept what is a very reasonable amendment.

The Hon. M.J. ELLIOTT: I must agree that I was rather surprised by the term 'shake down', which means people going broke. If a person owns several delivery vans and suddenly finds that they are no longer required, he does not simply restructure his business overnight. I hope that the Minister reconsiders what he said and the implications of his comments. As I said before, I think that, where possible, the phasing in of laws, particularly those which have economic ramifications, is healthy. During this Committee stage the Minister mentioned seeking advice. Can the Minister inform the Committee as to what type of advice was sought? Was it general type of advice, or did it relate to what is happening in other States and the companies that operate in those States? I understand that such companies as Tip Top operate in South Australia and also in most other States, except Tasmania. It should be possible to predict the future of the industry in South Australia, although not with absolute certainty. However, it should be possible to look at another capital city which has similar or the same companies operating and then ascertain with some degree of certainty the future of industry here.

I think it is healthy to look at the experiences of other States and to do a little more than just engage in general consultation; there should be hard research. Can the Minister assure the Committee that there was some sort of research into what is happening in the other States? Can we be reasonably confident as to the future?

The Hon. L.H. DAVIS: I did not intend to enter this debate, but I am staggered at the Attorney-General's obduracy in this matter. The request that the Hon. Mr Cameron has put by way of amendment is not unreasonable. How many times have we heard members opposite talk about the dislocation that will result from the advent of technology? Here is a situation where there will be some dislocation, some adjustment and some economic impact on those affected by this legislation, but the Labor Party, which allegedly represents workers, stands moot on the matter.

Australia is being dragged screaming to face the reality that there are in fact seven days in the week and not five. Unlike many other nations, we still suffer from double time and triple time on the weekends. One of the ironies of this type of legislation will be, I suspect, to make Australia realise that we have to compete on world markets. It will force us to review our working practices. While I support the legislation, I most certainly and emphatically support the amendment proposed by the Hon. Mr Cameron. I think that the fact that the Attorney-General, acting under instructions from his left-wing mate in another place (Hon. Frank Blevins), is refusing point blank to accept this amendment indicates that there are few people with business experience in the Labor Party. Indeed, I cannot think of anyone with a practical business background in the Labor Party Cabinet.

The Hon. J.R. Cornwall: I had a practice for 20 years.

The Hon. L.H. DAVIS: We do not count a vet in the South-East as being in commercial practice.

The Hon. J.R. Cornwall: I was in a metropolitan practice for a decade—very successfully.

The Hon. L.H. DAVIS: I am talking about the hard world of finance and small business and the people who will suffer dislocation as a result of this Bill. I think that the Labor Party Government reflects the economic naivety that it has in such matters when it refuses to accept what is a very reasonable amendment which will overcome some of the dislocation inevitably resulting from this legislation. I hope that the Government will reconsider the matter. I am pleased

to hear that the Democrats also accept that there is some reasonableness about Mr Cameron's amendment.

The Hon. C.J. SUMNER: Members opposite and the Hon. Mr Elliott seem to place great store on my propositions in defence of the Government's position, in particular a shake down in the industry. What I said was in the context of ensuring that, in the long term, more jobs are created as a result of this measure by an increase in the diversity of product that is offered in the metropolitan area from more outlets than exist at the present time. It seems that there is a difficulty with enforcement. I do not see what will be gained by a delay in the introduction of the legislation.

The Hon. M.B. CAMERON: It is all very well to talk about what might occur in the metropolitan area; that may or may not happen. In the process, people elsewhere have to make adjustments and therein lies the problem. These people have had investments in businesses for a long time (at least 10 years, because it is 10 years since this matter was last before Parliament). Even in the past few months, some people have made investment decisions under the old rules relating to this industry. We ask that they be given some time to adjust. People entering the industry can also make their adjustments and get ready for the change. This new clause gives them that time to adjust. I think that it is a very reasonable proposition and that the Government would be absolutely stupid not to allow it. It certainly shows a lack of understanding of the problem of unionists in the industry.

New clause inserted.

Clauses 2 to 5 passed.

New clause 6—'Commissioner for Consumer Affairs to prepare report.'

The Hon. M.B. CAMERON: I move:

Page 1, after line 20—Insert new clause 6 as follows:

6. The following section is inserted after section 204 of the principal Act:

204a. (1) The Commissioner for Consumer Affairs shall, not less than 18 months and not more than 21 months after the commencement of the Industrial Code Amendment Act 1986, deliver to the Minister a report on the bread industry setting out the variations in the price of bread that have occurred since that commencement.

(2) The Minister shall cause a copy of the report to be laid before each House of Parliament within 3 sitting days of receiving the report.

(3) When the report has been laid before each House of Parliament this section will expire.

As the Hon. Mr Elliott has pointed out, there is some doubt as to what effect deregulation will have in terms of prices and what will happen in the bread industry in relation to variation of prices. This new clause will ensure that, not less than 18 months and not more than 21 months after commencement of the Act, the Commissioner for Consumer Affairs will deliver to the Minister a report on the bread industry setting out the variations in the price of bread that have occurred and a copy of that report will be laid before the Parliament. It will only be done the once, but it will give some indication of the effect of the new legislation.

The Hon. C.J. SUMNER: The Government opposes this new clause; it is quite unnecessary. The Prices Commissioner, as officer in the Department of Public and Consumer Affairs, has a role in restricting bread prices in any event. Bread prices are subject to justification.

There seems to be little point in inserting in the legislation something which can be done in any event. No doubt, if honourable members want this information at the appropriate time, they can ask questions of the Minister (whoever he or she happens to be at that time). There is no need to insert a clause of this type.

The Hon. M.J. ELLIOTT: I do not believe that this new clause is of any great consequence. After all, I asked a research assistant to check on prices and within a few hours I was given a graph of the seven capital cities for the past 10 years. That information was produced very easily. It appears that that is all the new clause will do; and I believe it is inconsequential. However, I would have supported the new clause if it had gone further and asked for a report on what has happened to employment patterns in the industry and what has happened to the general structure of the industry. That would have been most instructive. However, if the report tells us only what has happened with prices, we can get that information without having to set to work the Commissioner of Consumer Affairs. I see no reason to support the amendment.

New clause negatived.

Title passed.

Bill read a third time and passed.

TOBACCO PRODUCTS (LICENSING) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2545.)

The Hon. C.J. SUMNER (Attorney-General): In reply to this debate I note that the Liberal Opposition opposes this Government Bill to try to overcome some of the difficulties that have arisen with respect to the collection of an appropriate tax on tobacco products. The Democrats have demonstrated their support for the measure. During debate yesterday the Hon. Mr Elliott asked, 'Where is there a better idea for tackling this problem?' When introducing this Bill in another place the Premier said that he regretted that this action had to be taken. The fact is that the question of an alternative approach should be addressed to the Opposition because it has not sensibly addressed the question of whether or not there is any alternative.

The Hon. R.I. Lucas: What about the Olsen plan?

The Hon. C.J. SUMNER: I will deal with what Mr Olsen said in a moment. The fact is that the Opposition has not addressed the issue of whether or not there is a better way of tackling this problem in any sensible, logical, coherent or legally sustainable way. The Opposition has taken, as it often does, the easy way out; and in that respect it is not unlike the Democrats.

On the one hand, the Opposition does not want to say that it is threatening the Government's revenue base by supporting a situation whereby there is no charge on tobacco products; and on the other hand, the Opposition wants to oppose this legislation which, on the Government's best legal advice from the Solicitor-General, Parliamentary Counsel and the Crown Solicitor, is the only viable way to go. It is all very well for members opposite to criticise but, as I have said, as usual they are having it both ways. Members opposite called for action when they were approached by the small resellers who are being disadvantaged by Mr Stokes' trading practices. However, when the action arrives, they criticise it.

The Hon. R.I. Lucas: We want sensible action.

The Hon. C.J. SUMNER: I suggest that the honourable member obtains some legal advice before he makes those sorts of nonsensical remarks.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: I will put it to the honourable member again: where is there a better idea for tackling this problem within the constraints of the Australian Constitution? The Leader of the Opposition in another place cited

with approval a portion of the report of the Fiscal Powers Subcommittee of the 1985 Constitutional Convention. The relevant citation is as follows:

> The problems arise because section 92 has been interpreted to proscribe any burden on interstate trade, even if that burden falls equally on intrastate trade. A tax is always a burden. Not only does section 92 prevent a State taxing any aspect of interstate trade, thus effectively discriminating against intrastate trade, but it also provides an incentive for transactions to be organised so as to attract the protection of section 92. State taxation legislation has become more intricate and technical in an endeavour to combat it.

I believe that that is a reasonably accurate, if brief, description of section 92 as currently interpreted.

From this interpretation of section 92 it is clear that the State cannot require an interstate trader to pay a tax or licence fee. An interstate trader is immune from the current Act. Whether or not any current traders are 'interstate traders', it is perfectly plain that it is only a matter of time before the section 92 loophole is used if traders are intent on using that loophole. The Council will be aware that some traders have stated their intention of using that loophole. This has caused considerable problems for hundreds of other traders. It has put the Government's health initiatives at risk.

Urgent action is required by the Government to resolve this matter and to ensure that there is a licence fee payable on all tobacco products consumed in this State. The options suggested by the Opposition can be dealt with briefly. First, I refer to greater policing powers. Apparently, the Opposition is unaware that the inspection powers under the current Act were amended by the Business Franchise Tobacco Act Amendment Act 1986. The inspection powers under the current Act are broadly similar to the powers existing under the corresponding Victorian legislation—the Olsen plan to introduce Victorian legislation in this area. Honourable members opposite have forgotten that the legislation passed earlier this year to amend the Business Franchise Tobacco Act introduced powers similar to those in the Victorian legislation. The current problem is not the insufficiency of the inspection powers but the immunity of interstate traders. Increasing the inspection effort will not solve this problem.

The second suggestion of members opposite is that we introduce the same legislation as in Western Australia. In Western Australia an 'interstate trader' scheme was operated by a firm called Jedmore. That firm went to the Western Australian Supreme Court seeking declarations that it was engaged in interstate trade and was not required to be licensed. The court held that the scheme it was operating was a sham and that certain members of the scheme had to be licensed. The court did make it reasonably clear how the scheme might be varied so as to rely upon section 92. Following that judgment, Jedmore made the appropriate variations to its scheme and continued trading.

The Premier of Western Australia made a statement warning interstate traders that action would be taken and Jedmore discontinued trading. In this State the Premier has issued a similar warning, but some traders have chosen to ignore it. This means that the problem in South Australia is more immediate and urgent than that in Western Australia. A Bill has recently been introduced into the Western Australian Parliament to amend its Business Franchise (Tobacco) Act 1985. In general terms the Bill increases the inspection powers, increases the penalties, makes officers of bodies corporate liable to penalties and removes the statutory exemptions for interstate traders.

The effect of these amendments is to substantially increase the risks for persons who wish to rely on section 92. However, the amendments do not deal with the basic immunity afforded to interstate traders on the current interpretation of section 92. For this reason the Western Australian Government has recognised that further action might be required if traders in that State refuse to accept its warnings. In the second reading speech the Premier said:

> For the rest, I make it clear that this Bill is not necessarily the last word. To deter avoidance operators, and to ensure stability in the industry the Government is prepared to introduce further legislation if experience of the present measures and our continuing review of developments in other States indicate the need to do so.

The Western Australian Government is in the happy position where traders in that State have accepted the Government's warnings. That has not occurred in this State. The problems in this State are urgent and immediate, as members would know because of the representations they have had from traders in the industry.

The third proposition from members opposite—put forward in another place, because, I suggest, the Hon. Mr Griffin would not have had the gall to put it forward here as a realistic proposition—is, believe it or not, to amend the Commonwealth Constitution. It is ironic that this should be suggested by the Opposition. In the referendum on interchange of powers in December 1984, the Liberal Party supported the 'No' vote. In the '*Case for Voting No*' published through the office of the Commonwealth Electoral Commissioner, on behalf of the Liberal Party, it was stated:

> This proposal is just for the benefit of the politicians. It would do nothing for electors and taxpayers because the real reason for the proposal is to allow the Commonwealth Government to give State Governments the power to levy sales taxes and excise duties.

That is something that anyone who has thought about constitutional reform in this country, at least in the last 15 years, has supported, something that has been raised, at least, if not completely supported, at every Constitutional Convention since the first Constitutional Convention in 1973. The interchange of powers proposal is something that has had consistent support of political Parties through all those Constitutional Conventions. It was put up at a referendum in 1984 and opposed by none other than the Liberal Party. Members opposite now have the temerity to come into this Parliament and suggest that the Federal Constitution should be changed, somehow or other, immediately, to overcome the problems that exist with respect to the tobacco issue knowing, of course, that when they had an opportunity to overcome those problems in 1984 they campaigned actively against them.

The current problems highlight just how fallacious the Liberal Party argument in 1984 was. The referendum was lost. I also point out that, of the 38 proposals for constitutional change that have been put to referendum, only eight have been carried in the whole of our Federal history. Even if the Commonwealth was prepared to go to the cost and expense of submitting to a referendum proposals to vary sections 90 and 92 of the Constitution, it would be a considerable time before the referendum was held. On any analysis, this option is unrealistic as a solution to this immediate and urgent problem.

The only other solution that might be available is to take legal proceedings in the High Court to have the current interpretation of section 92 of the Constitution varied. As I explained in the second reading speech:

> Proceedings which would test the application of section 92 to the current Act would have to be determined in the High Court and would necessarily take considerable time. The Government cannot afford to await the outcome of normal judicial process because it will be local traders who suffer in the meantime.

In short, given the urgency of the problem faced by the State, the passage of the Bill is the only realistic option available to the Parliament. I repeat that that is the advice

of the Solicitor-General (Mr John Doyle, QC), Parliamentary Counsel (Mr Hackett-Jones QC) and the Crown Solicitor.

There are several other matters which were dealt with by Mr Griffin yesterday and on which I should comment. First, Mr Griffin noted that a use of a preamble was extraordinary in a Bill presented to this Parliament. I agree that that is so. I bring to the attention of members that in the recent case of *Gerhardy v Brown* the High Court held that it could refer to parliamentary papers and debates in determining the objects of a Legislature when making an enactment which is under constitutional challenge. In these circumstances it is appropriate for the Parliament to expressly state what its motives and objectives are when passing a Bill such as this one, which may be subject to constitutional challenge.

Secondly, Mr Griffin suggested that this Bill is aimed at one individual trader: it is not. It is true that the actions of one trader in particular have identified the relevant issues. However, the problems addressed in this Bill are general problems. The solution proposed is uniform and non discriminatory. Thirdly, Mr Griffin also referred to a pamphlet circulated by the Smoko Club in Queensland. He expressed the view that trading by that club would not be caught by the provisions of this Bill. The mail order sales of tobacco products from Queensland traders to South Australian consumers would seem, on the face of it, to be sales in the course of interstate trade. If this is so, first, there is currently no obligation on the trader to be licensed; and, secondly, there is currently no provision relating to a consumer over the age of 16 to prevent such a sale.

The Bill will require, first, the trader, if unlicensed, to obtain the relevant declaration and to make reports and, secondly, the consumer to hold a licence before consuming the tobacco. There may well be difficulties in enforcing these provisions. However, the simple fact is that mail order schemes are probably valid at the moment. After this Bill comes into force those schemes will be subject to South Australian law. Difficulties in enforcement should not prevent some attempt being made to properly regulate what is at present a most unsatisfactory situation.

At the very least the pamphlet that has been circulated by the Smoko Club would be erroneous if circulated after the Bill is passed. That leaflet currently states that the purchase of mail order cigarettes is legal. If the Bill is introduced, then the trader would be in breach of the law unless the declarations were signed. Furthermore, the consumer would need a licence to consume the tobacco. If the Bill is introduced, then action could be taken to prevent leaflets that make these claims from being published in this State. Therefore, this legislation, while perhaps involving some difficulties with enforcement, will also apply to those seeking to trade by way of postal application.

The Hon. Mr Gilfillan raised an issue that was apparently raised by Mr Martyn Evans in another place. The question of the liability of the unlicensed trader in circumstances where the purchaser refuses to make out the declaration has also been raised. In these circumstances the following liabilities arise. First, there is no obligation upon the consumer to execute the declaration. The obligation of the consumer in these circumstances is to hold a consumption licence before consuming the tobacco and to answer questions (if any) put by an inspector. Secondly, the unlicensed trader is obliged to obtain the declaration before the customer leaves the shop. The obligation does not arise at or before sale, but rather when or before the customer leaves the shop.

Thirdly, if the customer absolutely refuses to sign the declaration and the trader can prove that the trader has made all reasonable efforts to ensure that the customer does sign, then the customer will be in the position of a stranger to the trader and the trader can rely upon the 'act of a stranger' defence. To do so the trader would need to prove on balance of probabilities that the trader took all reasonable steps to obtain the declaration but the purchaser absolutely refused to sign the declaration.

Fourthly, the reason why no obligation is imposed upon consumers is that it could cause real problems in the market place. Traders could not enforce any such obligations. It is inappropriate to give a power for the trader to question, seize or detain the purchaser. On the other hand, inspectors have wide powers to question purchasers, and it is expected that these powers will prove sufficient.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. I. GILFILLAN: I felt that the reading that the Attorney did was a little fast for my comprehension, and I would ask him whether he feels that the matter raised by Mr Martyn Evans in another place and repeated by me in my second reading speech is happily resolved in the answer he read out. Alternatively, does he agree with my understanding of it—that once it is widely known that a consumer does not commit an offence by not signing the form, that virtually will make a nonsense of any obligation on either consumers or retailers to take any notice of this legislation?

The Hon. C.J. SUMNER: We think the matter is satisfactory. Of course, we are dealing with new legislation, but we believe the obligations imposed on the retailer are reasonably strict, and it will be in the interests of the retailer to comply.

The Hon. I. GILFILLAN: If a consumer refuses to sign a form, purchases cigarettes, and leaves the shop there is no offence, as I understand it, by anyone at that stage. The only way in which an offence can be proved then is through an inspector tracking down the purchaser of the cigarettes and actually capturing that consumer picking a cigarette out of a specific packet which was purchased from that retailer, rather than any other retailer, and lighting it. I understand that then there is an offence committed, and that is the only offence committed under this legislation under those terms. Is that correct?

The Hon. C.J. SUMNER: That situation could occur, but it is anticipated that the inspection will be made at the retail outlet; that was indicated during the second reading explanation.

The Hon. I. GILFILLAN: Will that be an offence if there is no signed declaration then?

The Hon. C.J. SUMNER: We might not necessarily be detecting an offence on the part of the consumer, but the consumer would be required to provide the information with respect to the signing of a declaration.

The Hon. I. GILFILLAN: Is it possible that it could be an offence for the retailer to sell cigarettes to a consumer before sighting a signed declaration, so that there would be no sale undertaken legally until a consumer had actually signed this form?

The Hon. C.J. SUMNER: It was felt that the trade ought to be concluded before the obligation to sign the declaration arose.

The Hon. I. GILFILLAN: Do you believe that that is the better course?

The Hon. C.J. SUMNER: As the honourable member knows, the reason for the introduction of this legislation is because of the constitutional limitations upon the States that have been identified. That has been fully explained

and was further explained in the reply I gave. What has been done in this legislation has been done on the best legal advice to attempt to overcome the problems that the Government has been confronted with in ensuring that a proper fee is collected on the consumption of cigarettes in this State. The scheme that has been developed, as far as the Government legal advisers are concerned, has been developed to try to ensure that the problems that existed with respect to the Constitution have been overcome. One of the aspects is the point at which the declaration is to be signed.

The Hon. L.H. DAVIS: Clause 2 says:

This Act shall come into operation on a day to be fixed by proclamation.

Is the Attorney-General in a position to advise the Council whether, if this Bill passes into law, the Government would be proclaiming it at the earliest opportunity?

The Hon. C.J. SUMNER: That is the Government's intention.

Clause passed.

Clause 3—'Repeal of the Business Franchise (Tobacco) Act 1974.'

The Hon. L.H. DAVIS: What discussions has the Government had with relation to other States in terms of the Business Franchise (Tobacco) Act? Is the Attorney in a position to advise what other States have done with respect to the problems they are having with the collection of tobacco taxes? In other words, are any other States contemplating this course of action? My understanding is that that is not the case.

The Hon. C.J. SUMNER: Needless to say, this issue and the general issue that was canvassed at the referendum in 1984 have been the subject of discussion by the State officials over very many years. The chance to resolve the matter arose in 1984, as I have indicated, when the Liberal Party opposed it. However, discussions still continued. In respect of this problem, there have been discussions held with all other States, I think except Queensland—which is not surprising I suppose as they do not have a tobacco tax and therefore do not have a problem. I can say that the other States are very concerned about the situation which could potentially develop and they are watching with interest the passage and outcome of this legislation.

I think it is fair to say that the other States do not have the immediate problems that South Australia has in this regard with a trader who is engaged in selling cigarettes without complying with the State law. That has created a situation in South Australia of loss of revenue and where the potential loss of revenue is even greater unless some action is taken. More particularly there is great concern expressed by intrastate traders who are paying the tobacco franchise fee and whose cigarettes are therefore more expensive at the point of sale, and who therefore protest at the situation in which they find themselves. So, every State has this problem. I found it interesting that the Hon. Mr Elliott quoted remarks made by the Hon. Mr DeGaris in this Chamber some 12 years ago when the legislation was first introduced, at which time the perspicacious Mr DeGaris was aware of the sorts of problems that could arise, for the constitutional reasons that have been outlined. So, it is a problem and has been thus for a long time. It is more of a problem with cigarettes because of their size and therefore their relative ease of transport.

Other States that have a tobacco franchise system are concerned, but apart from some action in Western Australia they have not followed the South Australian lead at this stage. They are awaiting the results of our legislation. However, certainly they are all faced with the same problem in the long term. In the immediate term, it is South Australia and South Australian business that is having the pressure applied as a result of this price differential—and it is for that reason that the Government has decided to act. The Premier has said that this regrets that this method of action had become necessary, but on advice provided to us it is the only feasible approach to adopt in an effort to try to overcome the problems with which we are confronted.

The Hon. M.J. ELLIOTT: Just for the record, I am wondering whether the Attorney-General can tell us whether or not the Government is contemplating, or has contemplated, looking at eventual constitutional change, in particular in relation to section 92. I know that it is not an easy thing; certainly Mr DeGaris recognised that where States act in a different fashion in this area we will always have problems, and to some extent (perhaps more than that) we are being forced to all forms of artificial contrivance which will be forced to the High Court. It seems to me that section 92 of the Constitution was never ever intended to convey its current interpretation. Has the Government considered the possibility in the longer term of trying to achieve some sort of rewording of section 92 of the Constitution? That would mean that we would not have to continually face these sorts of problems—not only here but, for example, I know that in certain areas of agriculture many Bills have fallen foul and many Department of Agriculture proposals have fallen foul of section 92 of the Constitution.

The Hon. C.J. SUMNER: There are a number of ways of dealing with section 92. The first is to try to get a reinterpretation of it from the High Court.

The Hon. R.I. Lucas: Put some different judges on it.

The Hon. C.J. SUMNER: There will be two new judges, so it may be that the result will be different. However, what the honourable member must realise is that what is in the State's interest in respect of section 92 is not always in the Commonwealth Government's interest.

The Hon. M.B. Cameron: The farmers often like section 92.

The Hon. C.J. SUMNER: No; the farmers do not like section 92 if it strikes down their marketing schemes. But there maybe a chance of getting a reinterpretation of section 92 from the High Court. A couple of judges have indicated that there might be some change in approach, but that is certainly not the current situation. As I have said, only two judges in a recent case have indicated that they might be prepared to consider a re-argument of section 92. One does not know where that will end up. It may end up in a position which is more supportive of the State's position, perhaps indicating that, provided the tax or impost is not discriminatory, then under section 92 it is permitted. But, of course, they may go the other way, too, and say that we ought to be more clearcut, that this nonsense about reasonable regulation is something that is not really sustainable, and adopt an even freer market approach to section 92. But it may be that section 92 will be re-argued in the courts on an appropriate case at such stage in the future.

I do not know what the result of that will be, and one certainly cannot say that it will necessarily be in favour of the States and the State's legislative position. The reality is that High Courts and Commonwealth Governments have taken a strong position over the years against any sort of State preference, any sort of destruction of the Australian market by impositions in the individual States. So, from a philosophical point of view, one cannot say that the reinterpretation of section 92 will automatically result in a better position for the States, if it is argued through the courts. It may do. I suppose that if it adopted a simple nondiscriminatory test, then that would be considered to be better for the States. That, in itself, if one looks at it from

the point of view of the Australian nation, may have detrimental effects, too, because the States by artificial schemes may be able to set up all sorts of impositions on the 'common market', which is what Australia was intended to be, following federation.

That is one way that the matter can be dealt with. We cannot sit around and wait for an interpretation of section 92 which may be more in accord with what we want in the States, or it may enable us to overcome these sorts of difficulties more easily. We have an immediate problem with which we have to deal.

The second question relates to constitutional change. I am not in a position to comment on that, except to say that a Constitutional Commission is operating at the moment and I am sure that at some stage it will address section 92. When it comes up with a proposal, no doubt the people will have an opportunity to debate it. Furthermore, had the Liberal Party decided to support the interchange of powers proposal in the 1984 referendum and thereby make it possible for the Commonwealth to refer to the States power over excise, these problems, although they would still exist in relation to section 92, would have been easier to overcome. In the world of politics, apparently that was too much for the Liberal Party in 1984, despite having supported it for some 12 or 14 years before that time through constitutional conventions.

The Hon. M.B. Cameron: What about FOI?

The Hon. C.J. SUMNER: We have supported FOI in a very positive way; certainly much more positively than you have ever done. That is the position.

The Hon. I. GILFILLAN: There appears to be no other way of placing a restriction on this trade without contravening section 92. Is it the position that a restriction cannot be imposed prior to the sale without contravening section 92? Also, can there not be a penalty for actually purchasing the product without contravening section 92? Is the only scope for a penalty, if the product is consumed, that the penalty apply only to the consumer of the product? If that is correct, it may have been simpler to make it an offence to leave the premises with a product. Having considered the matter, I feel that perhaps those who advised the Government have not been able to propose a simpler method than tracking people down to their backyards.

It seems that there is no other alternative and that is why I am sympathetic to the intention of the Bill and I will support it, but I think it is worth analysing this matter as accurately as we can. If there is no obstruction to making it an offence to take the product from the premises, that would appear to be a much more satisfactory situation in which to apply a penalty, but my thinking, simple though it may be, is that that in itself may still contravene section 92. Although the deal has been done, to restrict the transport of those goods involved in that deal to a premise may still reasonably be regarded as a contravention of section 92. It strikes me that we are locked into this.

In simple terms, it is idiotic, but it appears to be the only course possible under section 92 to stop what would be a rampant demolition of a source of revenue and, also, to some degree, a restraint on smoking as well as a return to the coffers to cover the medical costs involved with smoking. Does the Attorney-General agree with those comments?

The Hon. C.J. SUMNER: The Government has acted on the best legal advice that it has been able to obtain. As a matter of modesty and to avoid any unnecessary direct political partisanship on the subject, I exclude myself from that statement. I must confess that I do not claim any special expertise in this area, but the advice from the Solicitor-General, Parliamentary Counsel and the Crown Solicitor is that this scheme has reasonable prospects of success in the High Court. Members ought to realise that one interstate trader has stated that the legislation will be challenged in the High Court. It may be that the debate to which I have referred previously will occur in the High Court. Whether that will be an appropriate place to debate it, I do not know, but it involves very difficult legal issues that have bedevilled the States for years.

The proposition put by the Hon. Mr Gilfillan might have been better in terms of enforcement, but on our advice, if that had been introduced and people were not permitted to leave the shop, then that would have run a greater risk of being a burden on interstate trade and therefore it would have run greater risks of offending section 92. All of those things have been considered and, for better or for worse, we believe that we have a scheme that can survive a challenge in the High Court. At least one of the interstate traders has indicated that he will challenge the legislation.

The Hon. R.I. LUCAS: I believe that the Hon. Mr Gilfillan raised a most important matter.

The Hon. C.J. Sumner: You said there were no questions.

The Hon. R.I. LUCAS: I did not say anything about that. From my brief experience in Parliament, when the Attorney-General either does not have an answer or is struggling for an answer, a certain aura comes about him in the Committee stage and that aura has come about him in relation to this clause. There is no doubt that the Attorney-General is not confident in relation to the answers that he has been given to the questions raised by the Hon. Mr Gilfillan. I think that the Hon. Mr Gilfillan summarised the matter rather well: he said that this really is an idiotic provision but, as there was nothing better, the Democrats would support it. If the provision is as the Hon. Mr Gilfillan has interpreted it and as the Attorney-General has responded, quite clearly it is an idiotic provision and it is completely unworkable.

The Hon. C.J. Sumner: Which?

The Hon. R.I. LUCAS: The provision about which the Hon. Mr Gilfillan spoke. The only way that it can operate is, as the Hon. Mr Gilfillan has indicated, possibly by bluff but, as he indicated in his first contribution, once it was known to consumers that there was no offence by a consumer who refused to sign a declaration and that there was virtually nothing that the retailer could do to the consumer who refused, it would become completely unworkable, because the situation then arises of having the puffer police brigade trying to distinguish in the consumer's home whether the consumer is smoking cigarettes from the legal retailer or the illegal retailer. Even the Hon. John Cornwall does not conjure up notions of puffer police bursting into private residences in relation to the marijuana legislation. In my view the matter raised by the Hon. Mr Gilfillan is most important and, as I said, I think he summarised it aptly when he said that this provision was really idiotic.

The Hon. C.J. Sumner: What is your solution? You haven't got a clue.

The Hon. R.I. LUCAS: One does not support idiotic legislation. I accept some of the criticisms offered by the Attorney-General in relation to a package that was presented in another place. Let us not get aggressive about the whole thing. It is really ridiculous for us as a Chamber—the Government and the Democrats in particular—to support a provision which everyone can see is absolutely idiotic and unworkable. In fact, we are being asked to support it because no-one can come up with a better approach. That is the proposition that the Attorney and the Democrats—

The Hon. C.J. Sumner: No-one has said that it's unworkable.

The Hon. R.I. LUCAS: Anyone can see that it is idiotic. Certainly the Hon. Mr Gilfillan can see that it is idiotic. I can see that it is unworkable. How the whole thing will be policed is completely beyond me. The specific question that I put to the Attorney-General relates to a response from the Premier in another place. Following a question from Martyn Evans, the Premier said:

The unlicensed retailer will not be able to sell if he does not have the declaration. So if his potential customer refuses to sign it he has to say to him, 'Sorry, I can't sell to you.'

Is that statement from the Premier correct? Certainly, from the discussions between the Hon. Mr Gilfillan and the Attorney, that statement from the Premier appears to be incorrect.

The Hon. C.J. SUMNER: Following that reply by the Premier Mr Martyn Evans went on to say—

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: I do not know about that. I do not have a copy of the debate with me.

The Hon. R.I. Lucas: I will read it out.

The Hon. C.J. SUMNER: I do not need it read out. I have already answered it when I responded to the Hon. Mr Gilfillan. It is in *Hansard.*

The Hon. R.I. Lucas: It's incorrect.

The Hon. C.J. SUMNER: It is not incorrect. I refer the honourable member to what I said in reply to the Hon. Mr Gilfillan who has been primed up by Mr Martyn Evans to ask the question. It is an important matter; and I have answered it.

The CHAIRPERSON: Order! Perhaps we can bring a greater degree of order to the Committee proceedings.

The Hon. R.I. LUCAS: I realise the difficulty in my asking the Attorney to say the Premier was incorrect. I refer to the statement of the Premier I have quoted and ask the Attorney whether that is the effect of the legislation.

The Hon. C.J. SUMNER: No, the Premier corrected that subsequently.

The Hon. R.I. LUCAS: I am not worried about the Premier. Let us leave that aside.

The Hon. C.J. Sumner: He corrected that statement. That was not correct.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: The honourable member said that we would get this Bill through in about five minutes. However, I am being harassed after providing an answer to the question. For goodness sake, what more does the honourable member want?

The Hon. R.I. Lucas: Give me the answer.

The CHAIRPERSON: Order!

The Hon. C.J. SUMNER: I gave the honourable member the answer; what more does he want?

The Hon. R.I. Lucas interjecting:

The CHAIRPERSON: Order! I call the Hon. Mr Lucas to order.

The Hon. C.J. SUMNER: What more does the Hon. Mr Lucas want as an answer?

The Hon. R.I. Lucas: We want an answer, full stop.

The Hon. C.J. SUMNER: The Hon. Mr Lucas is thick.

The Hon. R.I. Lucas: You're abusive and aggressive.

The CHAIRPERSON: Order!

The Hon. R.I. LUCAS: Thank you for your protection, Ms Chair. I seek a direct answer.

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: The Premier did not.

The Hon. C.J. Sumner: You're trying to score a political point.

The Hon. R.I. LUCAS: I do not want to score a point off the Premier at all. Let us forget the Premier. Let us look at what the Premier said later and we will see whether the Attorney is correct in his assertion that the Premier corrected himself. Later in the debate, Martyn Evans said:

There is no offence by a consumer who refuses to sign.

The Premier answered, 'No, that is correct.' That is not the question that I am putting to the Attorney at all; so there is not much point in his going off the deep end in an abusive fashion. All I seek is a response to an important question.

The Hon. C.J. Sumner: You've been given a response. You weren't here when I gave it.

The Hon. R.I. LUCAS: That response is clearly lacking, if all the Attorney can say is that the Premier corrected his earlier statement. It is clear that the Attorney does not understand the question that I am putting to him.

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: That is what I am trying to explain, if the Attorney calms down and listens.

The Hon. I. Gilfillan interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Gilfillan started this off in a very good way.

Members interjecting:

The CHAIRPERSON: Order!

The Hon. R.I. LUCAS: The Hon. Mr Gilfillan summarised the position very accurately when he said it was an idiotic proposition. However, he then went on to say that he would support it because he could not think of a better alternative. Obviously the Attorney does not want to answer my original question because he does not want to have to say that the Premier is wrong. It is quite clear from the Attorney's attitude to my further questioning that the Premier was wrong and he misled another place in relation to clause 14 of the Bill.

The Hon. C.J. Sumner: You're a fool.

The Hon. R.I. LUCAS: It is quite clear: that is not what the Premier corrected. Even the Attorney should be able to appreciate that. The Attorney does not have to talk to his adviser to understand that what the Premier talked about later was quite a separate question. I can understand that the Attorney does not want to say in this Chamber that the Premier does not understand his legislation and that he got it wrong in another place in response to questioning from an Independent Labor member. So I then rephrased my question without being in any way aggressive, and I asked the question without mentioning the Premier at all. That is when the Attorney went off the deep end and abused everyone. That is a typical Cornwall tactic: if you do not have the answer, you start to abuse everyone.

The Hon. C.J. Sumner interjecting:

The CHAIRPERSON: Order! I call the Attorney to order. The Hon. Mr Lucas has the floor. When the Hon. Mr Lucas has finished he will sit down. I point out that under Standing Orders the Attorney is in no way obliged to answer.

The Hon. R.I. LUCAS: I am not obliging the Attorney to answer at all. I am making a point in the Committee stage under Standing Orders. It is up to the Attorney to decide whether or not he will respond.

The Hon. C.J. Sumner: You seem to be incapable of understanding a simple answer.

The Hon. R.I. LUCAS: The Attorney does not want to say that the Premier was wrong. I understand that. It is obvious that the Premier does not understand his own legislation. The Independent Labor member caught out the Premier and the Hon. Mr Gilfillan followed it by asking questions in this Chamber. In his summary the Hon. Mr Gilfillan said that this was an idiotic proposition. In fact, it is completely unworkable, as the Attorney well knows.

This part of the legislation is completely unworkable. What the Attorney is saying is that there is no offence by

a consumer who refuses to sign this declaration form, so that person can leave the premises with the product from the illegal retailer and, as the Hon. Mr Gilfillan points out, the only way you are going to find out is through the puffer police tracking this particular consumer down to his or her own residence and identifying that the product being consumed at the time is from the illegal retailer and not from a legal retailer.

When the Attorney-General does not have an answer he has a certain aura about him. It is quite clear the Attorney-General knows that legally and ethically he is on very shaky ground on this question. He knows that it is unworkable. The Australian Democrats have said, 'This proposition is idiotic, but there is nothing better; therefore, we had better support it.' It is indefensible that we can be asked in the dying stages of the Parliament to support legislation on the basis of what the Australian Democrats say is a clearly idiotic proposition. The points that the Hon. Mr Gilfillan has raised are very important and go to the hub of the whole legislation. The Hon. Mr Gilfillan says, 'Look, it's idiotic; however, there is nothing better and it is getting late and we all want to go home.'

The Hon. I. Gilfillan: I didn't say that. If you are going to quote me, quote me accurately.

The Hon. R.I. LUCAS: I agree, you did not say that, but the inference is there—we all know it. It is late on Wednesday night and the Attorney is getting grumpy—he has been grumpy all day. The Attorney does not want the legislation looked at—

The Hon. I. Gilfillan interjecting:

The Hon. R.I. LUCAS: It is my only contribution in this debate. I took no time at all in the second reading stage. I have no intention of speaking to other parts of the Committee stage. I happened to listen to the questioning from the Hon. Mr Gilfillan, who made some sense to me on this particular matter. It is not always that the Hon. Mr Gilfillan makes sense to me, but on this occasion I agree with his summation that it is an idiotic proposition and clearly unworkable. However, because the Attorney-General is grumpy and everyone wants to go home, we basically have to say, in this Chamber on a Wednesday night, 'All right, let us pass the legislation. There is nothing better.' The Hon. Mr Gilfillan is tired. I know I am tired—we are all tired.

The Hon. I. Gilfillan interjecting:

The Hon. R.I. LUCAS: You did, because you went home at midnight. The rest of us soldiered on to 2.15 a.m. I am saying that it is atrocious for you to expect us to support a proposition like this, which everyone agrees is idiotic.

The Hon. C.J. Sumner: That is grossly unfair. Just sit down and I will tell you quite happily.

The Hon. R.I. LUCAS: You can have your turn now.

The Hon. C.J. SUMNER: For better or for worse, unfortunately, I have the responsibility of trying to organise the business in this House. I arranged for something to be called on this evening at 7.45, which the Hon. Ms Wiese was handling and the Hon. Mr Lucas was supposed to be involved in. I was told that the Hon. Mr Lucas had left the Chamber and was not returning until 8.45 p.m. Therefore, I had to adjourn that piece of legislation, despite the fact that I needed that hour myself to deal with other important issues, including bringing on the debate on the third party insurance Bill. I was not able to deal with that and that has not yet been dealt with by the Parliament.

The Hon. R.I. Lucas interjecting:

The CHAIRPERSON: Order! Order!

The Hon. R.I. Lucas interjecting:

The CHAIRPERSON: Order, Mr Lucas! Mr Lucas, if you speak again, I will name you.

The Hon. C.J. SUMNER: He was not here for an hour. The parliamentary program was disrupted.

The Hon. R.I. Lucas: I was here at 10 past eight.

The Hon. C.J. SUMNER: I was told that he was not coming in. I had the note from the Whip, which said that you were not going to be here until 8.45 p.m.

The Hon. R.I. Lucas: I was here at 10 past eight.

The Hon. C.J. SUMNER: I do not care when you got back. You were out of the House for an hour, which meant I could not organise the program, so I had to go on with other business. I am then told that despite that fact I still have to organise the program and deal with the third party insurance Bill—

The Hon. R.I. LUCAS: I rise on a point of order. This has absolutely nothing to do with the Bill.

The CHAIRPERSON: There is no point of order. Your comments on clause 3 had nothing to do with clause 3 either.

The Hon. C.J. SUMNER: Thank you, Madam Chair. I think that I have to put this to the House because of the behaviour of the honourable member. I find it absolutely intolerable. He was not here for an hour, so the program could not proceed on the Bills that ought to have been proceeded with to enable the best possible management of the business. I then called this Bill on earlier, because I was told that the Opposition had no questions in the Committee stage. I was told that by honourable members opposite and so I brought it on because I expected that after my reply the matter would be dealt with expeditiously and that—

The Hon. I. GILFILLAN: I rise on a point of order. Under Standing Order No. 185, the Attorney-General and the previous speaker have both been out of order and should not be heard on the subject they are discussing.

The CHAIRPERSON: I agree it has very little to do with the matter under discussion but it seems to be in the nature of a personal explanation, and, if the Attorney wishes to make a personal explanation, he can seek leave to do so.

The Hon. C.J. SUMNER: The Hon. Mr Lucas has sought to use the Committee stage to pontificate about virtually everything under the sun except the Bill. I was told that this Bill would be dealt with expeditiously and I am quite happy to answer questions on the matter. Had I known that there was going to be this sort of debate, I would not have brought this Bill on at this time because there is another priority in terms of getting the business through and dealing with it in another House. If honourable members want to adjourn the debate, I am perfectly happy to do so.

The Hon. I. GILFILLAN: Can that matter of the adjournment now be debated? I argue that it need not be adjourned. The thing has got out of proportion. The Democrats have indicated their support. There seems no point in spending further time on this. It was unfortunate that this crossfire interfered with the proceedings and I am arguing to the Chamber that there is no need for an adjournment, that the numbers are firmly placed to pass the measure without amendment and there is no reason to hold the matter up because of irrelevant discussion across the Chamber. I would urge that the Attorney use the opportunity that he has with the guaranteed support of the majority of the House.

The Hon. C.J. SUMNER: There is no doubt that I have to move that progress be reported and the Committee have leave to sit again. The Hon. Mr Davis has indicated that he has two questions to ask; the Hon. Mr Lucas wants to pursue an issue despite the fact that I have given a full reply to the question. I do not mind the Hon. Mr Gilfillan raising the question—he raised it in the proper place and he got the proper answer. The Hon. Mr Lucas then said the question had not been answered.

The Hon. R.I. Lucas interjecting:

The Hon. C.J. SUMNER: If it has not been answered, I will check the record and respond. The reality is that the Hon. Mr Lucas, for some absurd reason after having not been here for an hour—you just took off.

The Hon. R.I. Lucas: That is not true.

The Hon. C.J. SUMNER: That is what my note from the Whip said.

Progress reported; Committee to sit again.

PERSONAL EXPLANATION

The Hon. R.I. LUCAS: I seek leave to make a personal explanation.

The PRESIDENT: Is leave granted?

The Hon. I. Gilfillan: No.

The PRESIDENT: Leave is not granted.

TERTIARY EDUCATION BILL

Adjourned debate in Committee (resumed on motion).

(Continued from page 2639.)

Clause 2 passed.

Clause 3—'Interpretation.'

The Hon. R.I. LUCAS: I am delighted to see we have a new Minister in charge of a Bill. We will return to some semblance of normality. Is it currently envisaged that the WEA will be categorised under the definition 'institution of tertiary education' or as a principal institution of tertiary education?

Menbers interjecting:

The CHAIRPERSON: Order! The conversation across the Chamber must cease.

The Hon. BARBARA WIESE: The WEA will be a proclaimed institution but will not be a principal institution.

The Hon. R.I. Lucas: An institution of tertiary education?

The Hon. BARBARA WIESE: Yes.

The Hon. R.J. RITSON: I have a question which I foreshadowed during the second reading speech. It is a matter which is dealt with in clause 4 but depends also on the definition clauses. I pointed out that the definition of academic award and of tertiary institution lean on each other for support, and I raise the question whether clause 4 in conjunction with the definition clauses would place institutions such as seminaries and theological colleges within the controls exercisable by the Minister. It would seem to me that it would, and the question arises as to just how far that would extend; whether it would extend to courses of instruction for members of a particular business or industry which resulted in the award of a certificate of achievement or some other sort of award—be it material or symbolic—and again it seemed to me it may indeed extend to such matters. Does the Government consider that the ministerial control given in clause 4 would extend to seminaries and theological colleges and, even further, to awards granted by any particular group in society which ran a course of instruction within a business or industry? If so, was that the intention or is that an unintended consequence? How far did the Government intend that this control would extend and, if its extension is as I suspect, what does the Government see as the need for extending control in this manner?

The Hon. BARBARA WIESE: This would only be the case if the seminary or whatever the institution might be is offering a degree or is prescribed.

The Hon. R.J. RITSON: That is in paragraph *(b)*, in relation to a prescribed course. In other words, I understand that the Government would have to prescribe the institution into the ambit of the Act before it would matter.

The Hon. BARBARA WIESE: That is right.

The Hon. R.J. RITSON: Is the Minister able to give the Committee an indication as to what sorts of courses of study might be brought within the Act by regulation other than those that are quite obviously the major tertiary institutions? In other words, could we have some indication of the Government's intention for the use of these powers?

The Hon. BARBARA WIESE: First, the reason for these powers is to give the Minister the ability to be selective in prescribing courses in the interests of the community, to safeguard the community against, perhaps, institutions like the Boston University.

The Hon. R.J. Ritson: That was straight-out fraud, really.

The Hon. BARBARA WIESE: That is right. Where we have an organisation which is fraudulent and which is not doing the right thing, we need to have powers to do something about it. The clause enabling the Minister to prescribe courses would relate to courses being offered which have an important input in the community but which are not being offered, necessarily, by one of these conventional institutions. Such courses might include beauty therapy, podiatry, or something like that, where it is an important course which has an important input to make and therefore the Minister would have the power to prescribe it.

The Hon. R.J. RITSON: Finally, does the Government consider that these powers may be necessary to control privatisation of tertiary education? Further, is the Government concerned about what is referred to as institutional creep—that is, where small institutions of little stature wish to be regarded as colleges or where colleges wish to be regarded as universities and where, by changing the names of lesser courses, they tend to be upgraded to appear to be of full tertiary status? Is it the view of the Government that is has a role in preventing this?

The Hon. BARBARA WIESE: It is not the purpose of the legislation to prevent privatisation of education, although obviously the powers contained in the Bill could be used that way. The purpose of the legislation is largely to protect the public against fraudulent activity—it is to maintain a balance and to maintain standards in education. As I have said, it could be used to prevent privatisation, but that is not the intention of the Government at this time.

The Hon. R.J. RITSON: Can the Minister comment on the second part of my question in relation to institutional creep: for example, a small one week course conducted by a business house being called a diploma and, say, institutions that presently issue diplomas wanting to call them degrees, and so on? There is some anxiety that the whole value of the distinction between certificate, diploma and degree may be lost if institutional pressures to rename themselves are given way to, and I do wonder, as many people in academia who are concerned about the potential of this phenomenon. Hence, the reason for my question whether the Government sees any role in these powers for controlling institutional creep.

The Hon. BARBARA WIESE: The honourable member's comments are probably more relevant to clause 4 than to clause 3. However, I can say that the intention of the Bill is to prevent institutional creep.

Clause passed.

Clause 4—'Academic awards conferred by institutions of tertiary education.'

The Hon. R.I. LUCAS: The matter that I did not raise during the second reading debate, and I apologise for that,

is in relation to open universities and colleges, such as Deakin University, which offers courses to students in South Australia—in fact all over Australia. Students can undertake those courses in South Australia even though the tertiary institution in this instance is in Victoria. I take it that there is nothing in either clause 4, which I think is probably the operative clause in this case, or any other clause in the Bill that would prevent students from South Australia undertaking open access education through Deakin University, for example.

The Hon. BARBARA WIESE: The answer is 'No', and certainly the legislation would not set out to do that.

The Hon. R.I. LUCAS: I thank the Minister for that reply and also for her reply in the second reading debate to questions that I raised about clause 4. I indicate that I happily accept the responses given by the Minister in that regard, and I think that it certainly provided a sensible explanation in relation to the provisions in clause 4. Parliament will retain the power under clause 4 (1) *(d)*, which provides that an institution of tertiary education, other than a university, must not confer any academic award in relation to prescribed courses unless the course is accredited by the Minister. There will still be a small role for the Parliament in relation to those courses that might be prescribed, and I certainly support the provision.

Clause passed.

Clause 5—'Accreditation of courses, etc., by Minister.'

The Hon. R.I. LUCAS: I want to refer briefly to a matter I raised in the second reading debate, to which the Minister responded, in relation to the whole question of whether the Minister of the day or what used to be an independent statutory authority, such as TEASA, is, in effect, the final accrediting body. I indicated my concern in the second reading about having a political figure as the final accrediting authority within the State. I accept that two other States are looking at their own accrediting bodies, and there may well be similar changes in Victoria and New South Wales. But at the moment my information is that only the Australian Capital Territory has a similar provision. Therefore, having read the Minister's response made during the second reading, I am still concerned about this matter. The Minister said:

> I wish to draw the honourable member's attention to the response given in another place by the Minister of Employment and Further Education to the extent that the Chief Executive Officer, when advising the Minister, would convey the advice of a accreditation advisory committee established within the Office of Tertiary Education, and this would be similar to the present TEASA accreditation committee.

Can the Minister provide information about this proposed accreditation advisory committee? I am advised that the present TEASA accreditation committee comprises three persons, two of them being members of the Tertiary Education Authority of South Australia, with the third being a member of the staff of TEASA. Is the Minister able to say what the make up of the accreditation advisory committee is likely to be? For example, is it to be comprised of staff of the Office of Tertiary Education, which, in effect would mean that we are talking about public servants and officers responsible to the Minister forming the accreditation advisory committee? Or are we talking about some other mixture of persons on that committee, perhaps from outside the Office of Tertiary Education?

The Hon. BARBARA WIESE: At this stage, not very much thought has been given to the specific composition of the advisory committee but, because of the size and workload of TEASA, it will have to rely very much on external assistance to perform its functions. At the moment the thinking is that the vast majority of people who would be on this committee would be external appointments.

The Hon. R.I. LUCAS: I accept that plans have not yet been put in train. I am pleased to hear that the use of persons external to the office of Tertiary Education is envisaged by the Minister and I think that that is a sensible proposition. I still have reservations about this proposition and, as I said in the second reading debate, I hope that I am wrong. Even though there will be an Accreditation Advisory Committee and even though there might be external persons on that committee, it still remains that the final decision under the legislation will rest with a political figure. As I said, that is not a criticism of the present Minister. I move:

Page 3, after line 4 insert the following subclause:

(2a) If the Minister refuses to accredit a course, or proposed course, the Minister must cause a statement of his or her reasons to be laid before each House of Parliament within 12 sitting days after the refusal.

In essence, the reasons for moving this amendment are, first, because of the reservations that I have already indicated in relation to this provision in clause 5. It would mean that, if the Minister of the day took what would be the virtually unprecedented step of refusing to accredit a course after it had been through all the assessment and accreditation procedures, the reasons for that decision would have to be tabled in each House of Parliament within 12 sitting days after the refusal by the Minister. That is a sensible provision which will enable parliamentary and public debate as to the reasons why the Minister might have taken such an unprecedented step. I urge members to support my amendment.

The Hon. BARBARA WIESE: The Government will support this amendment which provides necessary safeguards against Ministers not acting capriciously when making decisions on accreditation. It seems a reasonable addition to the Bill.

Amendment carried; clause as amended passed.

Clause 6—'Proposal for the introduction of new courses, etc.'

The Hon. M.J. ELLIOTT: My amendment does not seek to change what I understand to be the intent of this clause but, rather, hopefully it will slightly improve it. As the clause now stands, universities are exempted from informing the Minister whether or not they have proposals for new courses as well as the other requirements that apply to all other institutions of tertiary education. It would be highly valuable for the Minister of Employment and Further Education to at least be aware of what new courses are being proposed in universities and the removal of the words 'other than a university' from subclause (1) and their insertion in subclause (3) will ensure that that information will go to the Minister but, as I am sure was always intended, the Minister will not be able to direct the universities not to proceed. Therefore, the universities have maintained exactly the same rights as they already have, except that there is a requirement that they divulge to the Minister their intention to introduce a new course. That may impinge on what is happening in some of the other institutions which are under the more direct control of the Minister. I think that that would be healthy, so I move:

Page 3—

Lines 12 and 13—Leave out '(other than a university)'.

Line 20—Leave out 'the institution' and insert 'a principal institution of tertiary education (other than a university)'.

The Hon. R.I. LUCAS: I was interested to hear the response from the Government. I understand the problems that the Government has at the moment. I really do not have any strong or passionate views on this matter one way

or the other but for a couple of reasons I will not support it as it has been moved by the Hon. Mr Elliott. I believe, as the Hon. Mr Elliott does, that the substance of this clause is obviously contained in subclause (3) which gives the Minister power to direct an institution not to go ahead with a particular proposal.

On the University of Adelaide Council, members of both major Parties are represented; obviously members of the Government would always be represented on the university council. I had three years on the University of Adelaide Council and I know the long and tortuous process that is undertaken to make changes in quotas, for example, in relation to the law faculty, as you, Ms Chair, would well remember. Also, in relation to the introduction of new courses, long and tortuous procedures are conducted, but certainly not in secret. They are not conducted out of sight of the Minister of the day; they are not conducted out of sight, in effect, of any member of Parliament, because on my understanding the minutes of the university council are readily accessible to members. As I have said, each side has members from our own Party room who attend the university councils and who become aware of those provisions.

I believe that the Minister of the day would be aware of any proposals for change and, in the examples I have given, there was plenty of time for Ministers in the Government to give their views on the changing of quotas in the law faculty, for example. Not only Ministers gave their views, but also, I think, justices of the Supreme Court and all sorts of people gave their views on the appropriateness or otherwise of changes in quotas in the law faculty at the university.

When there were changes to the law course, when there was talk about providing combined degrees—such as a law/economics degree or a law/arts degree—it was a long and tortuous process and there were representations from representatives of not only the Government and the bureaucracy but also the judiciary, students and consumers and a whole range of persons and groups. So I do not believe that these sorts of decisions are currently conducted quickly. They are certainly not conducted in private away from public oversight. I think that is one reason that it is not essential to carry the Hon. Mr Elliott's amendment.

The second reason—and not the substantive reason from my viewpoint—relates to a long full page critique of the legislation from the Acting Vice Chancellor of Adelaide University, Professor Kevin Marjoribanks (and I think all members in this Chamber received a copy of it). Contained in that letter is an argument that the university is not too keen on clauses 6 (1) and 6 (2). The letter argues that the university feels that the Office of Tertiary Education would be inundated with information about proposals to introduce a new course or, more importantly, in relation to clause 6 (1) *(b)*, other proposals of a kind or kinds prescribed by regulation. As an institution, the university argues against those particular provisions. For those reasons I indicate that I do not support the Hon. Mr Elliott's amendment. As I said, it is not because I have any passionate objection to the proposition, but I think on balance that it does not add much to the legislation. I think the arrangements under the Government's amended proposal will be satisfactory not only from an institutional viewpoint but from the Government viewpoint in relation to the need for coordination and planning.

The Hon. BARBARA WIESE: I indicate that the Government does not support the amendment. I think there is some merit in the arguments put forward by the Hon. Mr Elliott, but I think the points made by the Hon. Mr Lucas are quite correct. In addition, the provisions in the Bill have been agreed between the Minister and the universities. I think it would be improper at this time to break faith with that agreement. Therefore, we oppose the amendment.

The Hon. M.J. ELLIOTT: I will not spend a great deal of time on this, because it is not earth shattering stuff. I think the Hon. Mr Lucas has clearly misunderstood the effect of shifting the words. It does not in any way affect the way they go about deciding the courses to be offered. It does not interfere with the offering of courses or the decision making process in universities in any way whatsoever.

I think it is folly to assume that, because a couple of members of Parliament happen to sit on the council or senate of an institution and can see some of the new courses being proposed, that information will filter back to the department where much of the collating and decision making takes place. We cannot rely on someone verbally reporting to the Minister that something is happening and that that information will find its way back to where the decisions are made. In clause 6 (3) we are looking at a means of effective coordination of what is happening in the various tertiary institutions. I think that, if a university is about to begin a new course in a particular area (a course that it has not offered before) and another institution is doing the same thing, that is quite clearly an ineffective use of resources. I understand that that is one of the things covered in clause 6 (3).

I think it is very sensible to have an administrative means by which the information will go from the universities to the department so that the people who are actually working at the coal face (who are looking at what is happening in the various places and bringing it together) do know what is happening in the universities. If there is no requirement on the universities to provide that information, how will the Minister's department know what is happening? Will it rely on members of Parliament reporting back? There should be a mechanism to report on the courses being offered; perhaps it is to be done under clause 7 (1), which will do exactly the same thing that I am suggesting with this very minor change in wording. It is streamlining the administration; it is not altering the effective working of the Bill at all.

The Hon. R.I. LUCAS: I have two brief points in response: first, the Hon. Mr Elliott referred to clause 7 (1), which relates to the duty of institutions to provide certain information. I think it is appropriate that the Hon. Mr Elliott mentioned that provision, because it is relevant to the debate. Secondly, if a Minister had a Chief Executive Officer of the Office of Tertiary Education who was not aware of what one of the five or six principal institutions was doing in South Australia, then I think the Minister would be derelict in his duty if he did not move that officer sideways and replaced him or her with someone who could do the job efficiently.

Amendment negatived.

The Hon. R.I. LUCAS: I move:

Page 3—After line 36 insert subclause as follows:

(7) The Minister must cause a statement of the reasons for giving a direction to be laid before each House of Parliament within 12 sitting days after giving the direction.

I indicate that this amendment has similar intent to the amendment passed in relation to clause 5. It will mean that, in relation to the Minister of the day directing an institution not to implement a proposal such as the introduction of a new course, for example, the Minister of the day would have to table in both Houses of Parliament a statement giving the reasons for that direction within 12 sitting days of having given that direction.

As I said, I think under clause 5 a refusal to accredit a course is likely to be a once in a lifetime (I hope) proposition. I imagine that under this clause there will be examples where the Minister will direct an institution not to implement a proposal. I think it is only proper that Parliament and the public be given the reasons for that decision through the tabling in both Houses of Parliament.

The Hon. BARBARA WIESE: I indicate that the Government agrees to the amendment.

Amendment carried; clause as amended passed.

Clauses 7 to 10 passed.

Clause 11—'Report.'

The Hon. R.I. LUCAS: I move:

Page 5, line 33—After 'Parliament' insert 'within 12 sitting days after the thirtieth day of September'.

The amendment requires the Minister to cause a copy of the report on the operation of this legislation to be tabled in both Houses of Parliament within 12 sitting days after 30 September. I explained this amendment during the second reading debate, and I seek the Committee's support for it.

The Hon. BARBARA WIESE: I indicate that the Government supports this amendment also.

Amendment carried; clause as amended passed.

Remaining clauses (12 and 13), schedules and title passed.

Bill read a third time and passed.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE BILL

The Legislative Council agreed to a conference, to be held in the Committee room of the Legislative Council at 10 a.m. on 4 December, at which it would be represented by the Hons. C.J. Sumner, K.T. Griffin, R.J. Ritson, I. Gilfillan and T.G. Roberts.

LAND AGENTS, BROKERS AND VALUERS ACT AMENDMENT BILL

Returned from the House of Assembly with amendments.

CONSTITUTION ACT AMENDMENT BILL (No. 3)

The House of Assembly intimated that it did not insist on its disagreement to the Legislative Council's amendment.

LIQUOR LICENSING ACT AMENDMENT BILL (No. 2)

Returned from the House of Assembly without amendment.

FISHERIES ACT AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2641.)

The Hon. J.C. IRWIN: The Opposition supports this Bill, which provides for a number of amendments to the Fisheries Act 1982, largely to resolve apparent deficiencies in the Act. At present persons charged with offences under the Fisheries Act 1982 are liable to forfeiture of any fish or devices which were seized at the time of detection, following conviction by a court. A court, however, is not empowered to order forfeiture unless the person charged is convicted of an offence. Under the Offenders Probation Act, it is possible for a person to be released without conviction as a result of good character, age, health, etc. The Bill proposes an amendment to order forfeiture of items if a person is found guilty of an offence but released without conviction.

In court action, the onus is put upon the complainant to obtain an order confirming forfeiture. In this case the complainant can be the Minister, the Government or the Department. In country courts, police prosecutors are often instructed to appear on behalf of the complainant. There is a danger of the prosecutor inadvertently failing to ask for such an order. That virtually implies incompetence on the part of the police prosecutor. One could look at it in another way and say that it is possibly incompetence on the part of the complainant in not properly briefing the prosecutor. It is interesting that the Government should put the blame for this occurring on a police prosecutor when there is every likelihood that as much of the blame could rest with the complainant, which is in fact the department acting on behalf of the Government. If this occurred, the defendant would automatically have the right to claim compensation. The Bill provides for a forfeiture order to remain in force unless revoked by the court.

Where urgent fishing prohibitions must be implemented as a result of a chemical spill, it is currently necessary to obtain a proclamation through Executive Council. The Bill proposes an amendment to permit the Minister of Fisheries to declare that it shall be unlawful for a person to engage in a fishing activity of a specified class during a specified period by notice published in the *Government Gazette.*

Section 48 of the Fisheries Act 1982 currently prohibits persons from removing or interfering with aquatic or benthic (bottom dwelling) flora or fauna, except to take fish. However, the Act defines fish as 'an aquatic organism of any species', and is therefore contradictory. The Bill proposes an amendment whereby fin fish, sharks, crustaceans, molluscs and annelids are exempt from the removal and interference provisions. The Bill proposes an amendment to section 49 to provide for a prohibition on the entry into the State of such exotic fish as is reasonably necessary for conservation purposes.

All fish in South Australia that are non indigenous are prohibited except for, first, exotic fish listed in category 1, which may be traded freely with no encumbrances and, secondly, exotic fish listed in category 2, which may be traded, kept or held on receipt of a permit. This amendment provides a means of protecting South Australia's aquatic environment against the introduction of feral fish and exotic fish diseases. The Minister in the other place in the second reading explanation said that agreement had been reached with a majority of aquarium traders but that one operator had indicated that he does not intend to comply with the proposal, nor with the present legislation. He claims that the importation of exotic fish into South Australia cannot be subject to such limitations, as section 92 of the Australian Constitution provides for free trade between the States. It is interesting to note that the Minister, the Hon. Kym Mayes, said in his second reading closing speech that 'the clause that amends section 49, in relation to exotic fish, has not been the subject of discussion with the industry, but the intention of the Bill has been discussed and the vast majority of people in the industry support the intent of the drafting'. The Minister continued:

In fact, there was extensive consultation with the industry and a senior fisheries officer over a number of months to arrive at this intention, which was then reflected in the drafting, and I can assure members that this has been the case.

When it was pointed out to the Minister that there had been very little consultation on this point, the Minister virtually agreed with that, but came at it another way around. I indicate that the Opposition has no problems with this Bill and will support it.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—'Protection of aquatic habitat.'

The Hon. M.J. ELLIOTT: In regard to the mention of annelids, are they talking about polychaete worms? I presume they are the polychaete worms people are using for bait, but I am not absolutely certain.

The Hon. J.R. CORNWALL: It is a very long time since I did zoology and I would not want to mislead the Committee by giving a firm assurance. I believe that what the Hon. Mr Elliott says is correct but I shall be pleased to check that further and send him a letter.

Clause passed.

Clause 6 passed.

Bill read a third time and passed.

CITY OF ADELAIDE DEVELOPMENT CONTROL ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 December. Page 2583.)

The Hon. C.M. HILL: This Bill 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 1983, Parliament passed amendments to the Act which, amongst other things, created two additional appeal rights against decisions under the Act. Those two appeal rights were, first, provisions enabling the Adelaide City Council and/or the City of Adelaide Planning Commission to declare an existing use to be abandoned after an activity has ceased for at least six months (that was in section 4a) and, secondly, a provision allowing the council to require the removal of outdoor advertisements if considered unsightly (this was dealt with under section 39e).

In both those 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 powers relating to appeals from the tribunal and govern matters such as the conduct of hearings, the power to award costs, procedures relating to witnesses and so on. Whilst 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 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. I support the Bill and encourage other members to do likewise.

The Hon. J.R. CORNWALL (Minister of Health): I thank the Hon. Mr Hill for that short, but very worthy and generous contribution. While I am on my feet I take the opportunity to congratulate him on the very near completion of 21 years service in this Chamber.

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

WRONGS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 December. Page 2550.)

The Hon. C.J. SUMNER (Attorney-General): In replying to the second reading debate, I shall respond to a number of queries raised. First, as a matter of general comment, may I say that this Bill has been rendered necessary, as members know, because of the problems with respect to increasing third party premiums, and, basically, the community, the Parliament, has to decide whether it is prepared to allow the continuing award of damages for motor vehicle accidents to proceed as have occurred hitherto and to pay the cost of that through third party premiums. The Government believes (and this belief is shared by virtually every other Government in Australia) that there has to be some limitation on third party premiums. Members opposite have asked why the Government has not acted on the SGIC report prior to this, and so they cannot now suggest that somehow or other the legislation that is being introduced is not appropriate. If the Parliament wants a cap on third party premiums, reflecting the view of the community, it must take some action in respect of what causes the increase in third party premiums, the direct cause, that is, the level of common law damages awarded. That is what this Bill does, hopefully in as equitable fashion as possible in the circumstances.

The Hon. Mr Griffin raised a query regarding what is happening with the recommendations in the SGIC report that have not been picked up in the present package of amendments. As indicated in the second reading, it is likely that some of the remaining recommendations will be implemented at a later date, once their full effects have been properly assessed. It is anticipated that any further action will be assessed early next year. At that time, the Government will be able to set out each of the recommendations and to advise its attitude on each of the recommendations and the reasons for proceeding or not proceeding.

The Hon. Mr Griffin has expressed reservations about the limit of $60 000 for non-economic loss. He has also indicated the Law Society's concern at this limit. The remarks I made at the introduction are related directly to that comment of the Hon. Mr Griffin. If some restraint on third party premiums is required, then somewhere there must be a restraint on damages awarded, and it is the area of non-economic loss to which the SGIC has directed its attention: the Government has accepted the recommendations made and it now seems that Parliament will do the same. This head of damages if by far the most significant, accounting for 44 per cent of total claims paid in 1984-85. The SGIC has estimated that a saving of $43 million could have been made in 1986 had a limit of $60 000 been in effect. Obviously, it would be preferable if no limit was required. However, with the present state of the compulsory third party insurance fund difficult decisions had to be made. By definition, money cannot make good a non-economic loss, and therefore it is impossible to quantify such a loss. Nevertheless, payments have been made to provide solace to the victims. The Government admits that the sum of $60 000 is to some extent arbitrary, but considers that it treads an acceptable path between compassion and economy.

The Hon. Mr Griffin also gave notice of an amendment of the provisions relating to gratuitous services. The amendment would provide that limits fixed by subsection (1) *(h)* do not apply in relation to gratuitous services rendered to an injured person who is a minor. I would oppose this amendment as I consider that proposed new subsection (2) is sufficient to allow a court to take into account the cir-

cumstances surrounding the provision of gratuitous services by a parent to a child and where appropriate to award damages in excess of the limit. The increased award will still be tied to the State average weekly earnings, but I do not consider this to be unduly harsh on a parent.

The Hon. Mr Griffin has raised the matter of whether the provision in paragraph (i) of proposed section 35a (1) should be amended so that a 16 to 18 year old not wearing a seat belt would have their award damages automatically reduced by 15 per cent for contributory negligence. This matter was raised in the context of the amendments to the Road Traffic Act. I have further considered this matter and I am of the view that in the case of paragraph *(i)* and *(j)* dealing with contributory negligence the award of damages should not be reduced in the case of a child under 18 years of age.

I consider that a presumption of negligence should not act against a minor, as it would be inconsistent with the special protection given by the law to minors in respect of negligence actions in awards of damages generally, for example, limitations on causes of action and provisions relating to the administration of awards of damages to minors.

The Hon. Mr Griffin also queried the definition of the word 'court' in proposed subsection (5). The reference to an authority with judicial or quasi judicial powers was included so as to apply to interstate tribunals for the purposes of the proposed subsections (6), (7) and (8). The Hon. Mr Griffin also queried the definition of 'medical expenses' to include the fees of medical practitioners and other professional medical advisers and therapists. He was concerned that this would exclude persons such as chiropractors. On further consideration of the definition, I am of the view that the definition would cover registered chiropractors. This matter has been discussed with Parliamentary Counsel, who concurs with this view.

The final matter raised by the Hon. Mr Griffin related to proposed subsection (7). He expressed concerns about constitutional problems with this provision. This matter has been considered by the Solicitor-General and it is his view that there is value in including the provision in the Bill. Proposed subsection (6) provides that, where a victim takes action in another State for a motor accident occurring in South Australia, the court should assess damages in accordance with this section. If the court does not, SGIC is obliged to indemnify the driver for the full award made, but under the proposed subsection (7) is able to seek recovery of the additional damages from the plaintiff.

If any challenge was made to the provisions of the Bill, three arguments could be put forward to support the provision: namely, the principles of conflicts of laws: section 118 of the Constitution, which requires full faith and credit to be given to the laws, Acts and records and judicial proceedings of the State; and the principle that a State has some power to make legislation with extra territorial effect.

The intention of this provision is to ensure equity in the assessment of damages in relation to accidents occurring in South Australia and to guard against 'forum shopping' by plaintiffs. The Hon. Mr Burdett has expressed concern about the management of road traffic claims by SGIC and has asked me to institute an inquiry into claims management procedures and the management of claims generally by the SGIC. As the Premier is the Minister responsible for SGIC, I will forward the Hon. Mr Burdett's concerns to him for consideration. However, I do not accept the criticisms of the honourable member.

The Hon. Mr Lucas raised some concerns regarding paragraph *(j)* of proposed section 35a (1) which relates to contributory negligence where the passenger knows that a driver has impaired driving ability as a result of the consumption of alcohol or a drug. As pointed out by the Hon. Mr Griffin, there are safeguards in the proposed subsection. It must be shown that the driver had an impaired driving capacity and even then the section would only apply where the victim knew the driver had an impaired driving capacity or that it was reasonable in the circumstances to assume that the driver had an impaired driving capacity.

The Hon. Mr Lucas has asked for the definition of 'impaired'. I do not consider that there would be an advantage to a potential passenger if the Bill set the level of impairment as a prescribed blood alcohol concentration. In any given case the question of a driver's impairment, which is a reduction in capacity to handle the vehicle, must depend on the individual situation. This section aims to encourage persons to think twice before accepting rides with a person who is known to have been drinking or consuming a drug.

The Hon. Mr Lucas raised a query concerning the meaning of *volenti non fit injuria.* The expression relates to a legal defence based on the argument that the victim has voluntarily assumed the risk which resulted in the injury. In the context of this Bill, I think it is necessary to refer to the Latin expression to describe the defence. It is a phrase with a defined legal meaning and clearly it would be dangerous to refer to it in some other way. Nevertheless, I accept the point made by the Hon. Mr Lucas in relation to providing an explanation as to the meaning of Latin expressions used in legislation and I will endeavour to ensure that such explanation is given in the second reading of Bills introduced.

Finally, I wish to address a matter raised by the Hon. Mr Griffin in his second reading contribution on the Motor Vehicles Act Amendment Bill (No. 4). The Hon. Mr Griffin referred to an inconsistency between the definition of 'motor accident' in the Wrongs Act Amendment Bill and the proposed amendment to section 99 of the Motor Vehicles Act. This matter has now been examined and I agree with the Hon. Mr Griffin that such inconsistency should be remedied. Accordingly, I intend to introduce an amendment to limit the meaning of words 'arising out of the use of a motor vehicle' for the purposes of proposed section 35a of the Wrongs Act. I thank members for their attention to the Bill.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Commencement.'

The Hon. K.T. GRIFFIN: When this Bill is passed, when is it proposed that it will be proclaimed and brought into operation?

The Hon. C.J. SUMNER: It is not anticipated that there will be an undue delay in its proclamation. It applies only to prospective injuries and I anticipate that it could be proclaimed early in the New Year, but that would be subject to discussion also with SGIC.

The Hon. K.T. GRIFFIN: I suggest to the Attorney, in the light of that, which means that a few weeks are available, notwithstanding the amendments which he proposes and which I support, that it might be advisable to get some advice on the question of interrelationship between the Motor Vehicles Act, the amendment Bill and the Wrongs Act Amendment Bill in respect of the extent of the coverage which is to be available under a policy of insurance. I only place that on the record and I do not necessarily expect him to respond now, because I will raise the question under the Motor Vehicles Act as to the extent of cover given by a policy in the light of the definition of 'motor accident'

both in the proposed amendment on clause 3 and in the Motor Vehicles Act Amendment Bill.

I am a little uneasy about the extent to which the coverage is now to apply to accidents that might be related to a motor vehicle but are not necessarily within the strict definitions that are proposed. A few weeks are available before it is actually proclaimed. I suggest that it might be advisable (only because I am uneasy and I have not had enough time to fully explore all the consequences of the limitations in the definition of 'motor accident') to ensure that there are no presently unforeseen consequences of limiting the definition in the way that is proposed. I suggest that the Attorney-General get someone to further look at the matter in the intervening period between the Bill passing the Parliament and its proclamation.

The Hon. C.J. SUMNER: There is an amendment to the Motor Vehicles Act that should clarify the matter to some extent. If the honourable member has concerns, I will have the matter examined before proclamation.

Clause passed.

Clause 3—'Motor accidents.'

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

Page 3, after line 28—Insert new subsection as follows:

(1a) The limits fixed by subsection (1) *(h)* do not apply in relation to gratuitous services rendered to an injured person who is a minor (but the limits do apply once the person attains the age of 18 years).

The amendment really seeks to exclude from the operation of proposed new subsection (1) *(h)* those who are minors and are injured as a result of a motor vehicle accident; and it applies while they are minors. Although the Attorney has indicated that proposed new subsection (2) does provide some extension to that limit in paragraph *(h)*, it seems to me that there is a good argument for having no limit while a victim is under 18 years of age in respect of the gratuitous services being provided particularly by a parent because of the very nature of the services which might be required to be provided to a young person injured seriously in a motor vehicle accident.

The Hon. C.J. SUMNER: I oppose the amendment for the reasons that I have previously indicated. Proposed new subsection (2) is sufficient to allow a court to take into account the circumstances surrounding the provision of gratuitous services by a parent to a child and, where appropriate, to award damages in excess of the limit.

The Hon. I. GILFILLAN: We oppose the amendment.

Amendment negatived.

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

Page 3—After line 43 insert new subsection as follows:

(4a) For the purposes of this section, an injury shall not be regarded as arising from a motor accident if it is not a consequence of—

(a) the driving of a motor vehicle;

(b) the parking of a motor vehicle;

or

(c) a motor vehicle running out of control.

I move this amendment as a result of a point raised by the Hon. Mr Griffin in the second reading debate of the Motor Vehicles Act Amendment Bill (No 4). The Hon. Mr Griffin referred to an inconsistency between the definition of 'motor vehicle accident' in the Wrongs Act Amendment Bill and section 99 of the Motor Vehicles Act.

Proposed section 93 (3) of the Motor Vehicles Act provides that an injury will not be regarded as being caused by a result of a motor vehicle accident if it is not a consequence of driving the vehicle or parking the vehicle or the vehicle running out of control. The restricted definition will apply to part IV of the Motor Vehicles Act in the fourth schedule of the Act.

Under a proposed amendment to minimise an incident caused by or arising out of the use of a motor vehicle, the meaning of the words, 'caused by or arising out of a motor vehicle' have not been restricted to the same degree as for the Motor Vehicles Act. Therefore, a motor vehicle accident for the purposes of the Wrongs Act would continue to include cases where a person is injured while slipping from the top of an oil tanker or jumping from the back of a truck.

I agree with the Hon. Mr Griffin that there is an inconsistency in the provisions which should be resolved. I consider that the proposed amendment will ensure that the words 'arising out of the use of a motor vehicle' will mean the same for the purpose of both Acts.

The Hon. K.T. GRIFFIN: I support the amendment, and I am pleased that the Attorney has picked it up.

Amendment carried.

The Hon. K.T. GRIFFIN: I have two matters: one minor and the other of more significance. Paragraph *(j)* (i) provides:

The injured person (not being a minor) was, at the time of the accident, a voluntary passenger in a motor vehicle.

It occurred to me that maybe a pillion passenger on a motor cycle could be equally covered by this paragraph and therefore it might be appropriate to refer to a voluntary passenger in or on a motor vehicle. Does the Attorney have a view on that? As it reads, it may be that it can be construed down to apply only to a person who actually travels in a motor vehicle.

The Hon. C.J. SUMNER: I will agree to an amendment if the Hon. Mr Griffin puts one forward. I suspect that, in the Motor Vehicles Act (without having had a chance to examine it) a phrase like this may well occur in relation to pillion passengers or the riding of a motorcycle. Therefore, it may not be a problem. However, if the honourable member wants to move an amendment at this stage it may hasten proceedings. If it needs to be adjusted, I will get Parliamentary Counsel to examine it when it goes to another place.

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

Page 3, line 10—After the word 'in', insert the words 'or on'.

I am happy to move the amendment on the basis outlined by the Attorney.

Amendment carried.

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

Page 2, line 11—After the word 'in', insert the words 'or on'.

Amendment carried.

The Hon. K.T. GRIFFIN: When I was speaking on the second reading I referred to paragraph *(b)*, which is the $60 000 limit on non-economic loss, and I raised the possibility of that not applying to a victim who was under 18 at the time of the accident, on the basis that the severe injury of a child may in fact have a much greater impact on the life of that child than for someone who is an adult. I have not moved an amendment on it but I did, as I recollect, raise at the time whether the Attorney-General would consider that point. I wonder if he has had an opportunity to consider whether it would be appropriate to distinguish between those victims who were minors at the time of the accident and those who were adults, in respect of this fairly significant limitation on an award for non-economic loss.

The Hon. C.J. SUMNER: I do not think that is justified. I understand what the honourable member is saying, but it is conceded—and anyone voting for this Bill will have to realise—that the limitation of $60 000 for non-economic loss is to some extent an arbitrary figure. It is somewhat more than was being awarded for this head of damage three or four years ago. It is considerably less than is being

awarded now. Apparently, Tasmania has taken an interest in our legislation. They consider $60 000 to be quite a significant sum for non-economic loss.

In Victoria or New South Wales I imagine they would consider the $60 000 to be not a particularly large amount, so it depends on the jurisdiction. With those qualifications, one has to say that the $60 000 is, to some extent, arbitrary, but I think a reasonable amount in the circumstances. Therefore, given that that is the nature of it, I do not really see the case for providing in the case of minors that it ought not to apply.

I think that, if a minor is severely injured, presumably if the person is younger the amount for non-economic loss would be greater, because the individual would have to live with the continuing pain, disfigurement or whatever it is for a longer period of time. That, therefore, would be taken into account in awarding the amount of damages. I think it would create greater arbitrariness if the cap were lifted for juveniles. One would then have to have an age limit at which the cap was lifted, and that in itself would introduce quite an arbitrary position. I therefore do not feel that I can accede to the honourable member's request.

The Hon. R.I. LUCAS: I just rise to speak to subclause *(j)*, to which I referred in the second reading debate. I indicated my concerns about the possible effects of this provision and, having listened to the Attorney's response to the second reading, I indicate that my concerns about the possible ramifications of this subclause remain. The Attorney addressed the question of the definition of the word 'impaired'. Having had a quick look at the *Oxford Dictionary*, I find the following definition:

Impaired—damaged, weakened or made worse.

I guess in the context of this we are talking about the driver's ability to drive the motor vehicle being weakened or, perhaps, lessened, in consequence of the consumption of alcohol or a drug.

As I indicated in the second reading, and do again, I believe that this provision is too loose in relation, certainly, to alcohol but, more particularly, in relation to consumption of a drug by a driver where the passenger supposedly ought to have been aware of the impairment; that is, the lessening of the driver's ability to control a motor vehicle.

I believe that this looseness in the drafting here may well result in unfair treatment of some passengers who, under this provision, will be deemed to be negligent and will, as a result of having been deemed to be negligent, find, through no fault of their own, that any award for damages will be reduced by a proportion. Only the passage of time and judgments will prove it one way or the other. I just place on the record my concern that I believe this provision is unfair on passengers and is certainly too loose in its drafting as it exists now.

The Hon. C.J. SUMNER: There are sufficient qualifications in the subclause. It would be a matter for the court to interpret. In any event, the reduction in damages would have to be such as to be just and equitable having regard to the negligence. There would not be any major problem with the interpretation of the clause. The injured person would have had to be aware of the impairment by the alcohol or drug or have been in the situation where he or she ought to have been aware of the impairment. That ought not to pose too many difficulties, given the qualifications.

The CHAIRPERSON: It has been drawn to our attention that there are two other places where amendments by the Hon. Mr Griffin should be moved.

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

Page 3—

Line 37, after the word 'in', insert the words 'or on'.
Line 40, after the word 'in', insert the words 'or on'.

Amendment carried; clause as amended passed.

Clause 4 and title passed.

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

That this Bill be now read a third time.

There is just one matter that needs to be corrected on the public record, that is, with regard to the reported statements in the media following the introduction of this legislation that it would result in a 25 per cent reduction in third party premiums. That needs to be corrected. I think the statement was attributed to Mr Richard Daniel, who had responsibility, along with others, for the preparation of the SGIC report.

However, I have referred that statement to him and have been advised by Mr Gerschwitz, the General Manager of the SGIC, by way of letter to the editor of the *Advertiser*, which I have not yet seen here. I think I should read it into *Hansard* to clarify any misunderstandings that may have arisen as a result of that report. Mr Gerschwitz, in his letter to the editor of the *Advertiser*, states:

Re.: Compulsory Third Party Insurance Legislation

I refer to reports appearing in the media regarding the likely effect on premiums of the Government's proposed legislation based on the December SGIC report.

Whilst there can be no doubt that the long-term result will be a reduction in the cost of claims and, in relative terms, premiums, the immediate short-term effect will remain unchanged.

This is because of the fact that there are some 23 000 claims currently on SCIC's books which will need to be determined on the basis of the current law, and there will also be the need to offset the $120 million accumulated deficit in the CTP fund. Further, the results for the first three months, that is 30 September, 1986, produced a deficit of over $20 million and point to a huge loss for the year.

Actuarial calculations done at the end of the last financial year indicated that premiums needed to be increased by 61 per cent for the fund to meet the liabilities arising out of the 1986-87 accidents alone. Overall, therefore, no relief in premiums can be anticipated.

Obviously it seems from that that consideration will still need to be given next year by the Third Party Premiums Committee to an increase in third party premiums. However, obviously when this legislation starts to take effect it will impact on premiums and mitigate the need for the sorts of increases that would have occurred had this action not been taken. For the public to have gained the impression that this will immediately lead to a 25 per cent reduction in premiums is erroneous. It will certainly lead to a reduction in the need to increase premiums to the extent previously indicated over time, but some adjustment will still be needed. I felt a need to place that on the record in case it was not made public in the newspaper.

Bill read a third time and passed.

MOTOR VEHICLES ACT AMENDMENT BILL (No. 4)

Adjourned debate on second reading.

(Continued from 2 December. Page 2551.)

The Hon. C.J. SUMNER: The Hon. Mr Griffin has raised some concerns in relation to this Bill. He has referred to an inconsistency between the definition of 'motor accident' in the Wrongs Act Amendment Bill and the amendment to section 99 of the Motor Vehicles Act. I agree with the Hon. Mr Griffin that there is an inconsistency in the provisions which should be resolved. Therefore, I have already dealt with the matter by way of a further amendment to the Wrongs Act to provide that, for the purposes

of section 35a (1), death or bodily injury shall not be regarded as being caused by or as arising out of the use of a motor vehicle if it is not a consequence of the driving of the vehicle, the parking of the vehicle, or the vehicle running out of control.

The Hon. Mr Griffin has also raised a concern regarding proposed section 127 (2) *(b)* of the Motor Vehicles Act. This provision requires a claimant to provide written notification to the insurer, within 21 days of consulting a medical practitioner or such longer period as may be reasonable in the cirumstances, of the name of the practitioner and the day of the consultation.

The Hon. Mr Griffin has suggested that this could result in massive paperwork where a claimant frequently visits his or her doctor. He points out that the provision does not allow for the requirement to be waived. On consideration of this matter I agree that such a rigid requirement may be counterproductive and could in some circumstances result in additional costs to the SGIC because of the paperwork involved. Therefore, I propose to move an amendment to allow strict compliance with the provision to be waived at the option of the SGIC.

The Hon. Mr Griffin has also raised an issue regarding non-payment by Medicare of medical and hospital expenses incurred as a result of a motor accident subject to a claim. He has indicated that in some cases the insurer is paying up to three times the normal cost of hospital treatment. In the SGIC report it was suggested that medical expenses for claims should be paid on the basis of fixed fees. Some initial discussion has been held on this matter with the Minister of Health, and I advise members that the issue is still under active consideration. Therefore, I propose to deal with the matter raised by the Hon. Mr Griffin at the same time as the SGIC recommendation is considered.

Finally, the Hon. Mr Griffin raised the matter of the overlap between compulsory third party insurance and workers compensation insurance. The aspect of dual insurance raised by the Hon. Mr Griffin, together with aspects of the interaction between the compulsory third party fund and workers' compensation insurance are currently being considered by my officers. It is anticipated that consideration of these matters will soon be finalised. I thank the honourable member for his attention to the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 5 passed.

Clause 6—'Medical examination of claimants.'

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

Page 3, line 14—After 'case' insert 'or as the insurer may allow'.

This is the amendment that I foreshadowed in my second reading reply, which I have just completed.

The Hon. K.T. GRIFFIN: I support the amendment. It relieves the absolute nature of proposed new section 127 (2) *(b)*. However, I hope that in the administration of this the SGIC is able to give some guidelines to all legal practitioners and persons who might be injured because, if it is dealt with on a case by case basis, it would seem to me that it would not give much joy to legal practitioner or the injured person if in each case there had to be a specific consideration of the information required to be given under this provision.

So, in the application of it, now that the power exists to adjust requirements, I hope that it will do more in the nature of a practice direction or the promulgation of some form of guidelines to ensure some certainty in relation to people who may be dealing with the SGIC on this issue.

The Hon. C.J. SUMNER: I will draw these comments to the attention of the SGIC.

Amendment carried; clause as amended passed.

Remaining clauses (7 and 8) and title passed.

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

That this Bill be now read a third time.

The Hon. K.T. GRIFFIN: I had intended to raise just one point on clause 3, and I will briefly take this opportunity to deal with it. The Attorney has indicated in relation to the Wrongs Act Amendment Bill that he will have his officers examine the inter-relationship between that Bill and the Motor Vehicles Act in respect of the scope of the cover provided by the insurance policy in the light of the amendment to the definition of an injury arising from a motor vehicle accident.

The point has been made (and I raised it in my second reading speech on this Bill) that there was some concern that because of the limitations being imposed by the Bill, there may be people who no longer are covered by their insurance policy for claims for injuries arising out of some activity related to the motor vehicle but not necessarily within the definition.

I would like the Attorney to give some consideration to that matter and particularly address the issue as to the advice which perhaps ought to be given publicly now as to whether people ought to have some additional cover against the sorts of matters to which I referred in my second reading speech.

The Hon. C.J. SUMNER: I will give attention to those matters and see whether any action needs to be taken.

Bill read a third time and passed.

INDUSTRIAL CODE AMENDMENT BILL

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

OCCUPATIONAL HEALTH, SAFETY AND WELFARE BILL

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

That the sittings of the Council need not be suspended during the conference on the Bill.

Motion carried.

ADJOURNMENT

At 12.20 a.m. the Council adjourned until Thursday 4 December at 11 a.m.